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## HEALTH AND SAFETY COMMISSION

**Local Authorities and HSE Working Together Strategic Enabling Programme:  
sustaining the partnership.**

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**Cleared by Justin McCracken on 30 January 2006**

### Issue

1. Proposals for sustaining the partnership between local authorities (LAs) and HSE, and closure of the enabling Programme.

### Timing

2. Routine. The Commission's views will help identify issues for their first meeting with the Local Government Panel in May (see also paper HSC/06/24, below the line at this meeting).

### Recommendation

3. That the Commission endorses the proposals discussed in paragraphs 6 to 17 and comments as requested.

### Background

4. The Commission received a comprehensive report on the HSE/LA Programme in July 2005 (HSC/05/92), including proposals for future governance of the partnership (HSC/05/45). At that meeting, the Commission expressed satisfaction with the way the Programme was being taken forward, and confirmed its commitment to making the partnership work.

5. Since July the Programme has concentrated on four main issues:

- work with LAs to ensure a consistent and systematic approach to bedding **partnership working** into HSE and LA plans for 2006-07, reflecting the Fit3 Programme and priorities. The recent statistical picture of injuries in the services sector underlines the importance of LAs and HSE working together on the Commission's priorities. All FOD's geographical divisions have been working through their partnership teams with LAs, to discuss and secure agreement to partnership working and in particular the contribution LAs will make to Fit3 and the PSA targets during 2006-07;

- delivering 10 GB-wide **consultation workshops** for LAs on three policy issues: s.18 HSWA guidance, the Enforcing Authority Regulations, and performance management. The key considerations for the Commission are set out in paragraphs 9-13 below (the detail is in Annexes 5 & 6);
- **communications**: the extranet was launched in September (Annex 2); the FOD partnership teams have continued to develop their relationships with individual LAs and LA Groups through a range of communication events and media; and the Local Authorities Coordinators of Regulatory Services (LACORS) organised the very successful partnership conference, held in December. This included the launch of the “LA elected members’ handbook” and the annual report;
- contributing to the **post-Hampton work** through the HSE Hampton Implementation Programme and the Local Authority Better Regulation Group (LABREG). The Programme has been able to show an increasing number of practical examples of joint work and collaboration between LAs and HSE. These have been influential in offering a model of how central and local government can work together. The recently-announced intention to establish the Local Better Regulation Office (LBRO) will be an important factor in developing the partnership in accordance with wider government objectives for local government regulatory services.

## Argument

6. The undertakings in the “Statement of Intent” (Annex 1), which set out the aims of the Programme, are well advanced or complete. Annexes 2-6 provide an account of progress with the main workstreams and indicate how outstanding work will be concluded. **The Commission is asked to comment on this work and agree that it proceeds to a conclusion as indicated.**

7. The Programme is thus approaching the point at which it was expected that its work as an enabling Programme would be concluded. The Programme Steering Group (chaired by Joyce Edmond-Smith) concluded at its meeting in January that its work was complete and the Local Government Panel /HSC meetings, which form part of the new governance arrangements, would fulfil its role. **The Commission is asked to endorse these conclusions.**

8. The successful conclusion of the programme depends however on two questions. First, whether the framework and arrangements it has built are capable of sustaining an enduring LA/HSE partnership; and second, whether this partnership works in practice in the field to deliver positive H&S outcomes in line with the Commission’s priorities. We believe the Programme has delivered its work against these tests, for the following reasons:

- the revised governance arrangements agreed by the Commission in July are in place. The “panel” of LA elected members is due to meet the Commission for the first time in May; the reformed Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) will meet in March; the LACORS H&S Policy Forum is working well and its members are providing leadership on partnership issues in their regions;
- LAs – either through LACORS, policy forum members or senior practitioners – are making a wide range of inputs to programmes and policy development;

- relations with LACORS remain excellent, with exchanges of staff to help cement the joint nature of our work for the partnership;
- the “extranet” for the efficient sharing of information and communication with LAs is in place, and has been widely welcomed (annex 2);
- a training plan is being developed, based on the research work and linked to the needs of LAs for Fit3-related work (annex 4);
- HSE is now conducting an internal review to ensure that it puts arrangements in place which will oversee and support the partnership through the next few years, as partnership working is embedded. The aim of the review is to provide not only an effective interface for our work with LAs but also with Better Regulation Executive’s (BRE) and LBRO’s work on LA regulation;
- LBRO is however unlikely to be established before 2009. This delay will offer opportunities for HSE/LACORS to help shape its approach, based on our experiences of the partnership, but it will also introduce a period of uncertainty on key issues such as performance management. It will be a significant task for the post-Programme arrangements to engage with the LBRO team and to be recognised as having much to offer to its development;
- in the field, there is an explicit commitment of HSE resources to support partnership work as part of our plans; the leadership of FOD’s Heads of Division is developing the relationship with LAs at a strategic regional/Scottish/Welsh level; and the partnership teams will continue their excellent work in co-ordinating the various activities and elements of the partnership (funding has been agreed until March 2007);

