

Health and Safety Executive Board		HSE/14/95	
Meeting Date:	3 December 2014	FOI Status:	Open
Type of Paper:	Above the Line	Exemptions:	
TRIM Reference:	2014/428104		

Triennial Review - Update on Local Authority Co-regulator Recommendations

Purpose of the paper

1. To update the Board on the progress responding to the Triennial Review recommendations linked to HSE's liaison with and oversight of Local Authorities (LAs).

Background

2. The outcome of the Triennial Review of HSE was published on 9 January 2014. The recommendations relating to HSE's relationship with its LA co-regulators and the Government's published response are contained in Annex 1. In summary HSE was to:
 - a. Use the annual visit data provided by LAs to review their targeting of interventions and, if appropriate, to involve local political leaders in addressing those that are outliers;
 - b. Review implementation of the National Code for Local Authority Health and Safety Regulators (the Code) by the end of 2014, with the intention of making any necessary changes required to improve its effect;
 - c. Have a named LA senior officer to sign off on health and safety regulatory performance, increasing local accountability and helping the LA and HSE work together in delivering the objectives of the Code, and
 - d. Review and standardise HSE's support to regional liaison groups by Autumn 2014.
3. These actions can be seen as a continuation of HSE work to improve effectiveness and efficiency of regulation for both regulators, business and those at risk:
 - a. The Code was developed as part of the announced regulatory reform measures first announced on 10 September 2012 by the Department for Business, Innovation & Skills (BIS). The Code was intended to "*exempt hundreds of thousands of businesses from burdensome, regular health and safety inspections*". HSE worked with colleagues within Government and undertook an open consultation exercise developing a principles based framework. The Code recognises the respective roles of business and the regulator in the management of risk; it focuses on professionalism and making best use of resource; and it sets out the risk based approach to be followed by LA regulators that will provide business with a consistency of approach.
 - b. Prior to the development of the Code, HSE had been pursuing measures, following the Lord Young Review in October 2010, to reduce the inspection burden on business and promote local authority consistency and efficiencies to help focus resources on poor performers. These measures included guidance on risk rating and targeting and a joint statement with the Food Standards Agency on LAs avoiding double inspecting/counting food safety and health and safety interventions.
 - c. HSE has supported the expansion of the Primary Authority (PA) scheme, first launched in 2009, which has helped further develop LA consistency and focus for those businesses which have engaged with the process. There are now 297 health and safety PA schemes with a further 47 schemes for explosives (fireworks). HSE continues to work with the Better Regulation Delivery Office to promote consistent regulation and the professionalism of front-line regulators; in support of its objectives of effective protection and business growth.

Discussion

Analysis of Annual LA visit data

4. HSE undertakes an annual data collection exercise from the Local Authorities by means of the LAE1 data return. This provides for LAs to inform HSE of the number of visits undertaken against a number of pre-agreed categories, staff resources and statutory notices/cautions served. In summary, analysis of 2013/1014 returns indicated:
 - a. An overall reduction in visit activity with a significant shift away from proactive inspection activity, 60% of all visits in 2009/10 to 7% in 2013/14;
 - b. LAs undertook 6,300 proactive inspections. This represents a 56% drop against the 2012/13 figures (14,400K inspections) and a 95% drop against the baseline year of 2009/10 (118k inspections). The majority of this loss was in inspections to lower risk premises, showing better risk based targeting;
 - c. Fewer than 10% of LAs account for over 77% of the inspections to 'lower risk' premises. 12 LAs account for over half of the 'lower risk' premises inspections, and
 - d. Whilst the overall inspection trends are downwards, the number of reported "other" visits, has increased to nearly 50% of all visits. Indications are that many of these are advisory visits, and supportive of the Government's growth agenda.
5. Overall the data indicates that since the publication of the Code, against a background of reduced regulatory resources and less activity overall, LAs are more targeted and risk based. The bulk of the reduction having been has been in proactive inspections to sites classified as 'lower risk'. This shift may not have been entirely caused by the Code alone, other factors such as Primary Authority Schemes and the joint statement with the Food Standards Agency, may also have had an effect. Whilst we cannot attribute the exact effect of each driver, the overall effect is to focus the remaining resources on inspections at 'high risk' sites, reactive work responding to accidents/complaints and other forms of intervention. Other forms of intervention includes advisory visits to support and develop health and safety competency in business and other forms of intervention such as presentations to local business groups. Many LAs are using such activity as part of wider LA activity to support business growth.
6. Contact with the potential 'outlier' LAs who reported high numbers of 'lower risk' visits have tended to show these are due to mis-recording, late adoption of the Code or to specific local issues not captured in the LAE1. We have not yet found a need for direct local political engagement to address these issues.
7. The LAE1 data return has remained unchanged since the Code was launched so any changes could be clearly identified. As the Code continues to 'bed in' we will consider if a redesign of the LAE1 data return could allow for a more sophisticated analysis of activity without creating additional reporting burdens.

