

Results of consultation on Regulation and Recognition –towards good performance in health and safety.

In September 2004 the Health and Safety Commission (HSC) published, on the HSE web site, a consultative document (CD) ‘Regulation and recognition – towards good performance in health and safety’. This CD arose from Theme 3 of the HSC strategy - ‘Focussing on our core business and the right interventions¹ where we are best placed to reduce workplace injury and ill health’. This publication reports the results of this consultation.

The CD sought comment on two broad areas. The first was on the use of 13 interventions and the proposal that HSE and Local Authorities concentrate primarily on 8 of them (as marked in bold below).

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

The second area was the idea of regulators ‘recognising good performance’ as a form of intervention in its own right.

Consultation closed on 24 December 2004. The CD excluded the “permissioning regimes” (where we oversee licenses and safety cases) for major hazards. However, there is some read across and we are working to ensure that our approach is consistent.

The comments we received can be summed up in this way:

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

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

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

Analysis of the results

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

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

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

1 Our intervention strategy

Whilst there was strong agreement that we need to use a variety of interventions from the ‘new’ to the ‘traditional’ (Q1) there was little consensus as to which interventions we should devote our resources to (Q2). Trade Unions in particular refrained from expressing a preference on the basis of not knowing the value of one intervention over another. Nearly everyone thought we had identified all the right interventions and all had some merit (Q6). Despite confusion over the distinction between “design and supply” and “the supply chain” as interventions (Q4), many respondents clearly indicated that “design and supply” should be an area in which regulators should remain involved - some citing HSE’s initiative to reduce the weight of cement bags as a prime example.

A matrix chart in the CD applied the different interventions against various criteria for their success (eg. size of company, track record, etc). This could have been more clearly presented. Those who did study it and comment felt we were on the right track but needed to refine and develop the work (Q5).

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

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

2 Recognising good performance

Nearly all respondents agreed that our targeting arrangements whereby HSE/LAs direct our interventions towards poor performers should be further developed and made more transparent (Q9).

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

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

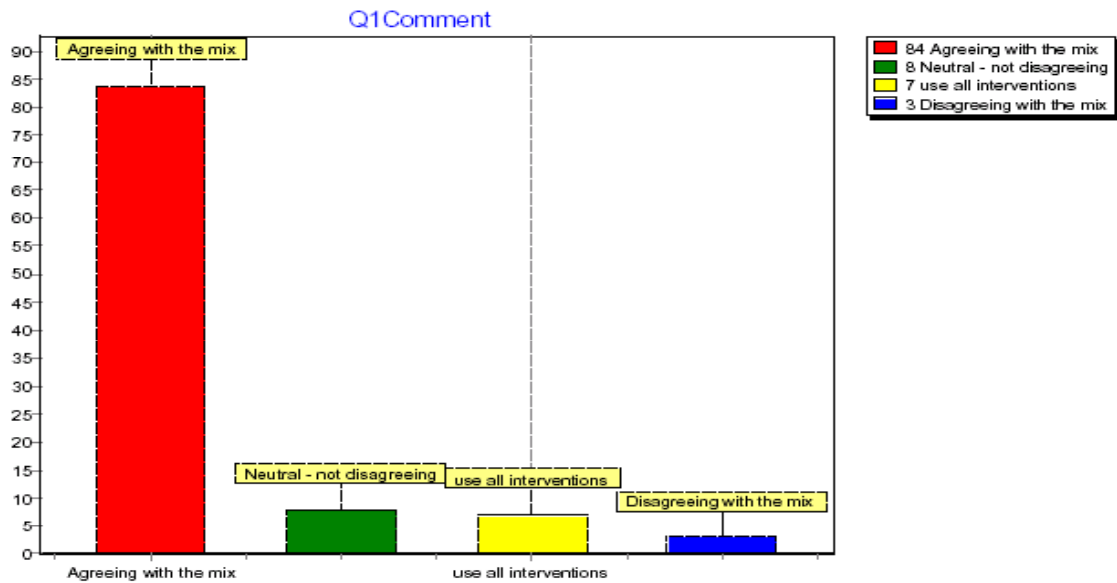
Amongst those in favour of recognising good performance there was a fairly even split over the question of whether its development should be in conjunction with other regulators or independent of them (Q11). Many commented that we should be aware of other regulators' approaches, but not constrained by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