9. Progress on these practical and necessary issues is good, but the future partnership needs also to be well-grounded in the formal elements of the relationship between the Commission and LAs. These matters were discussed at the recent consultation workshops - s.18 HSWA “guidance” on the Commission’s expectations of LAs, the Enforcing Authority Regulations, and the way the Commission oversees the performance of LAs as H&S enforcing authorities. The objective is a structure which allows HSE and LAs to work flexibly and lawfully; to use their joint resources in the most effective manner; and jointly to plan and agree at national and local level the nature and number of the interventions they will undertake. Annex 5 sets out the proposals. This work is ongoing – progress will be presented to the first LGP/HSC meeting in May.

10. The overwhelming response by LA practitioners and managers was for a s.18 HSWA document that is more directive than the present one: in particular, that it should be clear about what constitutes ‘adequate arrangements’, not least so that LAs are able to demonstrate the case for resources.

11. The Enforcing Authority Regulations have always been seen as a potential obstacle to the partnership. From the outset the Programme has sought to explore and exploit the possibilities for flexibilities within the current Regulations, rather than to replace a (broadly familiar) set of Regulations with others which might simply replace existing flaws with different ones. A number of pilots are currently running (for example on flexible warranting, for which LAs’ support is growing). We propose to finalise the preferred means of allocation once evaluation of the pilots is complete

(detail in Annex 6). This is likely to extend beyond the May LGP/HSC meeting, as we are only just beginning to gauge and if necessary respond to the LBRO's potential interest in this issue.

12. Similarly, the performance management framework will almost certainly be based upon the revised s.18 HSWA direction but it will also need to be developed in accordance with the work of LBRO (detail in Annex 7).

13. The next work year, 2006/07, will be a test year for the practical arrangements of the partnership, including new arrangements for reporting activity, not based upon planned inspections but on targeted priorities. Statistical information collected during 2006/07 will therefore form the base for future year comparisons.

14. **The Commission is asked to note the detail set out in Annexes 5 and 6 and endorse the direction of the work on these issues.**

### **Communications**

15. Communication has always been seen as critical to the success of partnership working. The Programme's work benefited from the discussions which followed comments made at the Commission meeting in July. The key messages we have been conveying to LAs include the following:

- participation in HSC priority initiatives, through the Fit3 programme, is important for local authority health and safety teams during 2006/07 and should be given priority in LA plans; this work also contributes to LAs' agendas for healthy communities and economic vitality;
- related revisions to LA guidance and reporting arrangements are underway;
- the partnership is not aiming to increase existing levels of resource assigned to H&S regulation - the programmes are designed to deliver greater injury and ill health reduction with existing resources by better targeting. But it is possible that as the profile rises so too will the resources.

16. The extranet is seen as an innovative and effective way of keeping LAs abreast of developments, providing guidance, registering examples of good practice and sharing data with HSE. The use of newsletters and circulars will continue but we are also using a wider range of communications including LGP and HELA, workshops, liaison meetings, training events and road shows. A key task for LAU will be developing and maintaining these channels.

17. There are two key communication issues as we end the programme. The first will be to ensure LAs and stakeholders are clear about the 'new arrangements'. An information document is proposed that will clearly set out the structures and expected outcomes from the partnership. It will be important that the document recognises the contributions made by LAs, and seeks continued support. The second is the somewhat uncertain ground presented by LBRO. We have the benefit of a growing corpus of practical examples and experiences of HSE's work with LAs which we intend to play strongly into this arena. **The Commission is asked to endorse these proposals.**

## **Conclusions – the story so far**

18. None of the achievements of the Programme will be of any great consequence unless the partnership works in practice, delivering a demonstrable benefit in terms of health and safety performance and contribution to the Commission's priorities. The conclusion so far on this delivery front is necessarily tentative. During 2005-06 the examples of practical partnership work have been growing but they have been essentially diverse and sporadic. The more-detailed planning discussions which have been taking place since September have put our Fit3 expectations of LAs on a systematic footing for the first time and 2006-07 will be the 'testing year'.

