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## LOCAL AUTHORITIES AS DUTYHOLDERS

### Purpose of the paper

1. This paper provides an update on HSE's work with local government to deliver the Health and Safety of Great Britain Strategy (GB Strategy). It addresses HSE's current and proposed plans for engagement with local authorities (LAs) as duty holders - employers, procurers and service providers. LA's role as commissioners of social care is considered in a complementary paper (HSE/11/70). The paper does not consider the duties placed on LAs as Category 1 responders under civil contingencies legislation.

2. The paper also sets out how HSE plans to influence local authorities as duty holders and stakeholders through a combination of central engagement with national representative bodies, and regional/local interventions. These interventions will focus upon the delivery of objectives appropriate for improving health and safety performance in this sector, and for advocating and demonstrating sensible approaches to health and safety.

### Background

3. The 2010 Board Paper HSE/10/61<sup>1</sup> set out the political and financial environment in which local authorities operated and questioned what more could be expected from local authorities in delivery of the GB Strategy in England and Wales. Work with LAs in Scotland was considered at the HSE board meeting on 29<sup>th</sup> September 2010 when Paper HSE/10/72<sup>2</sup>, 'Delivering the Strategy in Scotland' was discussed.

4. The working population across the (circa) 400 LAs in England, Scotland and Wales remains at around 2.2 million, excluding those employed by contractors and LA partners. (Annex 1 sets out the organisation and responsibilities of LAs in more detail). Many services and functions are delivered through third parties accounting for over 40% of annual expenditure, and as such, LAs have a direct effect on health and safety standards for workers across a range of sectors and for those who use or are affected by their work activities. Every LA is under pressure to meet the efficiency agenda and 'do more for less' but their potential to influence health and safety and delivery of the GB Strategy remains hugely significant.

5. Whilst local government generally presents a lower risk working environment, there are a number of higher risk activities undertaken. HSL research commissioned by HSE's Public Services Sector shows that although comprising only a small

<sup>1</sup> <http://www.hse.gov.uk/aboutus/meetings/hseboard/2010/280710/pjlyb1061.pdf>

<sup>2</sup> <http://www.hse.gov.uk/aboutus/meetings/hseboard/2010/290910/psepb1072.pdf>

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percentage of the LA workforce, employees engaged in amenity management (eg grounds maintenance), refuse and construction/maintenance activities report a disproportionately high number of accidents – over three times the all-industry rate. Refuse and construction maintenance activities together resulted in 26 fatal accidents over the period 2002-09. These high injury rates are offset in the overall figures for local government by much lower rates across other sectors - around 65% of the workforce are employed in education and social services but contribute only about a third of total incidents. Incidents involving the public account for 33% of all LA reported injuries, four-fifths of which involve students in LA schools, mainly arising from slips and trips.

6. It is estimated that work-related stress, back pain and other musculoskeletal disorders could be a factor in almost 40% of sickness absence in local government. Work-related stress is suggested to be a particular problem in teaching, social care and housing and welfare professionals. Other health issues include the presence of asbestos in a range of premises owned and operated by LAs including offices, dwellings and schools (and the 'asbestos in schools' debate has been highly charged in particular). Cross cutting HSE asbestos campaigns and the Management Standards therefore resonate in this sector. LAs can play a role in influencing the health of contractors and suppliers and this is acknowledged in HSE's supply chain initiatives on ill health in highways work.

7. The role of contractors and partners in local authority service delivery will continue and is likely to grow along with a rise in LA frontline and back office shared services. An increasing shift of operational emphasis towards commissioning of services and outcomes will add complexity – with the involvement of a wider range of service providers, including the third sector, which will potentially introduce a greater role for volunteers. Consequences of the 'localism' agenda may also become apparent.

8. The profile of LAs, and their influence on public perceptions in the wider community, remains an important consideration. Their decisions, actions and activities are scrutinised by the media and regularly give rise to sensationalist reports. Adverse publicity can undermine wider efforts to focus attention on real risks, and collaborative working with LAs on these issues is a part of the HSE intervention plan.