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

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

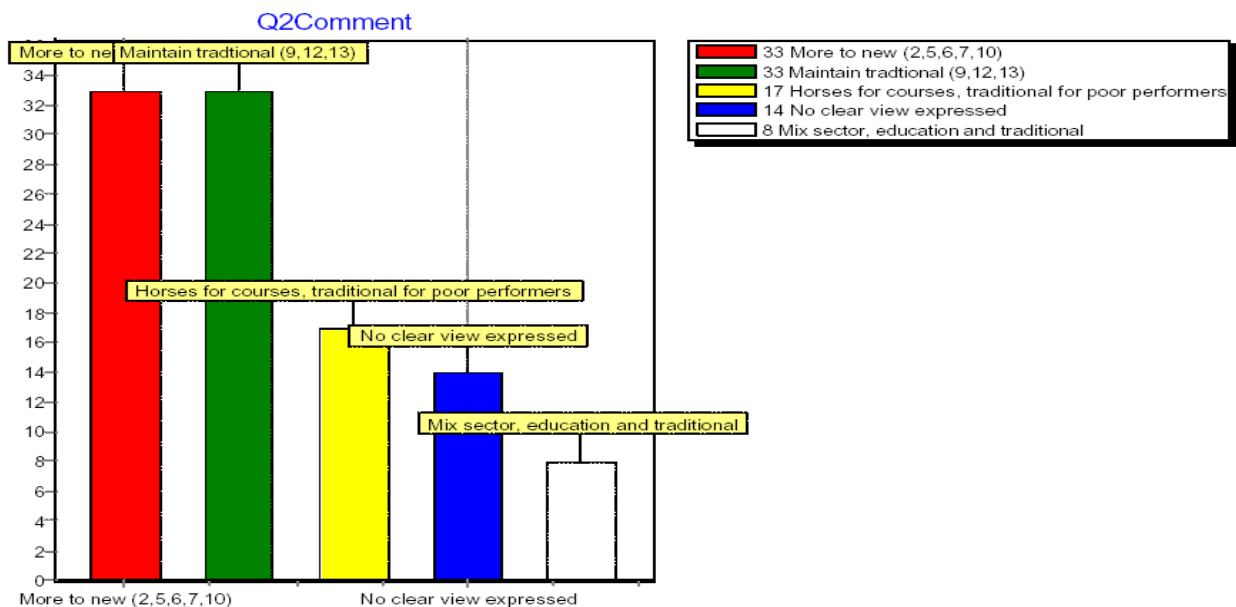
In responding to Questions 15 and 16, people clearly felt that we should not alter our investigation policy for good performers (it was not morally defensible to do so) and that if a good performer had a serious incident, they should incur some form of penalty/demotion with respect to their recognition,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

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



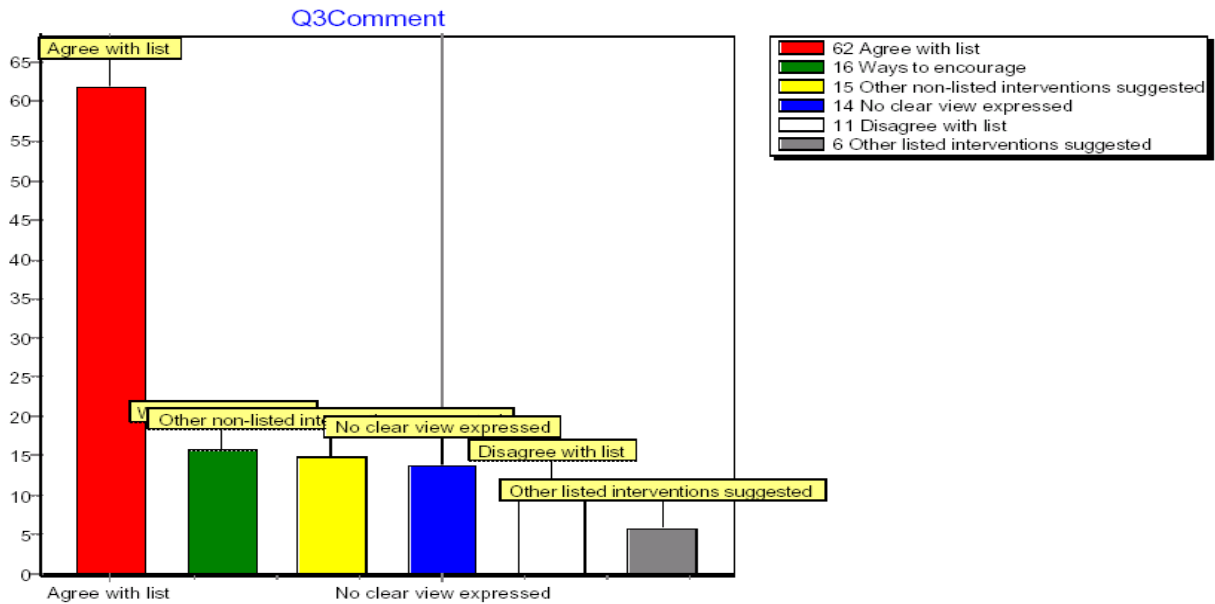
While this chart shows significant support for our choice of 8 interventions, that support appears to be predicated on traditional interventions (inspection and enforcement, investigation, and dealing with complaints and matters of concern) being part of the mix. Some employers thought the lack of definition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

