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## HEALTH AND SAFETY COMMISSION

### Developing an intervention strategy

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#### Issue

1. In September 2004 the Health and Safety Commission published, on the HSE web site, a consultative document (CD) 'Regulation and recognition – towards good performance in health and safety'. This CD arose from Theme 3 of the HSC strategy - 'Focussing on our core business and the right interventions'<sup>1</sup> where we are best placed to reduce workplace injury and ill health'. This paper reports the results of this consultation and outlines the next steps.

#### Timing

2. Routine. We propose to return in June with a draft intervention strategy for publication via the Web and a plan for further work.

#### Recommendation

3. That we:
  - 1 Publish the result of the consultation (Annex A).
  - 2 Develop a web based publication that combines the evidence we already have about what works and where, with the information gained from the consultation.
  - 3 Bring together some related work and carry out a set of pilots to explore how to influence different organisations; including the value and practicality of formal recognition for the best performing companies.
  - 4 Consider whether, and how to adopt formal recognition, based on the results of the pilots.
  - 5 Carry out the work necessary to complete the above actions as part of HSE's response to the Hampton Review.

#### Background

4. The CD sought comment on two broad areas. The first was on the use of 13 interventions. The second area was the idea of regulators 'recognising good performance' as a form of intervention in its own right. Consultation closed on 24 December 2004.

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<sup>1</sup> Interventions are the ways we influence organisations to raise standards and met their legal duties.

5. Annex A is a summary of the comments we received. It can be summed up in this way:

*All the interventions are valid and have their place, but our evidence base is not yet conclusive about when each is best (on its own or as part of a mix). There are also some differing views about the best mix of 'new' and 'tried' interventions. There is general support for stronger and more visible ways to direct our interventions towards poor performers, although there is not a consensus on formal recognition. There is support for tailoring the mix to specific sectors and employers.*

## **Argument**

### A "vision" for our intervention strategy

6. HSC/Es mission is to ensure that risks in the changing workplace are properly controlled. We are working towards some challenging targets to reduce accidents and ill health. HSE and LAs will always face more demands than the resources we have will support, so we need to use what resources we have as effectively as possible. We have prioritised hazards that cause the most injury and ill – health (such as stress, slips and trips) and organisations where we can have the most impact (poor performers, large employers). We will explain better the choices we make and how we identify good performers. We will continue to use a range of intervention techniques. Some of these are long established, some quite new. All have their place and most enjoy wide support across the health and safety community. We take account of; the nature and severity of risks and how well they are controlled; the characteristics of individual industries, organisations and workplaces; and how many people (both workers and the public) are likely to be affected.
7. But our evidence as to which interventions (and mixes) work best in given circumstances is incomplete. We must increase our understanding to ensure the best use of our limited resources. We will publish (on the internet) an intervention guide, setting out our approach. The guide will explain our choices and the evidence. It will include the views of our consultees. We will refresh and refine the guide as our knowledge and evidence develops. We will encourage influential dutyholders to develop their own initiatives, such as exerting influence through chains of supply, or through the business ethics that they adopt.
8. In doing this we will develop the links between the intervention strategy and other related work, including in particular HSC/E's response to the Hampton Review (for our initial response please see HSC paper 05/51). Other related work includes the programmes on HSE and LAs working together, on enforcement, major hazards, worker and business involvement. We see the business involvement programme as the rightful home for the ongoing work proposed in recommendation 3 and in due course recommendation 4. We will also seek to learn from other regulators, for example the DTI Retail Enforcement Pilot.

### An intervention strategy for major hazards<sup>2</sup>

9. The CD excluded the "permissioning regimes" (where we oversee licenses and safety cases) for major hazards. However, there is some read across and we are working with the Major Hazards Directorates to ensure that our approach is consistent. In particular

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<sup>2</sup> Nuclear, Chemical, Offshore etc

there is a related pilot project in the Major Hazards programme<sup>3</sup>.

### Recognising good performance

10. There remain powerful and differing views about recognising good health and safety performance. Many consultees accept recognition as a valid and existing concept as reflected in our use of rating systems and the HSC's long-standing Enforcement Policy Statement. However, some see formal recognition as limiting the scope for improving standards. They also fear that formal recognition would absorb more resource than it would release, because we would have to spend a lot of time judging how good organisations were. Many see it as only serving to make good performers better but doing little to address poor performers, which they all agree should be our main focus.

11. We propose that a set of pilots (currently being developed) on how to influence large organisations, be used to explore how formal recognition for good performance can be used. These will help identify what evidence an organisation would need to produce and the way that evidence is assessed. We would then test the conclusions among small and medium enterprises. We believe that formal recognition should follow the work referred to in paragraph 8. We do not have consensus support for pressing ahead without gaining further knowledge of how such a scheme might be applied and meet the concerns we have heard.

### **Consultation**

12. The HSE Board considered the responses to the CD on 2 February 2005. A working group has been set up. LACORS<sup>4</sup> are members of that group alongside a range of HSE staff.

### **Presentation**

13. Subject to the Commission's advice we propose to publish Annex A and develop the intervention guide.

### **Costs and Benefits**

14. The intended benefits include higher health and safety standards – meeting the accident and ill-health targets – with, we believe, lower costs to UK plc and more efficient and effective use of regulatory resource. Our evidence about the impact of different interventions (both in terms of their effect and their costs for businesses and regulators) is not yet conclusive; hence our proposal to set out what we know in the form of an intervention guide that will be strengthened as that knowledge grows.

### **Financial/Resource Implications for HSE**

15. This work is essentially about how we use the resources we have, to achieve our goals so there should be few if any cost implications. We will address the administrative costs of bringing the various ongoing streams of work together in our paper in June.

### **Environmental Implications**

16. A different mix of interventions might change travel patterns, but this is hard to assess.

### **Other Implications**

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<sup>3</sup> This a project being undertaken between the Chemical Industries Association, HSE, the Environment Agency and the Scottish Environment Protection Agency.

<sup>4</sup> Local Authorities Co-ordinators of Regulatory Services

17. HSE and LAs are working closely together on this. It is fundamental that the intervention guide aids and reflects the work of HSE and LAs. The guide will be tailored to suit small and medium, as well as large organisations.

**Action**

18. The Commission is invited to discuss the 'vision' in paragraphs 5 to 7 and support the five recommendations in paragraph 3. Subject to the Commission's approval we propose to:

- Publish the results of the consultation.
- Review the research evidence and the results of the consultation and produce an intervention guide with an explanatory commentary.
- Identify significant gaps in our evidence and seek to address these through HSE and LA programme working, where appropriate pulling together existing work.
- Embed the conclusions of all the above amongst ourselves as regulators and amongst those we regulate (implications for communications, change management, etc are acknowledged but have not yet been considered in detail).

## An analysis of the results from the consultation on 'Regulation and recognition – towards good performance in health and safety'

### A1. Introduction

In September 2004 the Health and Safety Commission published a consultative document (CD), Regulation and recognition – towards good performance in health and safety. This CD arose from Theme 3 of the HSC strategy - 'Focussing on our core business and the right interventions where we are best placed to reduce workplace injury and ill health'. It contained proposals in pursuit of projects Early Deliverable 8 (ED8) 'our intervention strategy' and ED5 'being clear about our priorities' – 'our' being HSE and Local Authorities (LAs). The project was to

In promoting joint regulatory ownership of the proposals and in the spirit of our partnership with LAs, the working group guiding the project included representatives from the Local Authorities Coordinators of Regulatory Services (LACORs). Through their network, the proposals were presented to Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) on two occasions during their development. The

The CD sought comment on two broad areas. First, on the range, balance, application criteria and interrelation of the 13 interventions identified and proposed that HSE and LAs concentrate primarily on 8 of them (as marked in bold below). Second, it asked for comment on the concept of regulators 'recognising good performance' as a form of intervention in its own right.