## **Argument**

### *Central engagement with national representative bodies*

9. Given the risk profile, the size of many individual LAs, and the capacity for gearing to be achieved in working through national representative bodies, inspections of individual sites, directorates or LAs is not the most efficient or viable approach to take, other than planned interventions relating to some higher risk activities. Some incidents will also continue to be investigated in line with HSE's established incident selection criteria. This is consistent with the approach outlined in the Ministerial announcement of 21 March 2011, "Good Health and Safety, Good for Everyone"<sup>3</sup>.

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<sup>3</sup> <http://www.dwp.gov.uk/docs/good-health-and-safety.pdf>  
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10. Significant changes have however, occurred in a number of the national representative bodies and stakeholders with which HSE has worked. Past roles, responsibilities, priorities and capacities to influence can no longer be taken for granted. The current position, including HSE's engagement, can be summarised as follows:

a) in England, the restructuring of Local Government Stakeholders is ongoing, and while the LG Group will continue with aspects of the role of the former LGE – eg hosting the National Practitioner Panel – its role remains developmental. The LG Group Board is currently revising their various programme Boards and Committees. HSE is working hard to re-establish our productive relationship with this key local government stakeholder;

b) HSE's links with the Welsh Local Government Association remain strong – both at an operational and policy level. WLGA continue to support a national focus on workforce health and safety matters that extends beyond Wales;

c) in Scotland, HSE provides support to the SPDS (Society of Personnel Directors Scotland) health and safety portfolio group, which is attended by the Chairs of the four regional LA practitioner groups in Scotland, and this provides a strong mechanism for collaborative working. HSE also has links with CoSLA;

d) HSE has maintained links with trade union bodies at the national level - discussions are currently bilateral and do not include the employers' organisations;

e) the Sector has developed links with the IOSH Public Services Group (PSG) which is playing an increasingly useful intermediary role.

11. There had been some progress made on considering how to develop the role of the Local Government Panel as a mechanism for engaging between the HSE Board and LAs as duty holders. However, with the changes in personnel, structure and organisation on the LA side these will need to be rebuilt.

12. HSE recognises the need to persuade and engage a greater number of Chief Executives, Directors and elected members to be exemplars and proponents of sensible and proportionate health and safety management – thus exerting influence over other LAs and wider public opinion. In October 2010 WLGA, LGE and HSE's Operational Strategy Division met with Sandy Blair to explore options for developing a leadership network of senior managers. HSE has not pursued this initial work while changes in structure with LG Group are ongoing, but this remains a priority area.

#### *Local authority strategy delivery framework*

13. In England and Wales HSE has continued to work with local government stakeholders to develop a strategy delivery framework for LAs. The LG Group (formerly LGE) National Practitioner Panel leads this work, which was set out in Annex 4 of the 2010 Board paper. HSE has provided input and support to the development of these tools. The package is near completion and has been trialled by a small number of LAs and includes:

- A vision – a local authority perspective on implementation of the GB Strategy,

- A self evaluation tool for local authorities to assess their contribution against the GB Strategy
- A self evaluation matrix focusing on the GB Strategy goal of leadership

14. The restructured LG Group is committed to publishing the tools, but without active encouragement and support from HSE, the rollout of the tools will not create the impact originally envisaged.

15. In Scotland, HSE is taking a tailored approach and is working with the SPDS 'Chairs Group' to advance the Strategy themes, which includes promoting the tools. Early indications are that this group may be an effective route into senior managers in Scottish LAs. As a result of HSE's input to this group, one LA has agreed to run a facilitated workshop for senior managers using the tools.