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



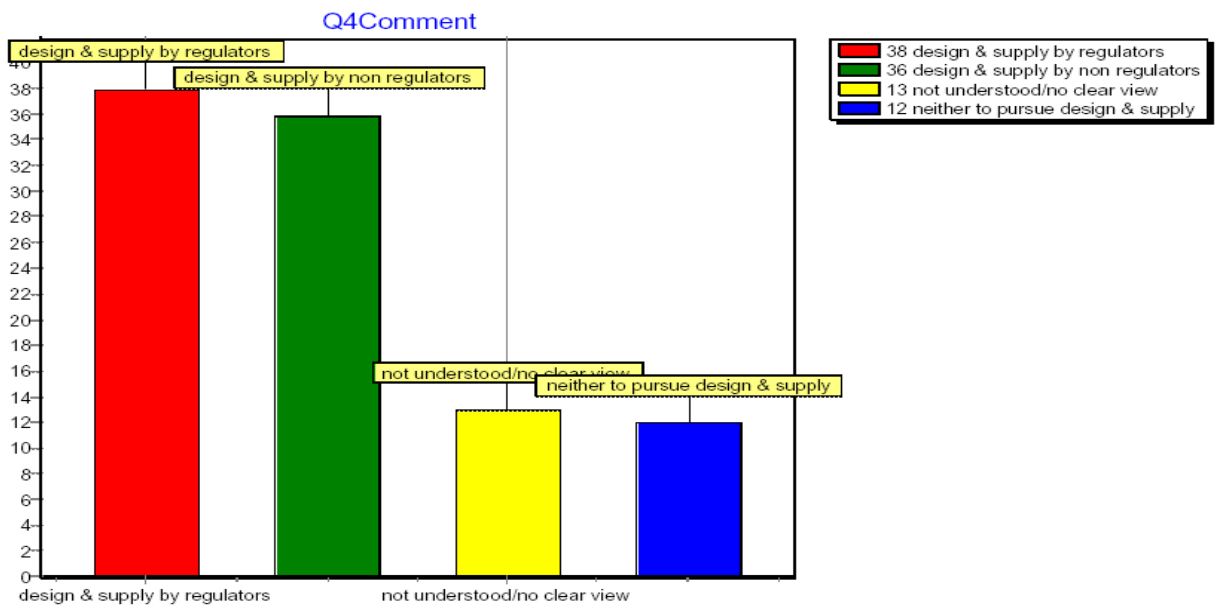
There is no consensus about which interventions our resources should be concentrated on. In general, employers and non-regulatory health and safety professionals were in favour of more to the 'new'. A significant number of commentators (including many H&S professionals) made the point that different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