Review the National Code for Local Authority Health and Safety Regulators

1. The review of the implementation of the National Code was undertaken by means of an open consultation for regulators and business running from 8th of August 2014 for 8 weeks. In addition there were discussions with stakeholders and consideration of the annual data return. 222 Local Authority and 63 business representatives responded to the online consultation. A full analysis of the on-line consultation is in Annex 2. In summary the key consultation findings are:
 - a. LAs predominantly report being risk based and targeted, with a significant increase in the use of national or local intelligence to target inspections – this was also supported by LAE1 annual returns and in discussion with LAs;
 - b. The most common reasons for LAs not doing any proactive inspections were either that no high risk sectors/activities were identified or that other interventions had been

- used to help local businesses manage their risks. This had led to an increase in the number of LAs advisory visits;
- c. Most LAs reported they would make it clear to a business why they have been targeted for an intervention and what they are there to do. Businesses also reported that LA officers make it clear if they were there to inspect health and safety or give advice only;
 - d. The supporting materials for the code need improvement and clarification and this should involve further stakeholder engagement. In addition, those with interests in licensed explosives or certificated petroleum sites identified the Codes relation to this area needed further specific attention;
 - e. The majority of business responders either felt that they got the right amount of regulatory attention from LA regulatory staff or too little attention. Very few felt they received too much attention;
 - f. Only about half of LAs had a complaints procedure that references the Independent Regulatory Challenge Panel (IRCP). Only just over a third of business responders were aware of the IRCP;
 - g. Whilst some respondents felt the code was useful or that it reflected their current practice, some LAs had interpreted the Code as being over prescriptive, and
 - h. Some LAs and businesses raised concerns regarding the maintenance of LA inspector competency and the resource pressures upon health and safety regulatory services within local authorities.
2. The analysis of the on-line consultation results and initial face-to-face discussions with stakeholders indicates that no substantive changes are required to the Code itself. However, in response to the findings of the consultation we are in the process of undertaking further detailed discussions with key business and LA stakeholders to invite further comment to inform the:
 - a. Updating and clarification of materials that support regulator implementation of the Code e.g. to clarify the guidance on recoding activity in Annex G of LAC 67/2 (Rev 4);
 - b. Clarification of the status/approach to regulatory activities at licensed explosives or certificated petroleum sites;
 - c. Review of the descriptors in the list of activities/sectors that may be suitable for proactive inspections. This is in addition to the annual review to ensure it is in line with the overall strategy and priorities for health and safety in the LA enforced sector;
 - d. Encouragement of LAs in ensuring their complaints procedures make reference to the IRCP, and
 - e. Review of the actions HSE can take to raise businesses awareness of the IRCP.

Named LA senior officer

3. We have identified the names of senior LA contacts by requiring senior officer sign-off of the LA data returns. In many cases this will also have raised awareness of health and safety regulatory services within the LA.
4. We will identify appropriate contacts at the LAs from whom we did not receive an annual return as part of our follow up of 'outlier' LAs. If after that exercise there remain any LAs for which we don't have a contact, we will pursue via HELA.

