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HELA

Delivering the co-regulator recommendations from the Triennial Review of HSE

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Cleared by Elaine Harbour on 3 July 2014

Issue

1. This paper seeks HELA's views in the delivery of the recommendations relating to Local Authorities from the Triennial Review of HSE and the Government's subsequent response.

Timing

2. For discussion at the meeting on 31 July 2014.

Recommendation

3. That HELA considers their role in delivering the recommendations of the Triennial Review in the light of the Government's response.

Background

4. HELA considered the report on the Triennial Review of HSE at its January 2014 meeting (see HELA paper 16/01). The Government response to the report was published on the 26th June 2014¹.
5. Whilst the Triennial Review concluded that there is a continuing need for the functions HSE delivers and a strong case for HSE to remain an NDPB, it made four recommendations relating to HSE's relationship with its LA co-regulators:
 - a) Recommendation 1: *"HSE should actively review LAs annual returns on their inspection and advisory activities. Where there is evidence of significant deviations from the norm, they should explore the reason with the outliers. HSE should draw attention of the appropriate political leader of those LAs where its performance is significantly out of step of the potential risk this may pose"*;
 - b) Recommendation 2: That *"the LA National Code is reviewed in 2014 in light of experience to identify areas for change and amendment"*;

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323221/govt-resp-triennial-review-hse.pdf

- c) Recommendation 3: That “HSE’s LA liaison groups should be strengthened and maintained and that HSE role in these groups should be to provide expert professional guidance, constructive challenge and leadership”;
- d) Recommendation 4: That “Ideally, there should be a senior champion and single point of contact and single regulatory organisation in each LA or grouping of LAs. But that what works well locally and local political accountability is just as important”.

6. The Government response to the recommendations stated:

“The Government recognises that variability in enforcement approaches between some LAs continues to generate concerns and fully supports the conclusion that these are best addressed through improving the existing framework of co-regulation by HSE and LAs. Previous reforms introduced by the Government this way have already been successful in reducing proactive LA health and safety inspections by nearly 90% (from 118,000 in 09/10 to 14,400 in 12/13).

Within this co-regulator framework, HSE provides essential support to LA co-regulators by promoting and monitoring the consistency, proportionality and targeting of their enforcement activities. LA liaison groups meanwhile provide a powerful mechanism for supporting those authorities whose data suggests either inappropriate targeting of lower risk premises or that no proactive inspections are taking place.

HSE will continue to analyse annual visit data to identify those LAs in need of further support when targeting their health and safety interventions, and will work with them to bring about improvements. Where appropriate, HSE will seek to involve local political leaders in those interventions.

A review of the National Local Authority Enforcement Code following its first year in effect will be undertaken by end-2014. The review will involve public consultation to solicit views from business and LAs as well as an analysis of LA annual visit data. The nature and timing of any subsequent changes to the Code will be dependant on the outcome of the review.

The level of support HSE currently provides to regional liaison groups will be reviewed in discussion with HSE’s national LA forums and steps taken by Autumn 2014 to standardise coverage across the country.

A senior champion or single point of contact within an LA, with a senior officer signing off LA health and safety performance, will provide for increased accountability within LAs and will assist HSE and LAs to work together in partnership to deliver the intentions behind the National Code.

Discussion

7. HSE has already taken action to address the recommendations one and four and has plans in place to deliver recommendations two and three:

Recommendation 1

8. The detailed analysis of LAE1 data relating to recommendation one is contained within HELA paper 17/01.
9. The headline data shows that 62 (19%) of LAs undertake no proactive inspections. Conversely, 31 of the LAs that responded (<10%) undertook over 75% of the inspections of lower risk (B2/C) premises, with 12 (5%) responsible for over 50% of the reported lower risk inspections. 57 LAs did not provide a return (13% of the total number of LAs with H&S regulatory functions).
10. In contrast to the close knit Welsh & Scottish liaison groups the English county liaison groups are much less cohesive in their workings. Therefore, to promote the Code and encourage a more consistent response to the data returns HSE held two meetings (north & south) with Chairs & Secretaries of the English County Liaison Groups. HSE proposes to run similar meetings on an annual basis.
11. In addition to discussion at these meetings, the CLGS were also encouraged to peer review the LAE1 returns prior to submission to drive up the consistency of recording. HSE has also continued to attend numerous LA liaison meetings as well as responding to requests to clarify understanding of the Code and the LAE1 return. To further assist, HSE also sense checked the LAE1 data provided and queried obvious reporting anomalies to ensure LAs were reporting correctly and consistently.

Recommendation 4

12. HSE also used the 13/14 data return to act on the fourth recommendation with this years LAE1 return requiring the data and supporting information to be validated by a senior LA officer (Head of Service or above). This senior officer will act as the single point of contact for that LA.

Recommendation 2

13. Following the statistical analysis HSE has developed a programme of work to address recommendation two, a review of the Code by the end of 2014. Broadly, the outline plan and timetable is that during July, the LAE1 returns will be used to develop consultation questionnaires for business and LAs on the implementation of the Code. An outline timetable and draft questionsets will be available to allow HELA members to comment on the scope of the questions etc. Once finalised the questionnaires will form the basis of a public consultation with business, LAs and other stakeholders. This will take place during August/September. During this period and whilst the consultation responses are being analysed opportunities will be taken to discuss and

receive feedback on the Code and the review e.g. H&S Practitioner's Forum, LA enforced industry sector forums. The responses to the consultation will be analysed in October to allow the identification of any necessary amendments to the Code (or supporting guidance) and to make any changes prior to the end of the 2014.

Recommendation 3

14. With regard the third recommendation, HSE has recently carried out a mapping exercise to assess the current level of HSE/LA engagement at national, regional and county level in order to facilitate discussions within HSE on the level of resources required to ensure a consistent and sustainable system of liaison. Whilst there is good coverage there is inconsistency over which liaison groups are supported. We aim to develop an outline proposal within HSE and then involve the H&S Practitioner Forum and the CLG chairs and secretaries to align support.

Action

15. HELA members to consider their role in:
- a) facilitating discussions with outlier LAs in their regions;
 - b) commenting on the scope of the draft consultation questionnaires and outline timetable for the review;
 - c) communicating the review of the implementation of the National LA Enforcement Code and particularly encouraging LAs to respond constructively with suggested measures to assist implementation;
 - d) considering how LAs may engage their business contacts in the review; and
 - e) assisting the determination of a consistent and sustainable system of liaison between HSE/LAs.

Contact

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