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



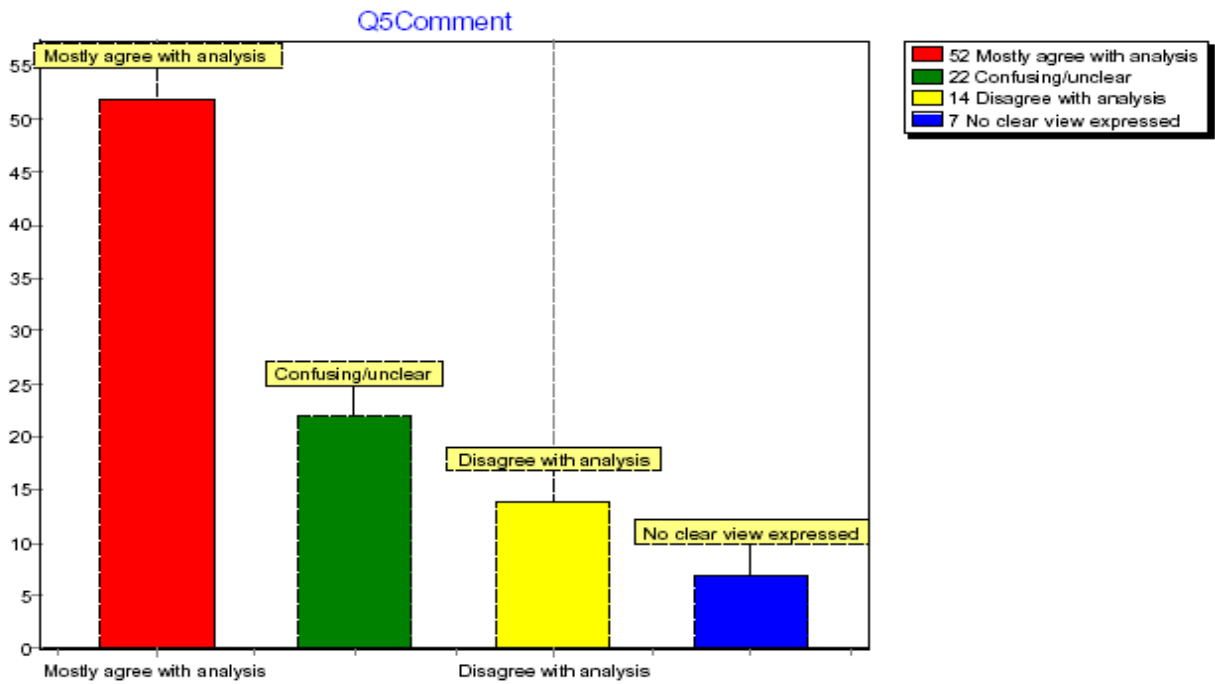
Responses to this question show support for dutyholders undertaking interventions of their own volition. A number of respondents suggested other approaches (both listed and unlisted) which could be used by employers. These require further analysis.

Q4. What are your views on the use of the design and supply intervention?



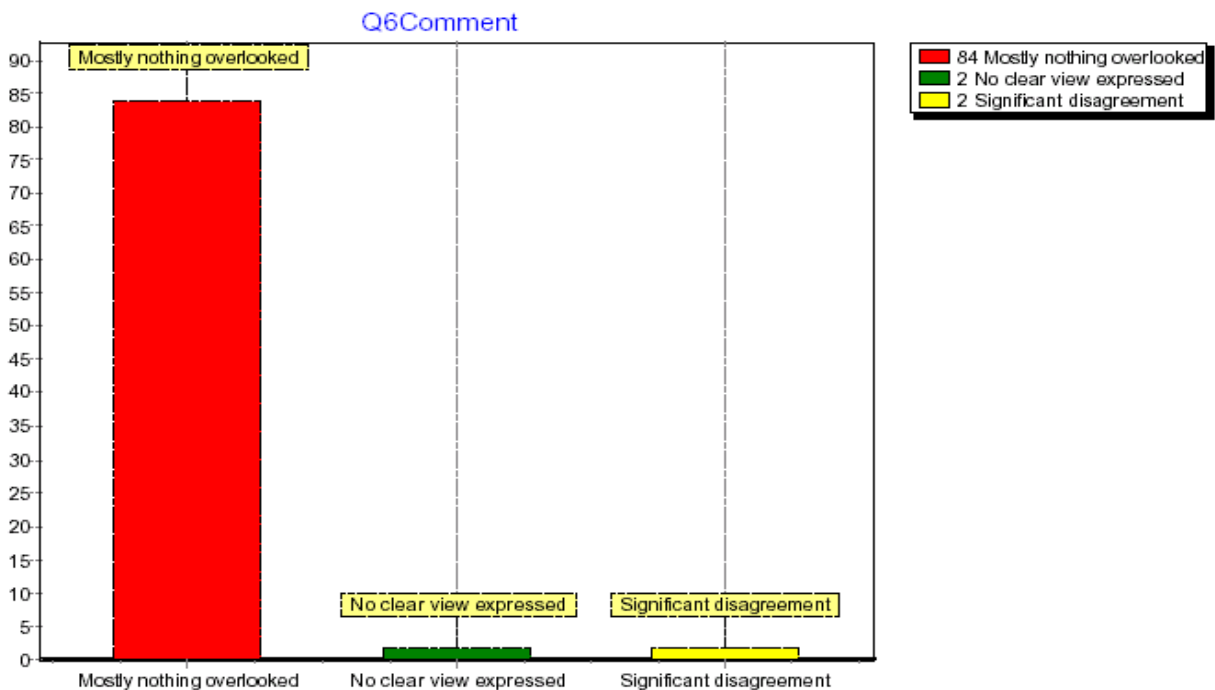
This question could have been stated more clearly. A large number of respondents either did not understand the intervention or thought it akin to the supply chain intervention. Those who understood the concept for the most part thought it was an intervention in which regulators should be engaged.