- Partnership
- **Motivating senior managers**
- Supply chain
- Design and supply
- **Sector & industry wide initiatives**
- **Working with those at risk**
- **Education & awareness**
- Recognising good performance
- **Inspection & enforcement**
- **Intermediaries**
- Best practice
- **Accident and ill health investigation**
- **Dealing with issues of concern raised and complaints**

### A2. Commentary on the responses received and their handling

Quantitatively we received 139 responses to the CD from 118 organisations - 111 used the electronic response form, 28 gave their comments in other formats (email and paper). A list of respondent organisations is given at the end of this annex. There were an encouragingly large number of responses from Local Authorities (30). Nineteen of those who used the electronic response form also sent additional hard copy information. Amongst the 28 who used other formats, a number were from the Trades Unions, who wanted to set their responses in the wider context of HSE/LA resource allocation by Central Government.

However this is not an empirical exercise. The charts presented below are to show the range and general distribution of the comments received showing broad indications as to where there is either consensus or divergence in the views expressed. Qualitatively, more weight has to be given to the views of major representative organisations, than individuals. In the summary analysis, reference is made to the main stakeholder groups, employers, trades unions and health and safety professionals (both advisors and regulators).

### A3. Summary Analysis

This is divided along the lines of the two major themes explored by the 16 questions that people were asked to respond to. The first 8 questions related to proposals for an interventions strategy, the second 8 relate to the idea of recognising good performance as an intervention in its own right.

#### A3.1 Our intervention strategy

Whilst there was strong agreement that we need to use a variety of interventions from the 'new' to the 'traditional' (Q1) there was little consensus as to which interventions we should devote our resources to (Q2). Trades Unions in particular, refrained from expressing a preference on the basis of not knowing the value of one intervention over another. Nearly everyone thought we had identified all the right interventions and all

had some merit (Q6). Despite confusion over the distinction between “design and supply” and “the supply chain” as interventions (Q4), many respondents clearly indicated that “design and supply” should be an area in which regulators should remain involved - some citing HSE’s initiative to reduce the weight of cement bags as a prime example.

Although the matrix in the CD applied the different interventions against various criteria for their success (eg. size of company, track record, etc) could have been more clearly presented, those who did persevere felt we were on the right track but needed to refine and develop the work (Q5). We do propose further develop the matrix in this form.

Many threads from the consultation point towards different sectors requiring different mixes of interventions depending on their structural relations, maturity, risk potential etc (Q1, Q2 & Q7). Evidence for sector-based intervention strategies can be found in programmes like that of construction, which is viable due to the strong identity/definition of construction as an industry sector. Food is another well-defined sector where sector-based interventions have proved successful (Recipe of Safety).

It may be possible in other well-defined sectors, for regulators to work with trade bodies/sector representatives (including trades unions) to agree sector-specific intervention strategies. Where possible these strategies would aim to accommodate the needs of large, medium, small and micro employers and their employees.

### A3.2 Recognising good performance

Nearly all respondents from employers to the CCA, from regulators to trades unions agreed that our targeting arrangements whereby HSE/LAs direct our interventions towards poor performers should be further developed and made more transparent (Q9).

Although there is numerical majority in favour of formally recognising good performance (Q10), amongst those who opposed the proposal were the more weighty trade unions and some health and safety professionals. Formal recognition is also seen by some as limiting the range of interventions for improving standards of health and safety. Amongst regulators it was feared that formal recognition would absorb more resource than it would release.

Much of the replies to Questions 11 to 16 explore aspects of a scheme for recognising good performance. Many of those who responded negatively to Question 10, did not provide answers to these questions. That said, there was a wide range of views amongst those who did respond as to how such a scheme would operate (Q12), from third party assessment of conformity with published standards/sector schemes, through to pure self-assessment. If recognition were to go ahead, any scheme will probably need to incorporate more than one avenue by which good performance could be recognised and allow for variation as to what level of performance receives what recognition. Many respondents commented that employee assessment or employee endorsement for the granting of recognition was essential to the integrity of any scheme. Others suggested the involvement of insurers.

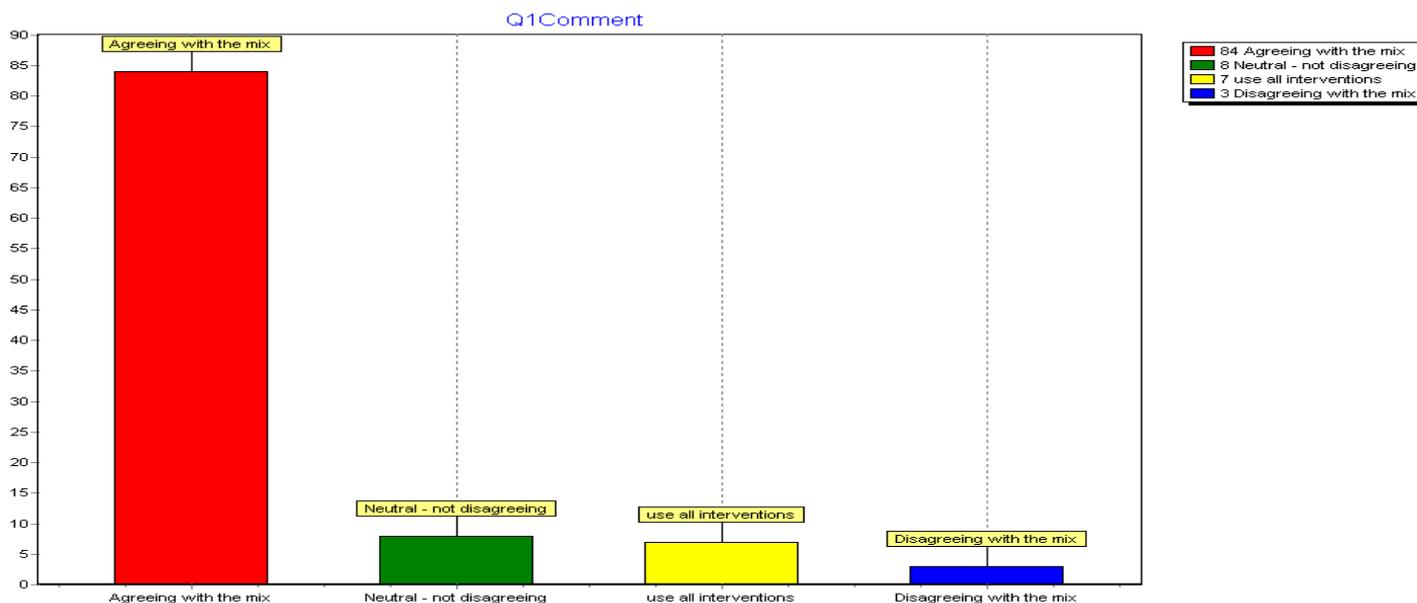
Amongst those in favour of recognising good performance as to the question of whether its development should be in conjunction with other regulators or independent of them (Q11) there was a fairly even split. Many commented that we should be aware of other regulators’ approaches, but not constrained by them.

Responses to Question 13 indicate that people believed that “not intervening proactively” should mean only going to such dutyholders on a reactive basis.

There was strong support that recognition should be public (Q14). A variety of ways were suggested from awards to website listing.