19. The feedback from LA officers has been generally positive, in some cases overwhelmingly so (some are prepared to sign up to Fit3 without any significant local variation). LA officers have particularly welcomed the growing evidence base to support the choice of priorities. There are one or two dissenting voices but they are a minority and we are encouraging the committed individuals to speak up. Currently, there is some variation of approach to cater for local needs, geography and politics, but the governance arrangements agreed by the Commission will in due course look to minimise this variation. Overall we are aiming for a positive response from 40% of LAs in this first year, and there are signs that we may well exceed this.

20. The obvious challenge to HSE and LACORS now is the need to follow through promptly – with the information, practical support and encouragement needed to turn the intentions of the committed LAs (and the waverers) into action. The Fit3 programme team is working in particular to ensure that briefing for HSE's staff is extended as appropriate to include LAs. A series of roadshows is being planned for March 06.

21. The effectiveness of the partnership in practice and its sustainability will continue as a key issue on which the Commission, the LGP and HELA will all wish to take an active interest, and on which LAU and LACORS joint efforts will be focused. Evaluations plans are being revised to this end.

## **Consultation**

22. LACORS, Programme Board, Steering Group, HELA Chairs and senior HSE officials.

## **Costs and Benefits**

23. The partnership seeks to integrate LAs into the development of policy, programmes, and the delivery of operational activities. It does not envisage most LAs needing to devote additional resource to these activities, so should be cost neutral to those LAs. The principal benefits are from the greater impact on H&S that HSE and LAs can have by working more closely together.

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

24. Contained within normal running costs; but subject to re-examination in the forthcoming fundamental review and SR2007.

### **Environmental Implications**

25. None

### **Other Implications /Challenges**

26. The Hampton report and subsequent work by BRE and LBRO will continue to impact upon the programme. Further developments are being kept under review by the Hampton Implementation Board and by Programme team members.

### **Action**

27. The Commission is asked to:

- agree that the Programme proceeds to a conclusion as outlined in this paper (paras 6 to 8);
- endorse the proposals for continuing work on the legal framework for the partnership (paras 9 to 13).

## **ANNEX 1**

### **Statement of Intent**

A joint statement of intent, agreed by HSC, HSE and local authority representative bodies in July 2004, set out the high level commitments which would provide the framework of objectives for the LAs and HSE Working Together Strategic Programme and achievement of the vision.

The Statement confirmed commitment to:

- 1 Developing an effective and coherent partnership between HSE and LAs, based on the principle of making the best use of their respective strengths, and applying collective resources in the best way to tackle national, regional and local priorities for health and safety.**
- 2 A joint approach to developing the arrangements to deliver these commitments.**
- 3 Improving communications between HSC, HSE and LAs to ensure, in particular, that LAs and their representative organisations are adequately involved in the development of policy advice to the HSC, and in the planning and delivery of the operational activities, which carry them into effect.**
- 4 Providing information, guidance and support to enforcing authorities equitably.**
- 5 Examining and adapting as necessary the institutions and legal framework which currently underpin the relationship between HSC, HSE and LAs.**
- 6 Developing arrangements for monitoring and auditing the work of the enforcing authorities, which properly reflect the status of HSE and LAs as partners.**
- 7 Contributing effectively to current and future initiatives to improve the consistency and coordination of central and devolved government requirements which impact on regulatory services, in the context of expectations, priorities, minimum standards, monitoring and intervention.**

## Annex 2: HELA extranet – Principles 3 & 4 of Statement of Intent

Objective	Progress made towards achieving objectives	Remaining work and development needed to achieve objectives	What this will look like after the transition from a developing Programme to routine operation
1. A secure electronic platform to enable HSE and LA to upload, download and exchange relevant data, information, guidance, training or other material.	The HELA extranet was launched to deadline on 30 September 2005.	Further work planned for 2006 to enable electronic exchange of inspection/enforcement data on for example Fit3 work; this will impact upon LA enforcement reporting for 2006/07.	HELA extranet will be the key communication tool between HSE and LAs, development will be ongoing and maintained by HSE. Development informed and supported by a user group, consisting of mainly LA and LACORS members with HSE providing input and Secretariat support.
2. Migration of existing web based information to establish initial content and 'prime' the extranet for use.			
4. The administrative and content management arrangements for extranet maintenance, moderation and ongoing development.		Change and development of the interim management arrangements over next 12 months.	A system managed by HSE Infoline with HSE maintaining the content management of the system.
5. A communications plan agreed with LAs through LACORS that will complement the extranet	2800 LA user accounts set up within 4 weeks of the launch.	A draft revised plan for the coming year is being developed for a reshaped user group in early 2006	Communications plan regularly reviewed and subject to input from LACORS and user group.
6. An interactive mechanism of exchanging live data	This is future developmental work giving access by both LAs/HSE to each's databases and if successful will represent a complete and open partnership between enforcing authorities.		