Q5. What are your views on the analysis contained in the intervention matrix?



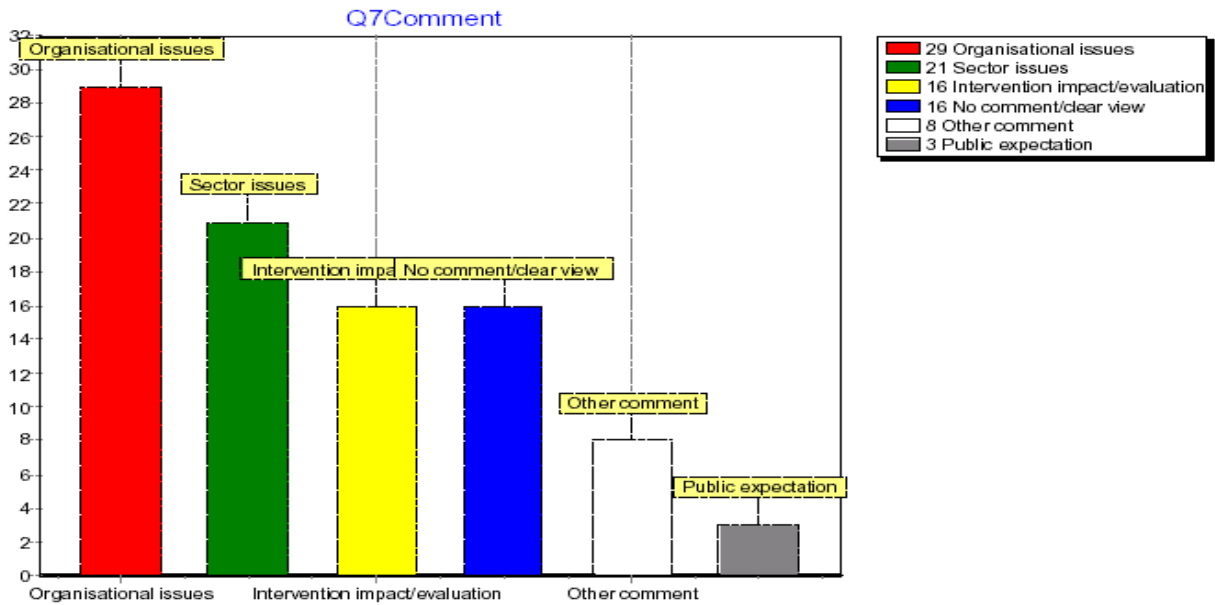
Although a majority of respondents agreed with the analysis in the matrix, a significant number thought it was confusing and unclear. To be of any further use, it would need to be clarified and developed.