#### *HSE's local government intervention plan*

16. HSE's interactions across local government will focus upon higher risks being treated with due attention, while building a greater understanding of the need to apply a sensible and proportionate approach to lesser risks to both employees and the public. The higher risk issues across local government include waste and recycling, highways and grounds maintenance, and building construction and refurbishment. The duty to manage the health risks from asbestos remains a priority and HSE work to assess compliance in schools continues. Interventions will focus on integrating health and safety risk management into the commissioning and procurement of these higher risk services.

17. Accordingly, HSE is developing an intervention plan that reflects the structure and function of the local government sector and will run for the three years from 2012/13. It involves continuing with recent efforts to encourage stronger leadership and proportionate approaches to risk management. HSE will use a multi-channel approach – combining efforts to engage nationally and regionally to achieve effective gearing – with a small number of targeted local approaches. HSE interventions (described in more detail in Annex 2) will focus on:

- *Encouraging stronger leadership and competence on sensible health and safety*

18. While leadership demands across LAs vary – taking into account the range of services provided by the smallest district authorities through to largest metropolitan unitary authorities – work in this area is important for all LAs. Only by engaging with the leaders, as HSE has done in the construction sector, can we really start to make a difference. As the new structures and key personnel emerge we need to be ready to engage and we will be seeking HSE Board level support for this – including how HSE can build on Sir Steve Bullock's attendance at the GB Strategy launch. To complement this and overcome some of the inevitable barriers left by the reorganisation of national stakeholders, HSE will also engage with national and regional practitioner groups to identify emerging and potential health and safety champions from within the LAs - Chief Executives, Directors, Heads of Service and elected members. With these individuals we will open a dialogue on effective leadership and health and safety culture, and follow up the adoption of the joint HSE/Institute of Directors, *Leading health and safety at work* publication. The completion of LG Group's draft Strategy Delivery Framework and leadership self-

evaluation tools provides an opportunity for such a dialogue through small and targeted approaches to influence a handful of future opinion formers amongst senior LA managers and elected members – who can in turn influence others through their professional management networks. Ongoing initiatives, such as HSE’s work on tackling the myths about school trips, enable HSE to make more targeted approaches to Directors of Education, Social Services etc to help develop and build recognition of leadership responsibilities amongst these key LA leaders.

19. The sensible management of day-to-day risks often falls to the judgment of a wide range of more junior staff (ranging from middle managers through to individual officers) that need to be able to recognise real risks, and know how to apply sensible approaches to those risks that are less likely to lead to real harm. Individual decisions that aim to protect the public are often difficult, and need to reflect proportionate management of risk rather than simply risk aversion. HSE will work with practitioners, leaders and opinion formers to encourage better sharing of the most effective approaches being developed within LAs.

- *Worker Involvement*

20. Health and safety representatives have played an important role in focusing attention on worker health and safety across LAs – this provides a good basis for HSE to help make sure that representatives can target the higher risk activities and promote a proportionate approach to things that are not higher risk. HSE will work with the Unions to seek to better equip the representatives to play a stronger role in encouraging delivery against the GB Strategy.

- *Higher risks*

21. Interventions are progressing across local government in the higher risk sectors identified in the Ministerial announcement of March 2011. The waste management and recycling project is at its midpoint and a summary of progress was reported at the August 2011 Board meeting (HSE/11/51). This proactive inspection programme will continue. Progress with the construction programme was reported to the Board at the same meeting (HSE/11/52), and the success achieved with the development of the Olympic Park has a wider read-across to LA leadership.

- *Commissioning*

22. HSE’s Public Services Sector recognises the opportunity for engagement with local government on commissioning to improve health and safety performance – both for service users and for the wider impact on the workforce throughout the supply chain. A complementary information paper on the role of LAs in the commissioning and provision of health and social care services has been prepared for this Board meeting HSE/11/70. This work needs to be approached sensitively given the localism agenda, and the growing involvement of the third sector in a wider range of public service delivery arrangements.

## **Risks**

23. The operating environment and factors affecting all organisations involved in local government remain in a state of flux. While the information in this paper sets out the progress in key areas of the health and safety leadership agenda, and suggests current and foreseeable opportunities to take the GB Strategy forward, the

outcomes of current and future changes affecting LAs cannot be predicted easily or comprehensively.