HSE's support to regional liaison groups

5. After discussion with practitioners and managers in HSE and the LAs, a refreshed more targeted and consistent model for LA liaison is being worked on.
6. We will adopt a standardised approach to LA liaison which reflects the varying roles and responsibilities of existing liaison groups and allocate HSE resource accordingly. Strategic meetings will be attended by HSE staff who can provide the expert professional guidance, constructive challenge and leadership required. Meetings which are more targeted towards routine updates and the maintenance of lines of communication will be attended by HSE staff closer to frontline delivery.

7. HSE's Local Authority Unit (LAU) will support the FOD liaison function to ensure consistency of approach and message by:
 - a. Inputting to FOD staff training;
 - b. Providing a central briefing for use by HSE staff when liaising with LAs, and
 - c. Attending meetings at which major issues of operational policy require central clarification.
8. The combination of these measures will ensure that LAs across GB receive similar levels of HSE support.

Devolved Administrations

9. Whilst health and safety is a reserved issue, LAs operate under the devolved administrations. LAU ensures it maintains policy and practitioner links with the English, Scottish and Welsh administrations.
10. As part of this process HSE liaises with the Scottish and Welsh representatives on both the HSE/LA Enforcement Liaison Committee (HELA) and the LA Health and Safety Practitioners Forum (PF). HELA provides strategic oversight of the co-regulatory relationship between HSE and local authorities, and PF provides LA regulator input to matters of operational policy and operational delivery. HSE also presents at Scottish and Welsh LA health and safety forums, and engages with the Royal Environmental Health Institute of Scotland (REHIS) - the equivalent of the Chartered Institute of Environmental Health (CIEH) in England and Wales.
11. This engagement has ensured that the changes put in place have been structured to operate within the devolved administrations allowing for local political accountability whilst maintaining a consistent risk based approach to health and safety regulation within the LA enforced sector. HSE will continue to engage with the devolved administrations as this work is taken forward.

Action

12. The Board are invited to note the actions taken by HSE to deliver the commitments in the Government's response to the Triennial Review.

Paper clearance

13. Paper cleared by the Regulation Committee on 12 November 2014

Contact

Alexander Tsavalos 0151 951 3364 (VPN 523) alexander.tsavalos@hse.gsi.gov.uk

Annex 1 – Triennial Review recommendations relating to HSE’s relationship with Local Authority Regulators

1. The outcome of the Triennial Review of HSE was published on 9 January 2014. 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”*;
 - 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”*.
2. The Government response to the recommendations stated:
 - a. *“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).*
 - b. *Within this co-regulatory 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.*
 - c. *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 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.*
 - d. *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 dependent on the outcome of the review.*
 - e. *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.”*

Annex 2 – Summary analysis of the on-line Consultation of the implementation of the National Code for Local Authority regulation of health and safety 2014

During the 8 week consultation period we received 285 responses. The consultation was promoted through representative industry and Local Authority stakeholder groups that had previously been involved in the development of the National Code; representatives of devolved Government; the Helix extranet email system and extranet site; HSE's website and bulletin system, and a general press release.

This summary analysis will be available via HSE's Knowledge Centre by email: - KnowledgeCentre@hse.gsi.gov.uk or calling direct on 0151 951 4382.

Analysis of Responses

Who contributed to the public consultation?

Respondents views represented either:

- a Local Authority (LA) or a from a body representing LA interests - 222
- a business and/or organisations that represent business employers or employees (e.g. Trade Associations, Trade Unions etc.) - 63

Once respondents picked whom they represented they then had the opportunity to respond to a question set tailored to that group. These question sets are considered in turn below.

Analysis of the consultation questionnaires

Whilst there were 285 responses to this public consultation, not every respondent answered every question.

Summary of responses from LA regulators or a from a body representing LAs

There were 222 responses in this group, not everyone answered all questions.

Q1. Since the introduction of the Code is the targeting of your health and safety proactive inspections:

The analysis of the responses were grouped as follows:

- More risk based - 120
- Less risk based - 6
- No change - 53

HSE's response

Text comments and subsequent discussions with LAs suggest that many of the 'No change' responses were LAs who identified themselves as already being risk based in their approach.