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



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

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

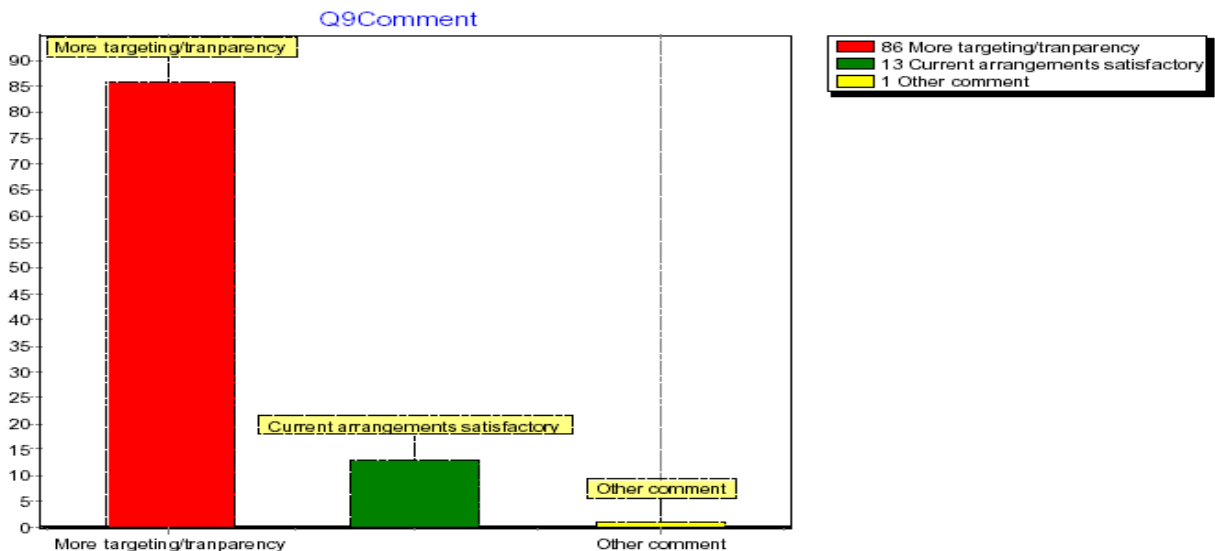


No one set of criteria was overwhelmingly cited. There was significant support for both organisational issues (eg past performance, employment arrangements, commitment to corporate social responsibility and risk potential) and a sector approach. There was also a significant number of respondents who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

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

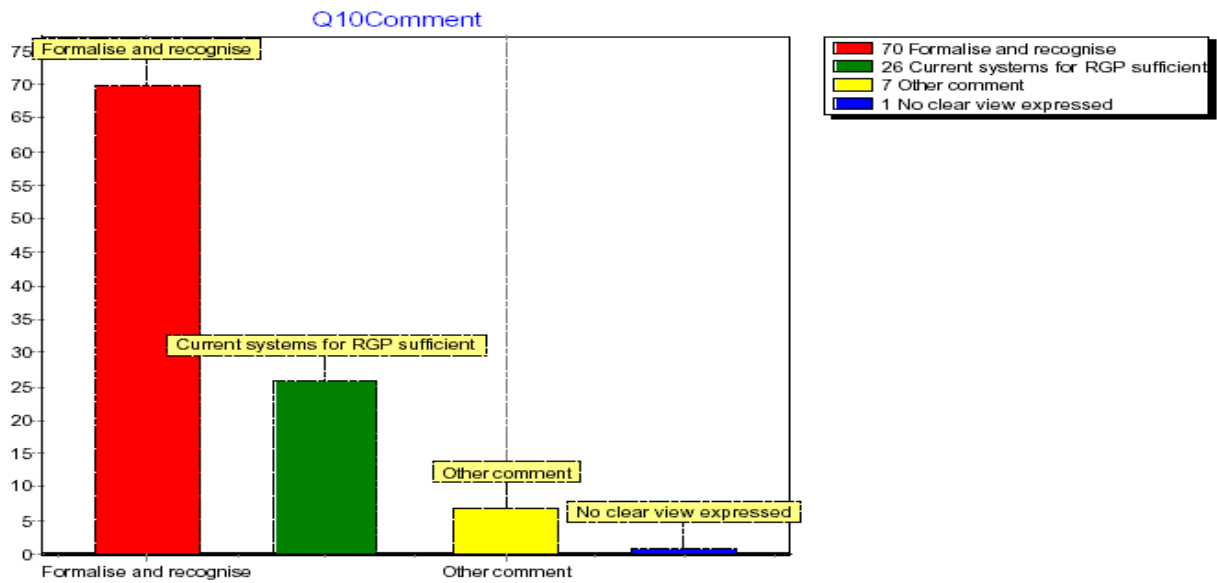
Fifty-four respondents provided further comment, many emphasising points made in response to previous questions.