## **Action**

24. The Board is asked to:

- a) recognise the continuing importance of Local Authorities as a key stakeholder group for the successful delivery of the GB Strategy for health and safety;
- b) continue to support the LG Group and WLGA on their proposals to improve health and safety leadership and delivery of the GB Strategy within Local Authorities across England and Wales;
- c) continue to support HSE's work on strategy and leadership with the SPDS 'Chairs Group' in Scotland;
- d) note the development of the HSE Local Authority intervention plan, and endorse the proposals outlined, and
- e) support HSE initiatives to influence and engage with senior LA officers and leaders to promote stronger health and safety leadership.

## **Paper clearance**

25. This paper was cleared by the HSE Senior Management Team on 5 October 2011.

## **Annex 1: The organisation and functions of local authorities**

### **Background**

The c400 LAs across Wales, Scotland and England vary hugely in size and complexity. Local government directly employs just under ten percent of the workforce – about 2.2 million people -. The national policies for local government are devolved and there are consequently differences in the delivery of services and the policies that apply. A number of LAs are moving towards becoming commissioning authorities. LAs work in partnership with other public services within the joint strategic needs assessment process to assess and commission outcomes on for example public health.

### **Local government risk profile**

A statistical analysis of the health and safety risk profile of local government (LG) in GB for the period 2003/04 to 2008/09 confirms the areas, which HSE has regarded as priorities. The largest occupational sectors in terms of numbers employed are social services (approx. 15% of the total number employed in local government) and education (approx. 50%). Given their size, these two sectors account for a large proportion of the total injuries observed in local government employees (each approx. 15% of total).

Considering the much smaller proportion of employees working in the refuse sector (approx. 1% of total), these activities contributed disproportionately significantly to the total injuries (approx. 14% of total). The activities with the highest number of fatalities over the period 2002/03 to 2008/09 were construction/maintenance (14), refuse (12) and elementary occupations (eg labourers, cleaners) (10). HSE's priorities for this sector continue to be waste/recycling and construction/building maintenance.

### **Local government structure**

Local government is structured in two contrasting ways. In Scotland, Wales and parts of England, a single tier "all purpose council" (Unitary, Metropolitan or London Borough) is responsible for all local authority functions. The remainder of England has a two-tier system, in which two separate councils divide responsibilities between district and county councils. Often there is an additional tier of parish or town councils as well.

Therefore, England's counties often have two and sometimes three levels of local government. Each county has an elected county council providing strategic and more costly services like social services and education. Each county is divided into several districts, each with its own elected district council providing local services such as the collection of council taxes and non-domestic rates, housing benefits, health and housing.

Councils provide three types of service to their communities:

- statutory services – such as refuse collection that are mandatory
- regulatory services – such as licensing and trading standards – these are also mandatory
- discretionary services – such as promoting tourism – that councils may choose to provide

### **Revenue**

Local authorities raise income in a number of different ways, with the Council Tax raising around 25% of total revenue. The rest is made up of central government

grants which, at around 48%, form the majority of local government revenue. The Non Domestic Rate, set by central government raises about 25% of local authority revenue. The remainder is made up by charges for services and reserves.

### **Governance**

Central government oversees many of the activities of local government. Communities and Local Government (CLG) is the government department responsible for national policy on local government in England.

In Scotland the Scottish Government Directorate for Public Services Reform is responsible for structures and funding of local government, supporting the delivery of positive local outcomes (through Single Outcome Agreements) and effective governance and management in local government.

### **Officer roles**

Officers are employees of the council. Officers may be delegated by councillors to make policy decisions. A chief executive and senior managers who are appointed directly by councillors lead them. Council employees might include teachers; refuse collectors, social workers and domiciliary care providers.

The chief executive, as head of paid service, is the main link between the senior managers of individual departments and between senior managers and councillors. Chief executives advise councillors on procedure, legislation and policy.