The indication is that the majority of LAs are using a risk based approach to the targeting of proactive interventions and so are compliant with that objective of the Code.

Q2. Is the targeting of your other health and safety interventions:

The analysis of the responses were grouped as follows:

- More risk based - 112
- Less risk based - 10
- No change - 57

HSE's response

Text comments and subsequent discussions with LAs suggest that many of the 'No change' responses were LAs who were already risk based.

The indication is that the majority of LAs are using a risk based approach to the targeting of their non-proactive interventions and thus are compliant with that objective of the Code.

Q3. Is the range of Health and Safety interventions you use:

The analysis of the responses were grouped as follows:

- Wider - 43
- Narrower - 61
- Unchanged – 75

HSE's response

Text comments and subsequent discussions with LAs suggest that many of the 'Unchanged' responses were LAs who were already using a wide range of health and safety interventions.

Whilst a number of LAs have moved towards a wider range of interventions there is an indication that significant number are actually pursuing a narrower range of interventions.

Additional information provided by LAs suggested they felt this may be due to:

- A view that the Code was restricting their activities, and/or
- The reduction in their resources.

HSE will continue to monitor the annual return of health and safety activity from LA regulatory services to identify if there are LAs who may not be fulfilling their duties under the Health and Safety at Work Act 1974.

The Code and its supporting materials seek to promote the use of the most appropriate intervention and outline the wide number of interventions available. HSE will seek to improve the supporting materials to the Code, to make it more explicit that the Code does not prevent the use of the most appropriate form of intervention.

Q4. Do you find that that you are using local or national intelligence to target Health and Safety interventions:

Analysis of the responses were grouped as follows:

- More often - 91
- Less often – 9
- No change from before – 79

HSE's response

Text comments and subsequent discussions with LAs suggest that many of the 'No change from before' responses were LAs who were already using local or national intelligence to target their interventions.

The indication is that the Code has resulted in a significant increase in the use of intelligence to target health and safety interventions.

Q5. Did your LA carry out any proactive Health and Safety inspections in 2013/14?

The analysis of the responses were grouped as follows:

- Yes - 150
- No – 29

Q6. If you have answered 'No' (i.e. no proactive inspections were undertaken) is this because (please choose one or more options):

The analysis of the responses were grouped as follows:

- no high risk sectors/activities (from the List) - 17
- lack evidence that risks are not being managed effectively - 9
- used a variety of other interventions to help business manage risk - 18
- lack resources - 7
- resources re-allocated to other H&S work e.g. a major prosecution - 6
- lack competent inspectors - 2

HSE's response - Q5 & Q6

HSE notes that a significant majority of LAs still undertook proactive inspections. The most common reasons for not undertaking any proactive inspections were that no site had been identified that warranted such an intervention, or that they had used an alternative form of intervention. Both of these are in keeping with the Code.

Q7. When carrying out a Health and Safety intervention how likely are you to make it clear to business the reason why they were targeted (e.g. complaints, accidents or adverse insurance reports)?

Analysis of the responses were grouped as follows:

- Not likely - 5
- Somewhat likely - 10
- Moderately likely - 9
- Likely - 47
- Extremely likely - 108

HSE's response

HSE notes that the vast majority to LAs are either likely or extremely likely to tell businesses why they have been treated for an intervention. This is in accordance with the Codes requirements of regulator transparency and openness.

Q8. When carrying out a Health and Safety intervention how likely is it that you will make it clear what you intend to do there (e.g. health and safety only, or health and safety and food safety or there to primarily deal with some other non-health and safety issues)?

Analysis of the responses were grouped as follows:

- Not likely - 1
- Somewhat likely - 1
- Moderately likely - 8
- Likely - 49
- Extremely likely - 120

HSE's response

HSE notes that the vast majority of LAs are likely or extremely likely to make it clear what they are there to, which is in keeping with the Code requirements of being open and transparent. HSE will consider if stressing this sort of activity more clearly in the Codes supporting guidance would further improve implementation or if other action is required.