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



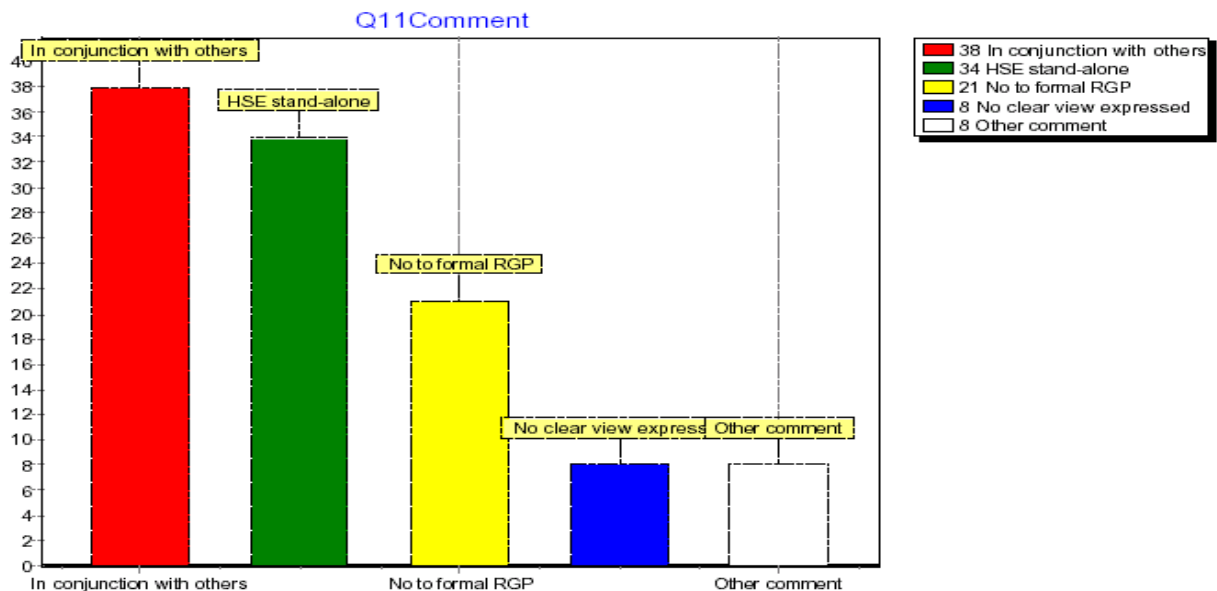
There is clear consensus for HSE and LAs to develop and make more transparent their targeting arrangements to direct interventions towards poor performers.

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



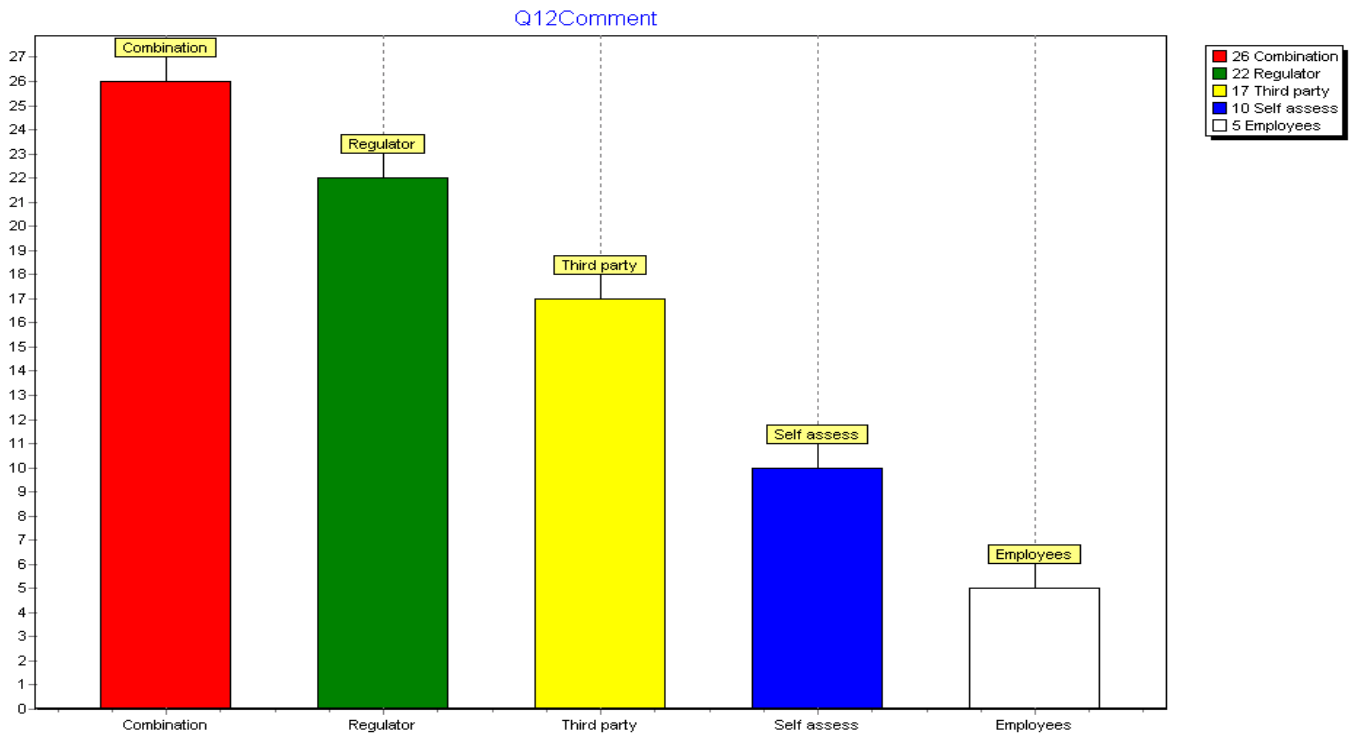
Although a numerical majority of respondents agree with the proposal, the trade unions and many regulatory H&S professionals were against formal recognition. They cited a lack of evidence as to its effectiveness and feared that if administered by the regulator, it had the potential to draw away resources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