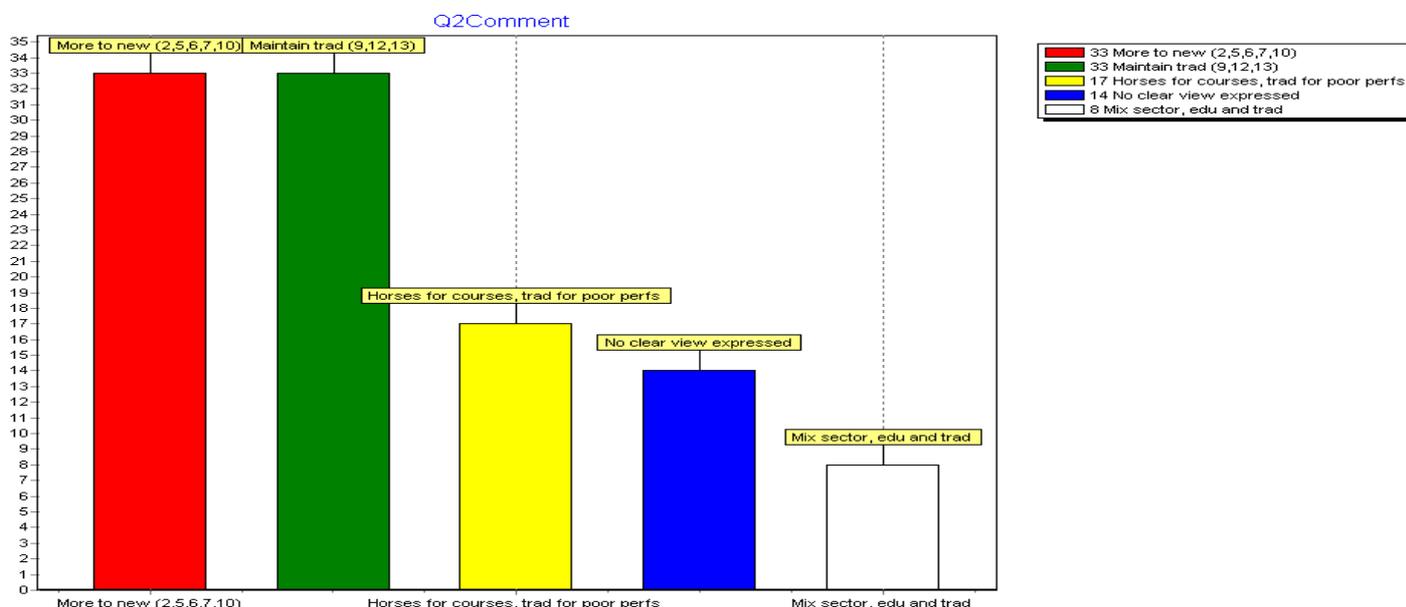
In responding to Questions 15 and 16, people clearly felt that we should not alter our investigation policy for good performers (it was not morally defensible to do so) and that if a good performer had a serious incident, they should incur some form of penalty/demotion with respect to their recognition, but at the regulator’s discretion.

Q1 What are your views on the proposed preferred mix of interventions? (See paragraph 25).



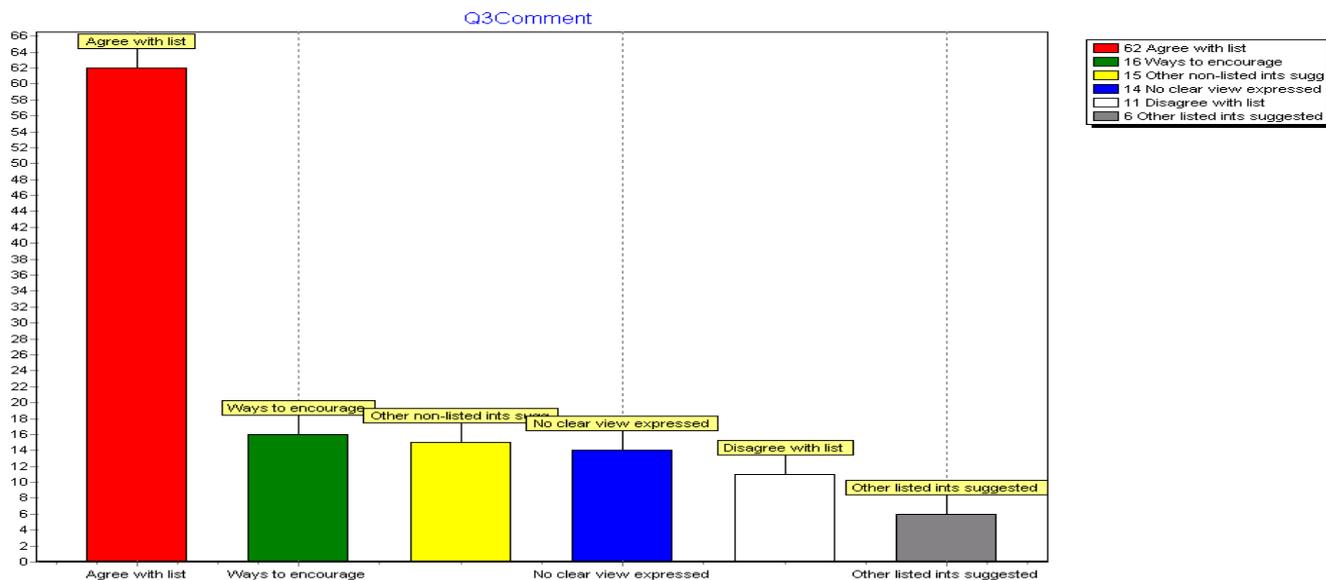
While this chart shows significant support for our choice of 8 interventions, that support appears to be predicated on traditional interventions (inspection and enforcement, investigation, and dealing with complaints and matters of concern) being part of the mix. Some employers thought the lack of definition gave little indication as to how this choice would affect interaction between employers and regulators. Many Trades Unions refrained from stating support for a preferred mix citing a lack of evidence on which to base such a choice.

Q2. Assuming that there is no increase in resource available what balance would you advocate amongst the interventions? What should we concentrate on and which should we draw back from? (See paragraphs 24-27).



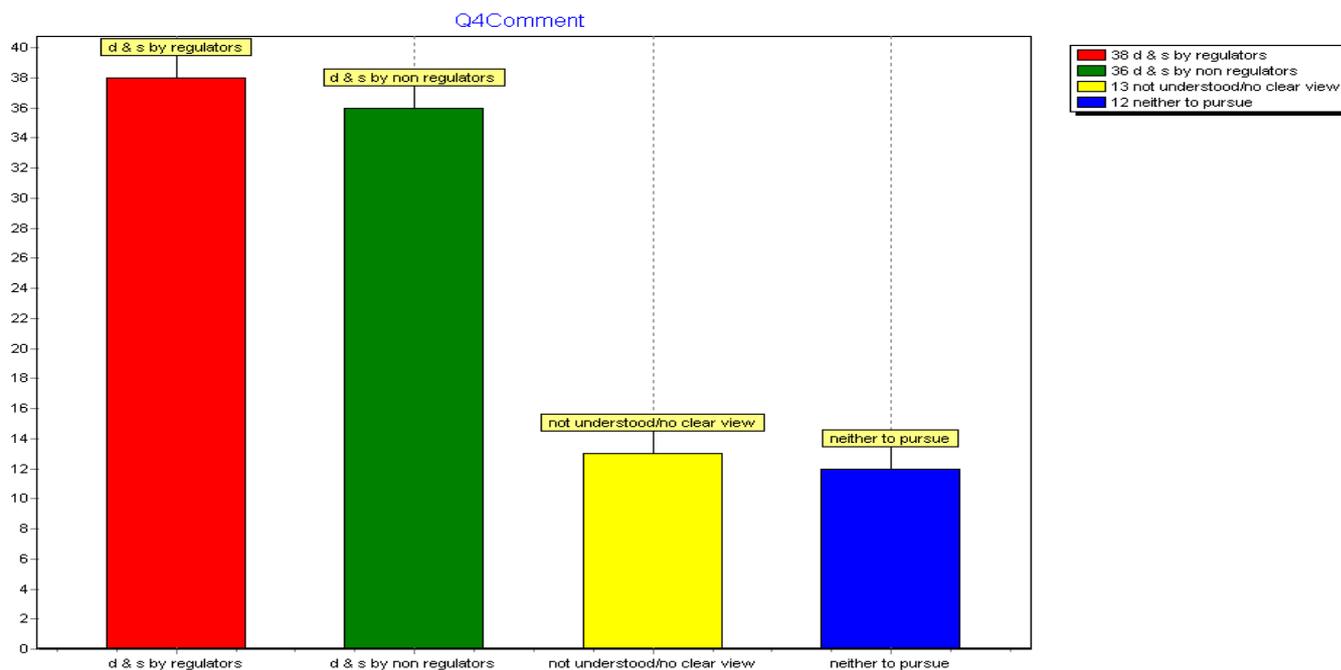
There is no consensus as to which interventions our resources should be directed. In general, employers and non-regulatory health and safety professionals were in favour of more to the 'new'. A significant number of commentators (including many H&S professionals) made the point that different sectors/organisations need different approaches. There was also an identifiable group who favoured combining sector initiatives with education followed through with the traditional interventions.