### Annex 3: Local Authority Science & Technology Initiative – Principle 4 of Statement of Intent

Objective	Progress Made Towards Achieving Objectives	Remaining work and development needed to achieve objectives	What will this look like after transition from a developing Programme to routine operation
<p>1 Investigate how LAs might make increased use of science and technology to support their delivery and meet specific LA needs. This includes consideration of a 'fighting fund' to help LAs progress complex enforcement cases against large employers</p>	<p>Local Authorities will receive funding of £5M over four years (from 2005/06). Initiative launched May 2005.</p> <p>HSL actively promoted the Initiative and their capabilities. 70 bids for reactive support and 30 for planned projects received. Almost all in scope and have been completed or are being progressed. About £750K will be spent this year, less than the initial £1M allocation due to start-up work.</p> <p>Consideration of the fighting fund has been absorbed into a wider review of enforcement support needs by the Enforcement Programme.</p>	<p>The Initiative will run for another 3 years. There is strong demand from LAs for this support and we anticipate many more applications next year.</p> <p>Clarification of the boundaries with other LA S&amp;T support arrangements will be sought.</p> <p>Some reallocation of resources between reactive support and planned projects may be needed.</p> <p>Use of 'umbrella projects' (for example for public safety) and national or regional bids will be encouraged.</p> <p>Monitoring and evaluation of work done will be key activities, to ensure LA needs are being satisfied, to monitor the success of the Initiative and to help identify the manner and extent of any future S&amp;T support.</p> <p>The balance between encouraging new applications and managing expectations will need to be addressed, particularly in the last year. Wind-down/transition arrangements will also need to be considered.</p>	<p>Given the current strong demand, support of this nature is likely to be needed beyond 2009. Proposals will be put to HSE before then.</p> <p>After 2009 this support may be part of the routine support available to all LAs, such that timely, high-quality technical support can be available to help their enforcement activities.</p>

**ANNEX 4: Providing information, guidance and support to enforcing authorities equitably– Principle 4 of Statement of Intent**

<b>Stated Objectives</b>	<b>Progress made towards achieving objectives</b>	<b>Remaining work and development needed to achieve objectives</b>	<b>What this will look like after the transition from a developing Programme to routine operation</b>
<p>1 Better opportunities for continued improvement to inform, train and maintain competence for LA H&amp;S Enforcement Officers</p> <p>2 More consistent application of standards and guidance across LAs and HSE</p> <p>3 More effective joint LA-LA and LA-HSE working</p> <p>4 Proportionate access to advice and support across LAs and HSE</p>	<p>HSL research report on Local Authority H&amp;S Enforcement Officers' Perceptions of their Support, Information and Training Needs published November 2005</p> <p>Project Board on Review of Joint Regulators Guidance on Enforcement of Health and Safety established August 2005</p> <p>Pilot 'road shows' held Nov 2005 to raise awareness of legal &amp; technical support HSE/HSL can give to LAs</p> <p>Review of existing Local Authority Circulars with LACORS in progress</p> <p>Training on: slips, trips &amp; falls; stress; asbestos; workplace transport ongoing</p> <p>Agreement with LA/HSE stakeholders on additional high priority training to meet needs of LAs &amp; Fit 3 reached Feb 2006</p>	<p>Implement relevant training for LA H&amp;S Enforcement Officers as agreed with LA/HSE stakeholders</p> <p>Revise/produce enforcing authority guidance highlighted as a priority by LACORS</p> <p>Complete review of Local Authority Circulars with LACORS and establish production mechanism with Operational Policy &amp; Support Division within two years</p> <p>During 2006/07 establish better understanding of partnership working within HSE.</p>	<p>HSE-LA officers will work together more effectively and with greater confidence</p> <p>Joint training needs for LA/HSE, e.g. new H&amp;S legislation, routinely identified and provided</p> <p>New or revised H&amp;S guidance/information written so it applies to both H&amp;S enforcing authorities</p> <p>Ongoing review of existing guidance/information</p> <p>LA H&amp;S Enforcement Officers are aware of and routinely access 'fit for purpose' enforcement/ specialist/scientific advice from HSE/HSL</p>