The chief executive leads a management team that is responsible for the corporate management of the authority and meets regularly with the executive or cabinet. Senior managers or directors lead the individual departments of the council. They may also be called chief officers. Senior managers are responsible for advising the cabinet and scrutiny committees on policy and are responsible for implementing councillors' decisions and for service performance. "Portfolio Holders" or Lead Councillors, have responsibilities for various service areas and will liaise closely with the relevant Chief Officers.

### **Community leadership and engagement**

Community leadership is at the heart of modern local government and councils are taking on new responsibilities for working in partnership with other organisations, including the voluntary and community sector, to improve services and the quality of life of citizens. In England and Wales the Local Government Act 2000 introduced a general power of 'wellbeing' in relation to economic, environmental and social issues The Local Government in Scotland Act 2003 introduced the equivalent in Scotland. This had a significant impact on the community leadership roles of councils and councillors.

### **Principal local authority stakeholders**

*Local Government Group (LG Group) and Welsh Local Government Association (WLGA)*

The LG Group and WLGA promote the interests of local authorities in England and Wales. They exist to promote better local government and are voluntary lobbying organisations. They work with and for member authorities to help them to put local councils at the heart of the drive to improve public services and to

work with government to ensure that the policy, legislative and financial context in which they operate supports that objective.

The WLGA represents the interests of local government and promotes local democracy in Wales. It represents the 22 local authorities in Wales, and the 4 police authorities, 3 fire and rescue authorities and 3 national park authorities are associate members.

*Convention of Scottish Local Authorities (CoSLA)*

CoSLA is the representative voice of Scottish local government and acts as the employers' association on behalf of all Scottish councils. It fulfils a similar role to the LG Group in England and the WLGA in Wales but is an independent organisation.

*Society of Personnel Directors Scotland*

This group is for senior personnel officers who contribute to corporate personnel policies as part of the development and implementation of personnel/human resource strategy primarily in local government in Scotland but also in fire and police services.]

## **Annex 2: Interventions – summary of the HSE intervention plan**

HSE interventions include a range of approaches focusing on central approaches with the **national** stakeholders, and **regional** approaches that aim to reflect the local nature of these duty holders.

- HSE will support the LGG National Practitioner Panel to develop a Strategy Delivery Framework. The aim is to ensure that local government stakeholders promote sensible approaches to health and safety risk management and risk aversion and these are integrated into the way local authorities do their business.
- HSE will meet with local authority Trade Unions nationally to work to better equip safety representatives to respond proportionately to risks within local authority workplaces. This work will focus on the development of case studies and associated tools to support trade union safety representatives to play a stronger role in influencing the performance of local authorities.
- HSE will establish, or promote other stakeholders (eg LGG Practitioner Panel, IOSH Public Services Group, SPDS) to develop, a network to actively seek examples of sensible risk management and leadership. By working with these stakeholders, opportunities will be used to encourage other organisations to develop and promote case studies that provide clear advice on risk management and risk assessment
- HSE will work with IOSH to determine whether an active and tactical contribution can be made by HSE to IOSH online forums that deal with the Public Sector. The aim would be to encourage practitioners to adopt a more challenging approach to ideas that are disproportionate by demonstrating ways of challenging risk aversion. HSE input will be targeted for a limited period to determine overall impact.
- HSE will collaborate with regional groups of local authority health and safety managers. The intention is to seek out examples of common sense case studies/model risk assessments to deal with real risk and risk aversion. The direct input of HSE staff to these networks will facilitate sensible dialogue and a mechanism to support local authority safety managers in embedding sensible and proportionate approaches to health and safety within their authorities, and share alternative approaches to tackle health and safety sensibly and proportionately.
- HSE with support from local authority safety managers and local authority stakeholders will seek to develop a pool of leaders who are able to become advocates for the key messages in The Institute of Directors/ HSE guidance: “Leading health and safety at work”.