Q3. What are your views on the proposed interventions that employers could pursue of their own volition? What other interventions could employers pursue themselves? What (if anything) should we do to encourage this? (See paragraph 26).



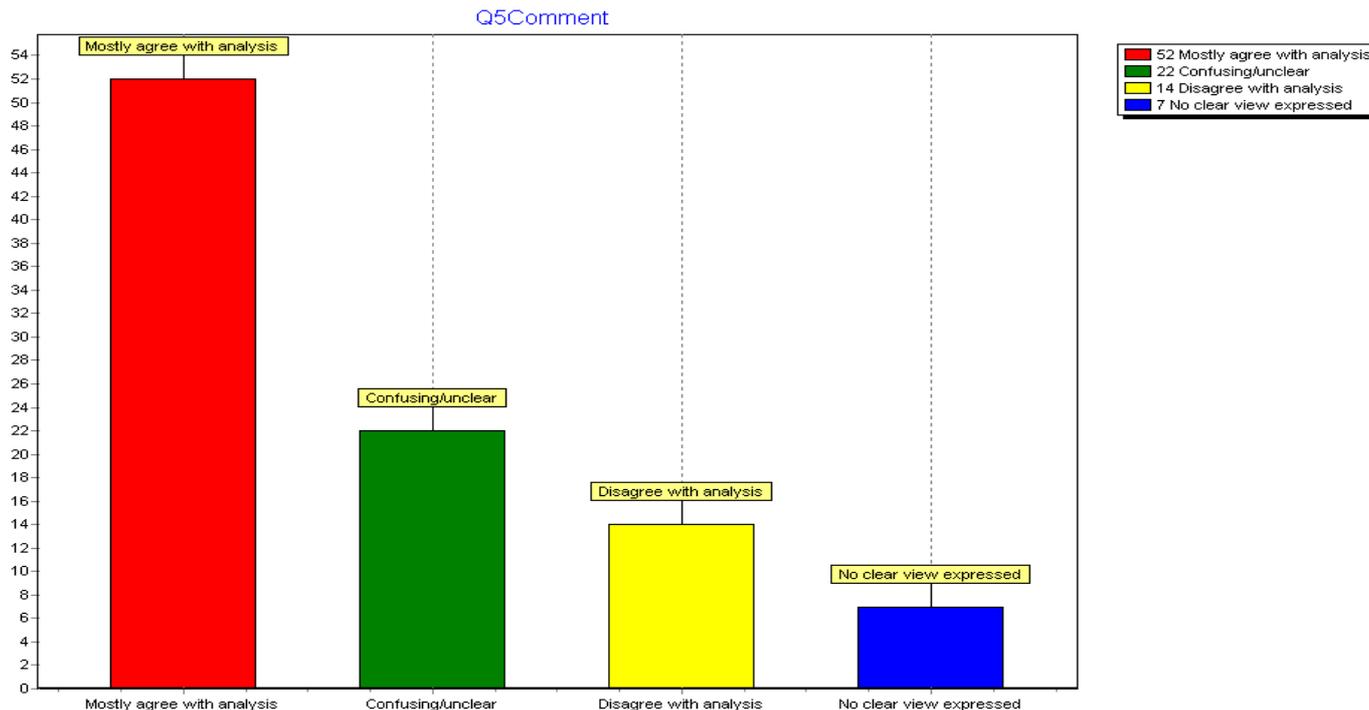
Responses to this question show support for dutyholders undertaking interventions of their own volition. A number of respondents suggested other approaches (both listed and unlisted) which could be used by employers. These require further analysis.

Q4. What are your views on the use of the design and supply intervention? (See paragraph 26)



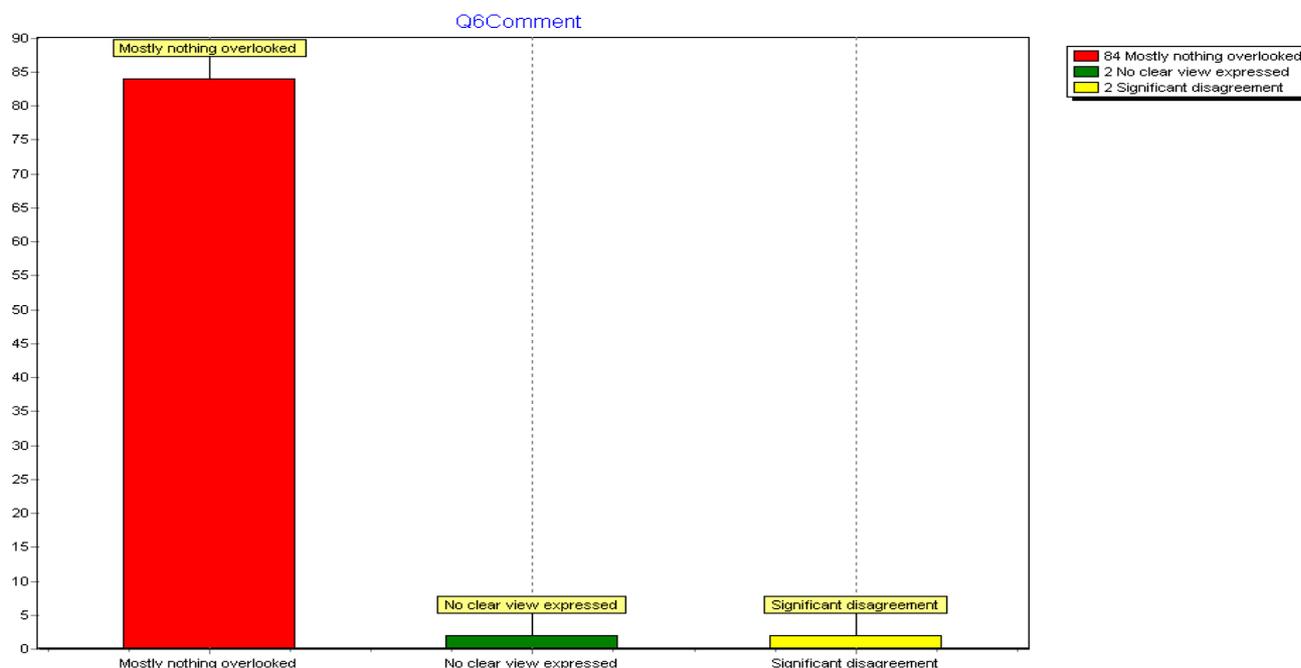
This question could have been stated more clearly. A large number of respondents either did not understand the intervention or thought it akin to the supply chain intervention. Those who understood the concept for the most part thought it was an intervention in which regulators should be engaged.

Q5. What are your views on the analysis contained in the intervention matrix? (See page 9).