**Annex 5: s. 18 HSWA Guidance – Principle 5 of Statement of Intent**

<b>Stated objectives</b>	<b>Progress made towards achieving objectives</b>	<b>Remaining work and development required to achieve objectives.</b>	<b>What this will look like after the transition from a developing Programme to routine operation</b>
<p>To review the policy, content, substance and weight of the current s.18 guidance and redraft it to reflect and affect the new and developing partnership.</p>	<p>Existing s.18 guidance restructured and rewritten to:</p> <ul style="list-style-type: none"> <li>• set out what HSE and LAs should do to make adequate arrangements for enforcement; and</li> <li>• reflect targets, partnership, capacity, interventions, communications and new regulatory agendas</li> </ul>	<p>Further discussions with HSE at strategic and operational level on restructured and rewritten s.18 standard.</p>	<p>A system and structure in place that allows HSE and LAs to work flexibly and lawfully to use their joint resources in the most effective manner and encourages them to jointly plan and agree at local and national level the number and type of interventions they will undertake.</p>
	<p>Discussion workshops on restructured and rewritten s.18 standard with 288 (out of total 410) LAs and a number of HSE staff.</p>	<p>Modify the detailed guidance and develop a method to describe a model enforcing authority in the light of discussion workshop results.</p>	
		<p>Gain approval for new s.18 arrangements from new LA/HSE governance bodies and agree implementation proposals.</p>	
		<p>Final consultation process in summer/autumn 2006</p>	
		<p>Implementation of common s.18 standard by HSE and LAs from suggested target date of April 2007</p>	
	<p>Work with new and emerging regulatory frameworks, e.g. LBRO on developing compliance monitoring.</p>		

**Annex 6: Enforcing Authority Regulations (EA Regs) – Principle 5 of Statement of Intent**

<b>Stated objectives</b>	<b>Progress made towards achieving objectives</b>	<b>Remaining work and development required to achieve objectives.</b>	<b>What this will look like after the transition from a developing Programme to routine operation</b>
Review the need for allocation regulations, the potential options for the structure of any revised EA Regs and any legislative barriers to effective partnership working	Current EA Reg issues and ‘grey areas’ reviewed and discussion document on options produced.	Establish, consulting Legal Advisers Office and others, practicality of amending or “fine tuning” current EA Regs	A system and structure in place that allows HSE and LAs to work flexibly and lawfully to use their joint resources in the most effective manner and encourages them to jointly plan and agree at local and national level the number and type of interventions they will undertake.
	Discussion workshop on EA Regs options and use of flexible warrants with 288 (out of total 410) LAs and number of HSE staff.	Develop mechanisms to encourage joint HSE/LA planning, competency, training, common guidance and procedures and to allow access to specialist support and resources.	
	Transfer of HSE activity (MVR and Dry Cleaners) to LA being piloted in England	Review effectiveness of transfer of HSE activity pilot for wider application	
Establish potential for LA officers to work with national warrant	Joint authorisation” pilots in SE, NE, SW, Scotland and Wales started.	Continue “joint authorisation” pilots to test their robustness.  Evaluate joint authorisation projects and develop framework and structures needed to allow wider	

## Summary of the Local Better Regulation Office proposals

Government proposes to establish a new body, the Local Better Regulation Office (LBRO), probably by 2009, to coordinate local regulatory services for all businesses. The LBRO would not be another regulator. It would have an explicit duty to minimise the burden of inspections on business, and deliver more effective, risk-based enforcement at local level, working with the existing national regulators.

The LBRO would:

- Coordinate priorities for local inspection of business, covering trading standards and environmental health. This would incorporate and build on the functions of LABREG, now disbanded.
- Work to drive up the quality of local authority enforcement, ensuring that officers operate in line with the Hampton principles, following a risk-based approach at a local level and minimising the inspection burden on business. It would take on the existing performance management functions of the HSE and FSA and provide shared services, such as common advice leaflets, forms and support on risk thinking. (the work within the LA programme seeking to develop a common performance framework will be integrated into the work of the LBRO and interim reporting arrangements, for LA health and safety performance, will be put in place for the next two years. This will focus around a new quarterly and annual reporting format.)
- Develop a strategy with the national regulators for large business inspections, covering all trading standards and environmental health enforcement affecting businesses with sites in more than one local authority area, subsuming the existing lead authority approach coordinated by HSE. Service delivery would remain at a local level, led by trading standards officers and environmental health officers employed by local authorities.

To ensure Hampton principles are embedded within the new body, the LBRO Board would be accountable to ministers. It's envisaged that the national regulators with oversight of local regulatory services (including HSE and FSA) would have a direct stake in the LBRO (possibly through representation at Board level). Local government would also need to have a stake in the LBRO, given its ultimate responsibility for trading standards and environmental health enforcement.