Q9. When undertaking proactive Health and Safety inspections or advisory visits do you make it clear to business the distinction between these two approaches?

Analysis of the responses were grouped as follows:

- Yes – 164
- No - 10

HSE's response

HSE notes that the vast majority of LAs make it clear to businesses whether they are there to inspect or give advice. This is in keeping with the Code requirements of being open and transparent. HSE will consider if stressing such activity more clearly in the Codes supporting guidance would further improve implementation or if other action is required to encourage even better alignment to the Code.

Q10. Since the Code was introduced: Has the number of times you use advisory visits as an alternative intervention to proactive inspection:

The analysis of the responses were grouped as follows:

- Increased - 78
- Decreased - 22
- No Change – 74

HSE's response

HSE notes that many LAs reported an increase in the use of advisory visits as an alternative to inspection. This suggests LAs were being more proportionate in their activity as required by the Code. In addition, text comments and subsequent discussions with LAs suggest that many of the 'No change' responses were LAs who already used the full range of

interventions and were already operating in a manner that aligned with the Code. HSE will seek to improve the Codes supporting guidance to encourage greater implementation.

Q11. Are your Health and Safety advisory visits predominantly: Summary

Analysis of the responses were grouped as follows:

- a) part of another regulatory visit - 93
- b) stand alone advisory visits - 81

Q12. If you have answered a) to Questions 11 are these other regulatory visits predominantly:

The analysis of the responses were grouped as follows:

- food hygiene regulatory visits – 74
- regulatory visits for a purpose other than food hygiene – 30

HSE's response - Q11 and Q12

HSE notes that advisory visits were as likely to be combined with other regulatory activity as to be devoted to health and safety. When it was part of another regulatory intervention it was most likely to be as part of a food hygiene regulatory visit. HSE recognises that many LA regulators are operating across different regulatory disciplines so will draft regulator guidance in as clear a manner as possible.

Q13. LAC67/2 (rev4) sets out a feedback mechanism by which LAs, individually, or through their Liaison groups, can alert HSE of novel or emerging issues via LAU.Enquiries@hse.gsi.gov.uk

Did you know that you could alert HSE in this way?

Analysis of the responses were grouped as follows:

- Yes – 91
- No - 82

HSE's response

HSE notes that almost half of LAs did not know they could raise novel or emerging issues in this way. HSE has updated the HELEX extranet website for LA regulatory staff to make such reporting easier and clearer and will seek to promote this in its interactions with LAs.

Q14. Have you found that the Code's encouragement to use risk-based targeting for Health and Safety made resource management easier?

Analysis of the responses were grouped as follows:

- Yes – 81
- No - 93

HSE's response

HSE notes there is no clear overall opinion that the Code has impacted upon resource management.

Q15. Have you found the supplementary guidance to the Code and LAC 67/2 (rev 4) useful in supporting your LA meet the requirements of the Code?

Analysis of the responses were grouped as follows:

- Yes - 125
- No – 49

HSE's response

HSE notes the majority of LAs found the supplementary guidance useful and will seek to improve the guidance to aid those who have not found it useful.

Q16. How useful would the following additional guidance/support be in helping LAs meet the requirements of the Code?

(Individuals provided multiple responses to this question and could indicate preference)

A chart of the responses follows:

	Not useful	Somewhat useful	Moderately useful	Useful	Extremely useful
case studies/examples on the use of proactive inspection				●	
clearer definitions in the list of high risk sectors/activities				●	
setting/planning intervention priorities/targeting			●		
use of premises risk rating			●		
case studies/examples of alternative risk-based interventions			●		
help in identifying where risks are not being effectively managed			●		
clarification on dealing with matters of evident concern (MEC)			●		
case studies/examples on using intelligence to help target interventions			●		
explaining to business why you are there		●			

HSE's response

HSE notes the relative interest in the various guidance/supporting documents and will address this when it revises the existing suite of documents.