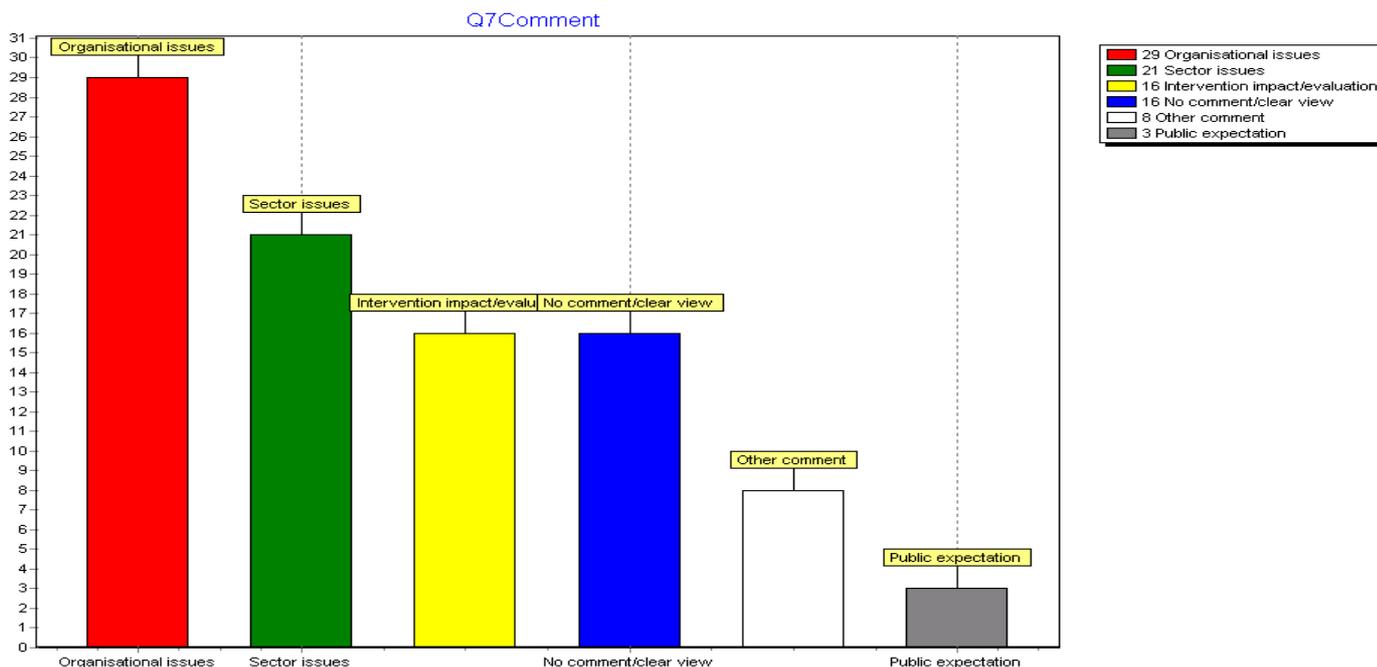
Although a majority of respondents agreed with the analysis in the matrix, a significant number thought it was confusing and unclear. To be of any further use, it would need to be clarified and developed.

Q6. Have we overlooked any important intervention techniques? Please provide details of any other approaches we should consider?



From the responses provided, we appear to have a sufficiently broad range of classifications for the interventions identified in the CD. A number of comments did refer to the use of standards as an intervention, but this could be classed as falling within the best practice intervention. Some also commented that design and supply; sector and industry-based initiatives, intermediaries and best practice could all be put under the banner of partnership.

Q7. What other criteria should inform the choice or mix of interventions used?

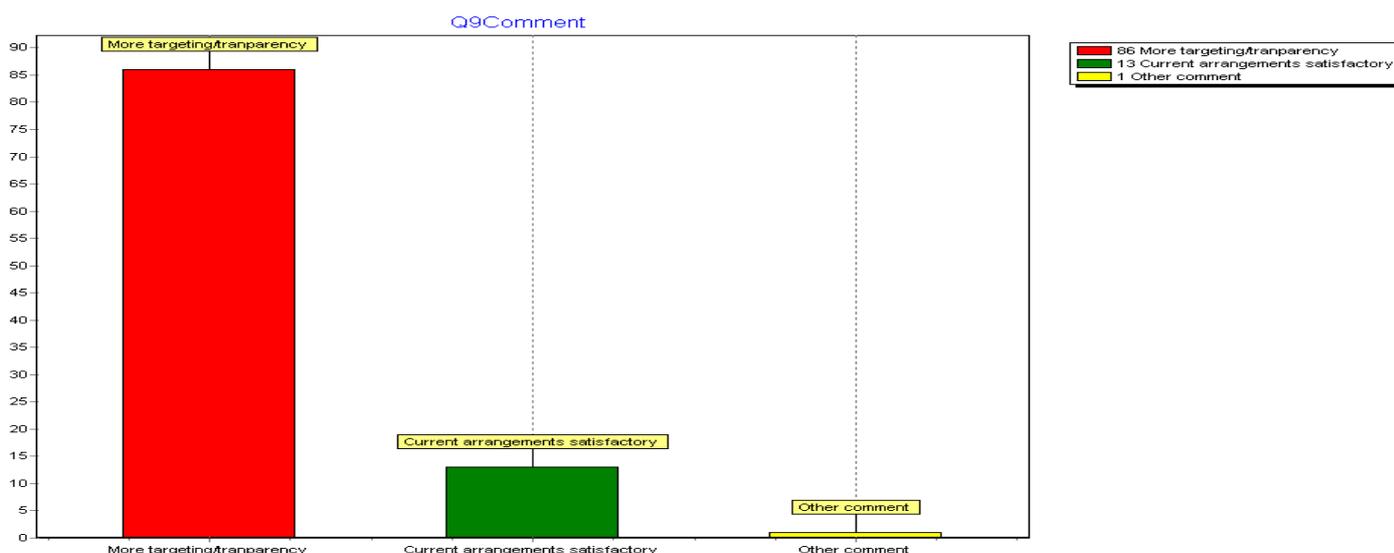


No one set of criteria was overwhelmingly cited. There was significant support for both organisational issues (eg past performance, employment arrangements, commitment to corporate social responsibility and risk potential) and a sector approach. There was also significant number of respondents opted for a pragmatic approach of testing what works through intervention impact and evaluation.

Q8. Do you have any other comments on the ideas and proposals explored in this document?

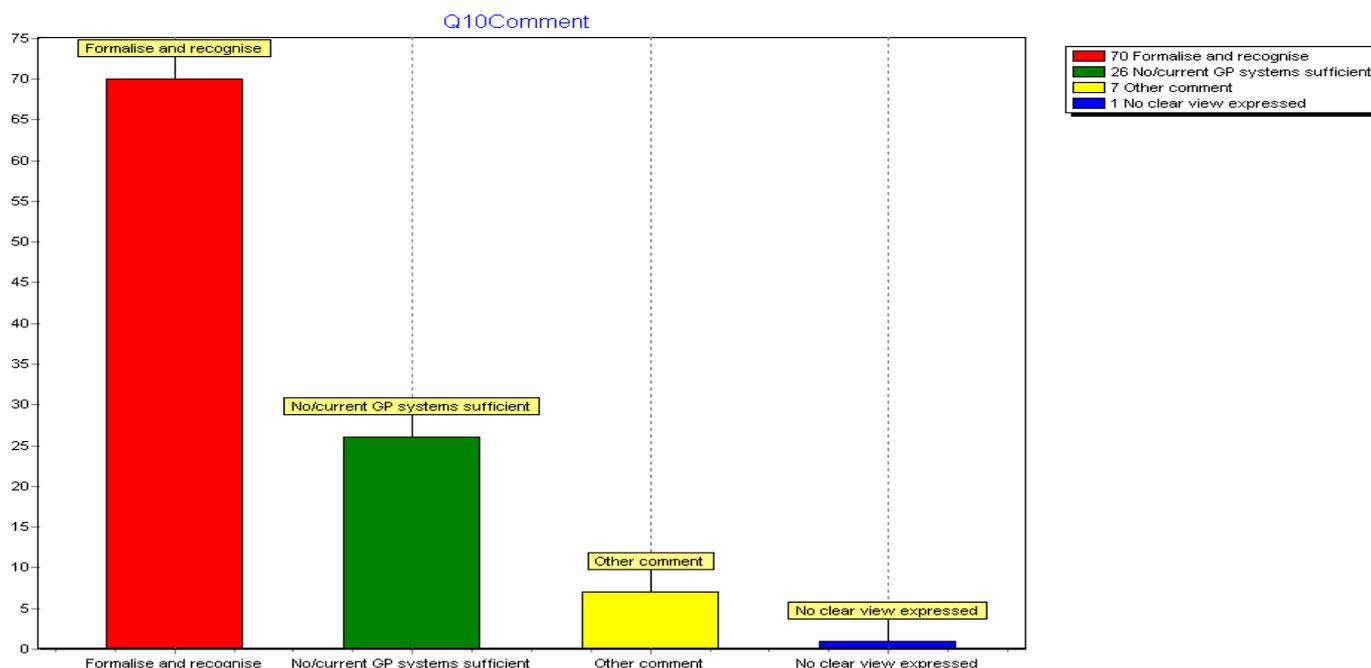
Fifty-four respondents provided further comment, many re-iterating points made in responses to previous questions.