Q17. During 2013/14 did your LA make use of BRDO's Regulators Development Needs Analysis (RDNA) and Guidance for Regulators Information Point (GRIP) to encourage inspector competence?

Respondent's comments

Analysis of the responses were grouped as follows:

- Yes - 99
- No – 68

HSE's response - Q17

HSE notes that many LAs continue to use the RDNA to support regulator competence. Follow up discussions with LAs identified that whilst many LAs do use RDNA for new and developing officers, such as those changing duties, but existing experienced staff find it too bureaucratic to use annually. These comments have been communicated to the BRDO who now operate the LA RDNA.

Q18. In the last year has your LA carried out a peer review against any of the following topics?

(Individuals provided multiple responses to this question)

A chart of the responses follows:

	Yes	No
LAE1 Returns	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Enforcement decisions	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Intervention Plans	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Competence arrangements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Another topic	<input type="checkbox"/>	<input checked="" type="checkbox"/>

HSE's response - Q18.

There is not a requirement for peer review to be carried out every year but HSE notes that many LAs have undertaken Peer review within the last year, and that a range of different topics were considered. HSE will continue to support this process via local liaison and central support.

Q19. Does your LA have easily accessible complaints procedures that clearly reference the Independent Regulatory Challenge Panel?

Analysis of the responses were grouped as follows:

- Yes - 83
- No - 85

HSE's response - Q19

HSE notes that only around half of LAs had easily accessible complaints procedures that clearly reference the Independent Regulatory Challenge Panel. HSE will engage with the LAs and their representative bodies to encourage wider compliance.

The following 2 questions specifically relate to Petroleum Enforcement Authorities and or Explosive Licensing Officers who regulate petroleum and explosives licensing/permissioning regimes.

Would you like to answer these?

(This was a 'gatekeeping' question for Q20-21 that were expected to have only been relevant to a small subset of the responders)

Analysis of the responses were grouped as follows:

- Yes – 37
- No - 131

HSE's response

HSE notes that only a relatively small number of the LA responders had interest in explosive licencing or petroleum certification.

The Code applies to all Local Authority regulatory activity undertaken by officers warranted under the Health and Safety at Work Act. This includes their activity at licensed explosives and certificated petroleum sites.

Question 20: To help avoid confusion, should the Code specifically mention its relevance to licensed explosives and certificated petroleum sites?

Analysis of the responses were grouped as follows:

- Yes – 30
- No - 5

HSE's response – Q20.

HSE notes the need to clarify this issue and will address it when it revises the existing suite of documents.

Following the reviews on explosives and petroleum legislation, HSE will update the relevant section of LAC67/2(rev4).

Question 21: What changes would you like to see in LAC67/2(rev4) in relation to explosives and petroleum. Pick all that apply.

(Individuals provided multiple responses to this question)

A chart of the responses follows:

	Yes	No
Amend LAC 67/2 (rev4) to remove reference to the now completed reviews		
A more detailed explanation of why the LAC 67/2(rev4) does not apply to explosives and petroleum licensing regulations		
Direct readers to guidance that regulators could use		
Other explosive/petroleum relevant issues		

HSE's response – Q21

HSE notes the relative interest in the various possible changes. In addition further comments were received that related to the need for clarity, the support of consistent regulatory activity and the need to consult with both petroleum and firework stakeholders over any changes. HSE will address these issues when it revises the existing suite of documents.

Q22. Are there any further comments you would like to make on the issues raised in this questionnaire?

Respondent's comments

79 comments were received and the key issues relating to the implementation of the code were grouped in order of expression as:

- Limited LA resources are making compliance more challenging
- The need for greater clarity in the Codes supporting material
- Difficulty in identifying local poor performers
- Need to share best practice
- Have found the code helpful
- Risk rating approach should be reviewed
- The reviewed materials should be ready before the next work year

HSE's response – Q22

HSE notes the issues raised and will seek to address them if possible when it revises the existing suite of documents.

Q23. Are there any further comments you would like to make on the issues raised in this questionnaire?

Respondent's comments

71 comments were received.