Q9. Should existing targeting arrangements, whereby HSE and LAs direct interventions towards poorer performing organisations be developed and made more transparent?



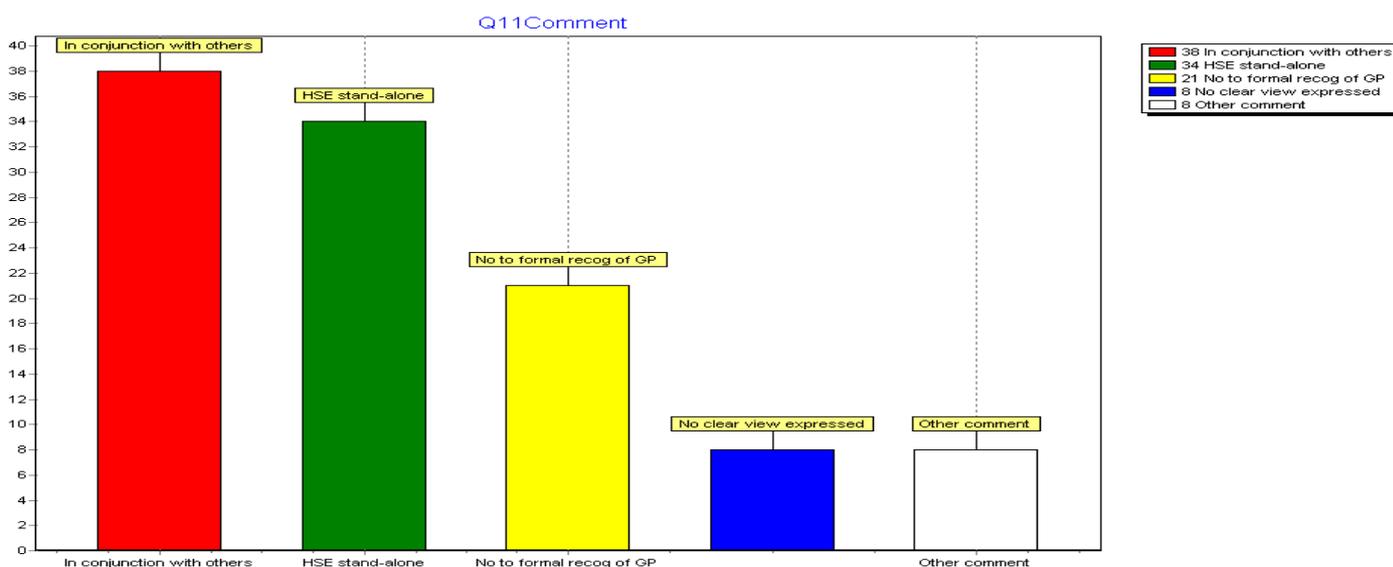
There is clear consensus for HSE and LAs to develop and make more transparent their targeting arrangements to direct interventions towards poor performers.

Q10. The corollary of this targeting is that better performing organisations already receive less attention. Should this process be formalised and good performance be publicly recognised by regulators?



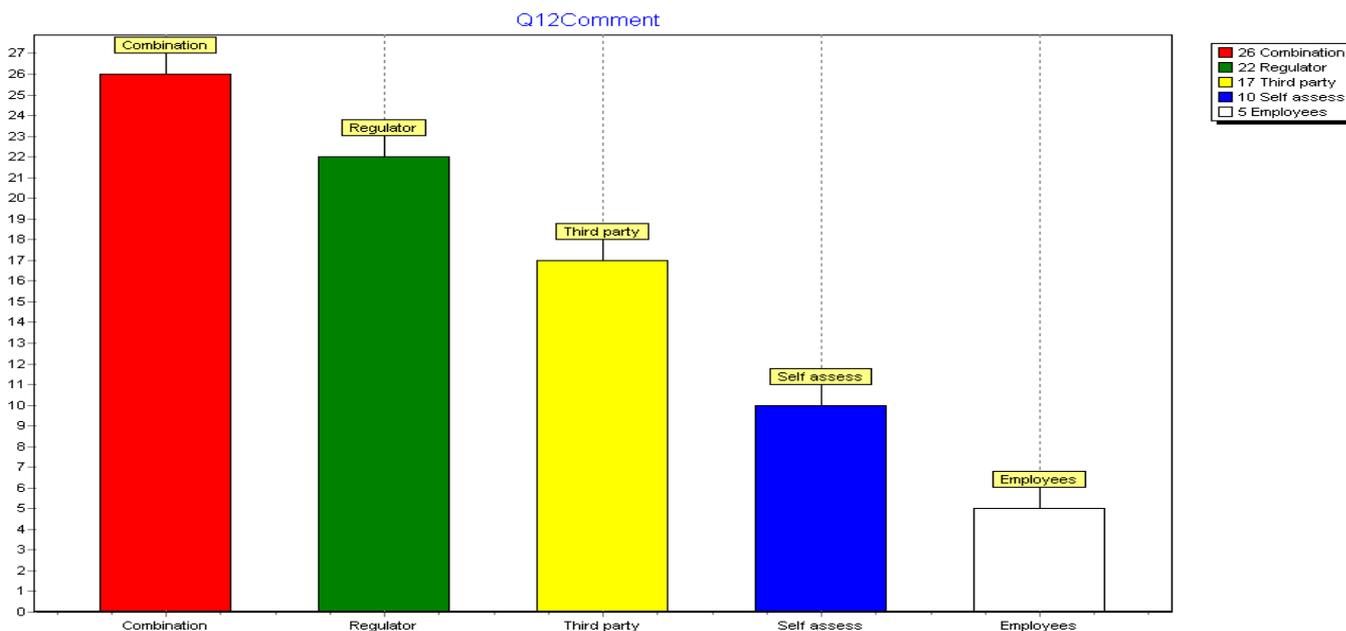
Although a numerical majority of respondents agree with the proposal, the trades unions and many regulatory H&S professionals were against formal recognition. They cited a lack of evidence as to its effectiveness and that if administered by the regulator, had the potential to draw away resources from dealing with poor performers.

Q11. Other regulators (e.g. the Environment Agency, Food Standards Agency) are also examining how better performance could be assessed and influence the intervention regime for an organisation. Where this implies a withdrawal of proactive intervention it has been termed an ‘earned autonomy’ scheme. Should the HSE/LA approach to this be developed in conjunction with other regulators or a stand-alone system?



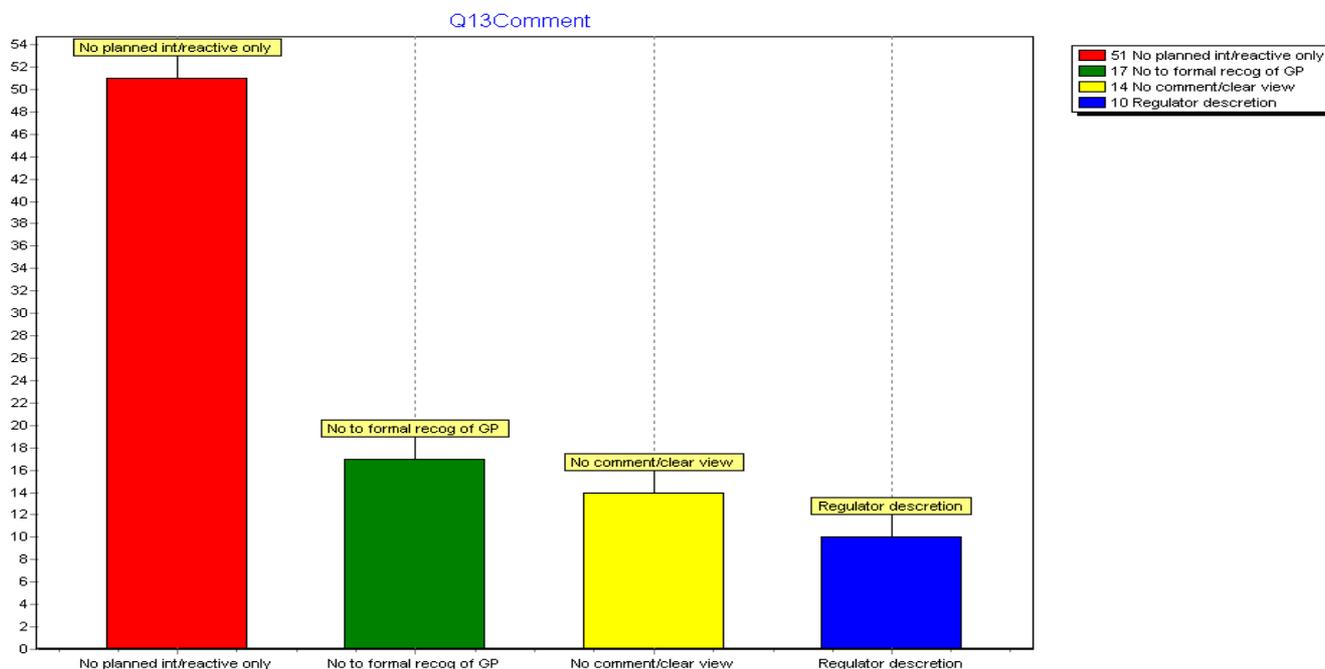
Whilst a slight majority of respondents favoured development in conjunction with other regulators, there was a significant number who voted for a stand-alone system. From this question on, many of those who disagreed with the concept of recognising good performance in question 10, gave no opinion of the rest of the questions.

Q12. How should duty holder performance be assessed for such an approach and by whom; are the criteria suggested in paragraphs 65-67 necessary, appropriate, sufficient?



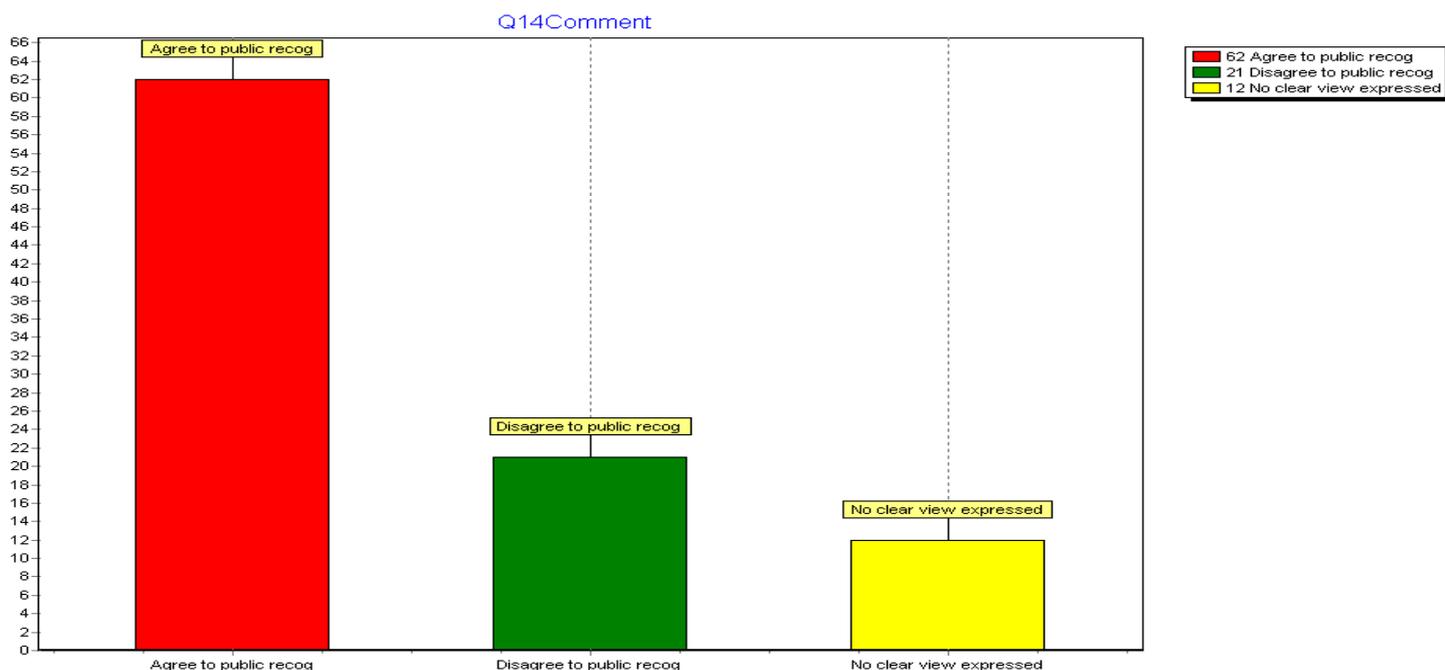
Most respondents agreed with the suggested criteria for assessment, but there was a wide range of opinions about who should make the assessment. Many of those advocating a combination approach supported employee assessment being an essential element of that approach.

Q13 What should “not intervening proactively,” mean in practice?



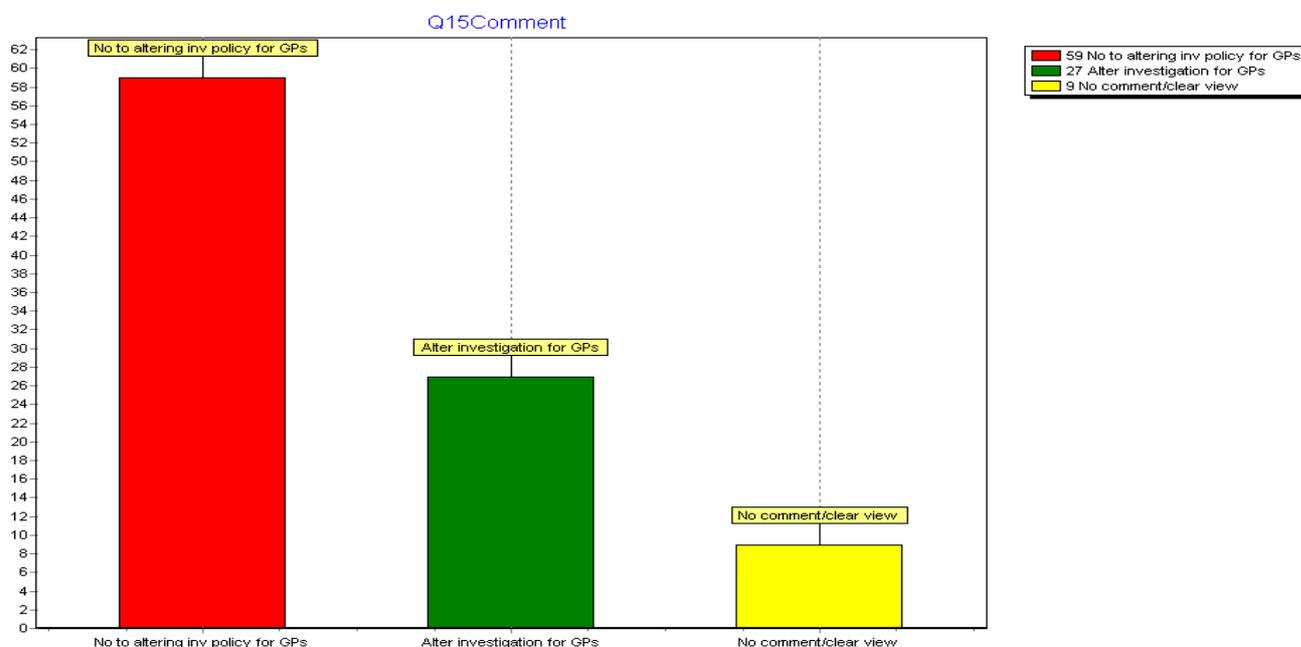
The majority of respondents suggest that not intervening proactively should result in no planned pro-active interventions.