The most common view expressed was the view that they would have preferred the opportunity to have given more detailed responses to the questions posed. However there were also a number of responses that appreciated the clarity and simplicity of the consultation.

HSE's response – Q23

HSE notes the wish for more detailed consultation, and has supplemented the on-line survey with direct discussion with LAs on the issues raised in this consultation.

Summary of responses from non-regulators - businesses and/or organisations that represent employers or employees

There were 63 responses in this group, not everyone answered all questions.

Q1. In the last year were you (or the organisations that you represent) visited by an LA officer?

The analysis of the responses were grouped as follows:

- Yes - 21
- No - 29
- Not sure - 11

HSE's response

HSE notes that not all responders had been visited in the last year. More detailed analysis of the responses suggested that the responders that were business around half had been inspected in the previous year.

Q2. If you answered 'Yes' to question 1, do you know if the visit was undertaken to address health and safety at work i.e. issues regulated by the Health and Safety at Work Act?

The analysis of the responses were grouped as follows:

- Yes - 13
- No – 5
- The reason was not made clear - 3

HSE's response

HSE notes that the majority of consultation responders visited by LA officers were for health and safety reasons so those responders will have experienced current LA practice.

Q3. Was it made clear that the visit was either a health and safety inspection or an advisory visit?

The analysis of the responses were grouped as follows:

- Yes - 15
- No – 2
- It was not made clear - 4

HSE's response

HSE notes that the majority of responders had been clearly informed if their health and safety intervention was an inspection or advisory, this indicates LA behaviour in accordance with the Code. HSE will seek to improve the supporting materials to the Code, to further encourage LA implementation.

Q4. If this was an advisory visit had the LA been asked to visit e.g. for health and safety advice in general or for a specific problem?

Analysis of the responses were grouped as follows:

- Yes - 5
- No – 16

Q5. If the LA was not asked to visit was it made clear why the business had been targeted for the health and safety visit? (e.g. the business is particularly high risk or there was intelligence [e.g. complaints, accidents or adverse insurance reports] to show that risks were not being effectively managed.)?

The analysis of the responses were grouped as follows:

- Yes - 6
- No – 2
- The reason was not made clear – 2

HSE's response to Q4 & Q5

HSE notes that the majority of advisory visits were not as a result of requests for assistance. Where the visit was unsolicited the most common view was that the LA had made it clear why the business had been targeted. However, there were a significant proportion of cases where either there was no expressed reason for the advisory visit, or it was not made clear. HSE will seek to improve the supporting materials to the Code, to encourage better targeting and communication by LA's.

Q6. Did the LA inspector focus on the businesses key health and safety risks?

The analysis of the responses were grouped as follows:

- Yes - 9
- No – 2
- Don't know – 6

HSE's response

HSE notes that where the responders understood their key health and safety risks they agreed that LA inspectors had focused on those topics. This demonstrates LA's being targeted and proportionate in their work and complying with the Code. It also indicates that the LA inspectors are competent and able to identify the key health and safety issues in the workplace.

Q7. In terms of helping to manage risks more effectively was the visit

Analysis of the responses were grouped as follows:

- Not useful - 7
- Somewhat useful - 0
- Moderately useful - 2
- Useful - 7
- Extremely useful - 1

HSE's response

HSE notes that many of the responders did not find the LA visit useful. As part of to improving the supporting materials to the Code HSE will liaise with business stakeholders to investigate this further.

Q8. Which of the following sources of information is used by business to get health and safety advice?

(Individuals provided multiple responses to this question and could indicate preference)

A chart of the responses follows:

	Not likely	Somewhat likely	Moderately likely	Likely	Extremely likely
Inspection/advisory visit					
Contacting LA inspector					
internet					
library					
LA web site					
HSE web site					
health and safety consultant					
trade or business association					
primary authority					
Trade Union					
ask other businesses					

HSE's response

HSE notes that the most common sources of health and safety are the intent/HSE's website and will ensure that any revisions to the key supporting documents to the Code are made available online

Q9. Does the Code look like it will help LAs to take a more risk-based approach to the targeting of their health and safety interventions?