Q14 Should public recognition be provided and, if yes, what form should it take?



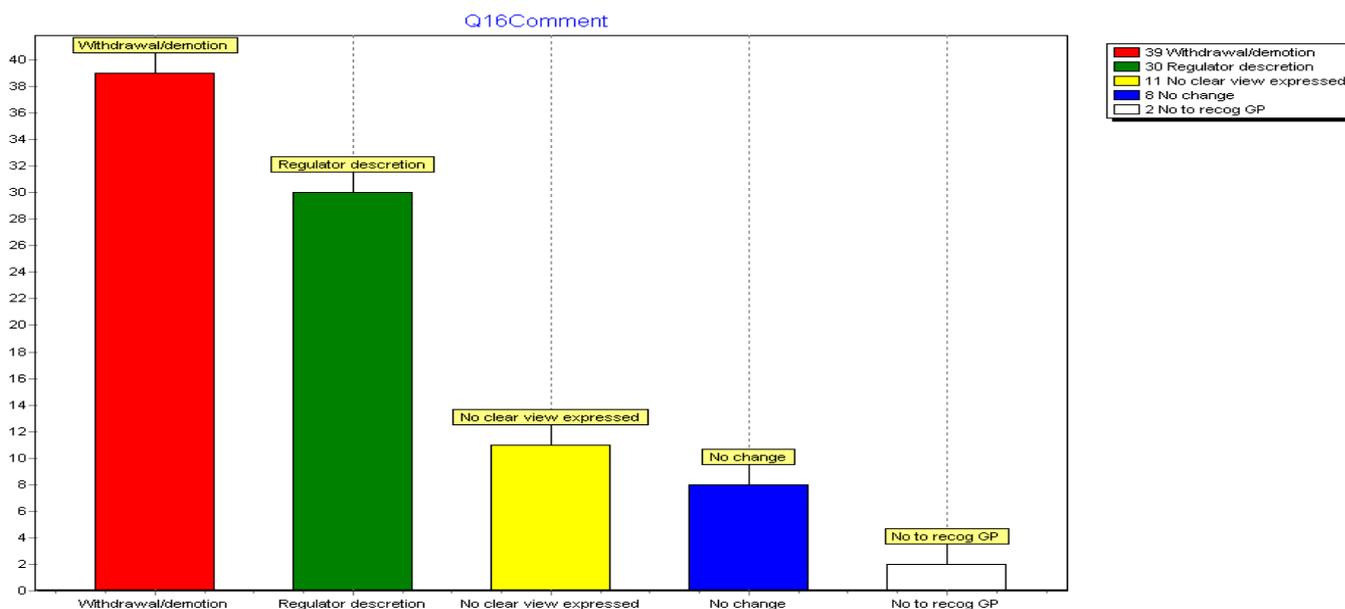
There were many suggestions as to what form public recognition should take from website listing to formal awards. A number commented that if companies were wanting public recognition for their performance, there were already available through various award schemes.

Q15. Should our investigation policies and practices for incidents and complaints be altered for better performing organisations and, if so, in what way?



Respondents clearly stated that we should not alter our investigation policies for good performers. They found it hard to see how a policy of differential treatment could be made politically or morally defensible.

Q16 What should be the consequences of serious incidents or complaints on the organisation's status?



Respondents generally felt that there should be some penalty for serious incidents or upheld complaints but many thought that this should be at the discretion of the regulator; i.e. not resulting automatically in withdrawal of recognised status.

Organisations responding electronically or whose paper responses could be entered on to the electronic response form	
Brent Council	Chartered Institute of Environmental Health
City of Edinburgh Council	Gateshead Health NHS Trust
Police Federation of England and Wales	West Lothian Council
Bradford MDC	The British Chemical Distributors and Traders Association
Napier University Sighthill Campus	Institute of Directors
Cheshire Fire Service	The College of St Mark and St John
Safety Assessment Federation	Ministry of Defence
Standards & Technical Regulation Directorate of the Department of Trade and Industry	Road Haulage Association
Prospect PCS FDA	Health and Safety Executive x 9 (individuals and groups)
Learning & Skills Council Shropshire	Higher Education Establishment
LACORS	Southern Water
Amicus Trade Union	Flintshire County Council
Quadriga Health and Safety	LUL
Archbishops' Council for the Church of England	Torrance and Co :td
Demontfort University	Public Health Department
Inverclyde Council;	Bristol City Council
London Borough of Havering	LINPAC GROUP
Helios Safety & Rescue]	London Borough of Camden
Broadland dc	Weymouth & Portland BC
London Borough of Hillingdon	Homeserve plc
Kingston upon Hull City Council	Red Cat Partnership Health and Safety Consultants
West Lothian Council	London Borough of Lewisham
The Institute of Chiropodists and Podiatrists	UWIC

CBI	Independent Healthcare Forum
University of Warwick	United Kingdom Accreditation Service
Rural & Industrial Design & Building association	Harrogate Borough Council, Department of Health and Housing
The West of Scotland Health and Safety Liaison Group	SOHAS
International Powered Access Federation	Dumfries and Galloway Council
Aylesbury Vale District Council	Flagship Training Limited
Health Estates & Facilities Management Association (North) Health and Safety Support Group	Construction Confederation
London Borough of Tower Hamlets	Braintree District Council on behalf of Essex HS liaison group
City of Sunderland	Gloucester City Council
Scottish Hazards Campaign Group	Leeds City Council
ASSOCIATION OF BRITISH CERTIFICATION BODIES	Shropshire Chamber of Commerce
Basildon District Council Environmental Health Services	Health Protection Agency
British Coatings Federation	Universities & Colleges Employers Association
Small Business Council	North Lanarkshire Council
Rail Safety and Standards Board	Scottish Secondary Teachers' Association
Dundee City Council	Renfrewshire Council
Association of Colleges	Prospect
Institution of Civil Engineers	UK Petroleum Industry Association
Scottish Natural Heritage	Glasgow City Council
West Midlands Health and Safety Liaison Group	A.J.Lowther and Son Ltd
Blackpool Borough Council	Association of British Insurers
Secretary to Merseyside Chief Officers Health and Safety Sub-Group	South Ayrshire Council
Centre for Corporate Accountability	Cavendish Consultants
The Institute of Chiropodists and Podiatrists	Murray Clark, IOSH Technical Affairs Researcher
Chemical Industries Association	Kent County Council
British Standards	The Association of Personal Injury Lawyers (APIL)
Violence at Work (UK)	British Retail Consortium
ECIA	Adventure Activities Licensing Authority (AALA)

Organisations responding on paper	
Inside track marketing	University of Cambridge
Kent Police	Doncaster MBC
Teesside SHE Partnership	USDAW
Marsh Risk Consulting Practice	NUMAST
RoSPA	EFF
TGWU	TUC
Communication Workers Union	HSE (individuals) x 11
Other individuals x 5	