Analysis of the responses were grouped as follows:

- Yes – 20
- No – 10
- Don't know - 11

HSE's response

HSE notes that, where the responders expressed an opinion, the majority considered that the Code would assist LAs in taking a more risk based approach to intervention targeting.

Q10. In the last year do you think the amount of attention you have received from Health and Safety regulatory staff in Local Authorities was:

The analysis of the responses were grouped as follows:

- Too high - 3
- Too low - 19
- About right – 19

HSE's response

HSE notes that very few responders considered that they received too much regulatory attention from LA health and safety regulatory staff. As part of to improving the supporting materials to the Code HSE will liaise with business stakeholders to investigate this further.

Q11. The Code clarifies the responsibility of business to manage the risks that they create.

Has the Code encouraged business to manage their health and safety risks more effectively?

Analysis of the responses were grouped as follows:

- Yes - 13
- No – 18
- Don't know - 10

HSE notes that many responders did not feel the Code had encouraged businesses to improve their health and safety management. As part of to improving the supporting materials to the Code HSE will liaise with business stakeholders to investigate this further.

Q12. There is an Independent Regulatory Challenge Panel (ICRP) which will look into complaints regarding advice given by HSE or LA inspectors about health and safety which you think is incorrect or goes beyond what is required to control the risk adequately. The ICRP will also receive complaints where business considers that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by an LA.

Were you aware that there is an Independent Regulatory Challenge Panel?

The analysis of the responses were grouped as follows:

- Yes – 15
- No – 26

HSE's response

HSE notes that business awareness of the ICRP is still low and we will be taking steps to improve this.

The following 2 questions specifically relate to businesses regulated by petroleum and explosives licensing/permissioning regimes.

Would you like to answer these?

(This was a 'gatekeeping' question for Q13-14 that were expected to have only been relevant to a small subset of the responders)

Analysis of the responses were grouped as follows:

- Yes – 7
- No - 34

HSE's response

HSE notes that only a relatively small number of the responders had interest in explosive licencing or petroleum certification.

Q13. Given that the code applies to enforcement on licensed explosives and certificated petroleum sites, to help avoid confusion, should a specific mention to this effect be included in the Code?

Analysis of the responses were grouped as follows:

- Yes – 4
- No - 1

HSE's response

HSE notes that the majority of the responders felt that there should be a specific mention of licensed explosives and certificated petroleum sites in the Code. HSE will seek to address this as part of improving the supporting materials to the Code.

Q14. It is HSE intention to update the text in LAC67/2(rev4) following the completion of the reviews on explosives and petroleum legislation. What changes would you like to see in this guidance in relation to explosives licensing and petroleum certification? Pick all that apply.

(Individuals provided multiple responses to this question and could indicate preference)

A chart of the responses follows:

	Yes	No
Amend LAC 67/2 (rev4) to remove reference to the now completed reviews	<input type="radio"/>	<input type="radio"/>
A more detailed explanation of why the LAC 67/2(rev4) does not apply to explosives and petroleum licensing regulations	<input type="radio"/>	<input type="radio"/>
Direct readers to guidance that regulators could use	<input type="radio"/>	<input type="radio"/>
Other explosive/petroleum relevant issues	<input type="radio"/>	<input type="radio"/>

HSE's response

HSE notes the views expressed and will seek to address them when it revises Lac 67/2 rev4.

Q15. Are there any further comments you would like to make on the issues raised in this questionnaire?

Respondent's comments

24 comments were received there were two main concerns expressed, firstly concern that rogue operators may not be detected by available intelligence and secondly LA resources and/or competency may not be sufficient.

HSE's response

HSE notes the issues raised and will seek to address them if possible when it revises the supporting guidance for the Code.

Q16. Are there any further comments you would like to make on the issues raised in this questionnaire?

Respondent's comments

19 comments were received the most common view expressed was that the consultation had been easy to respond to, other comments related to limited LA resources/competency.

HSE's response

HSE notes the responses.