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



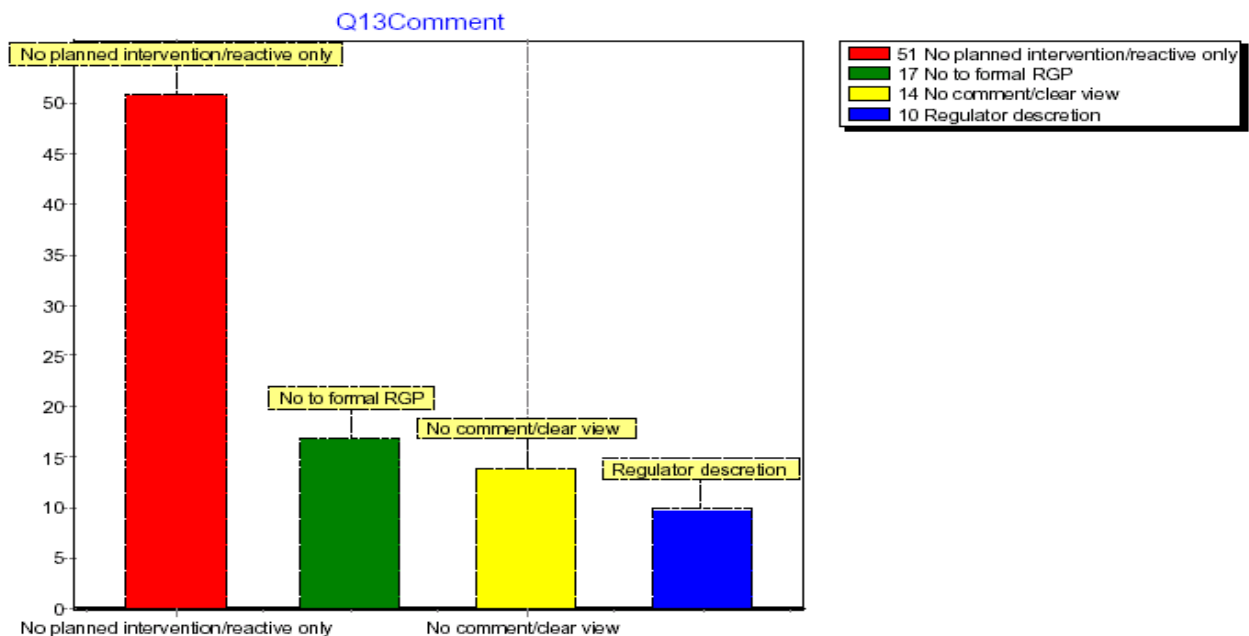
Whilst a slight majority of respondents favoured development in conjunction with other regulators, there was a significant number who voted for a stand-alone system. From this question on, many of those who disagreed with the concept of recognising good performance in question 10, gave no opinion on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

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



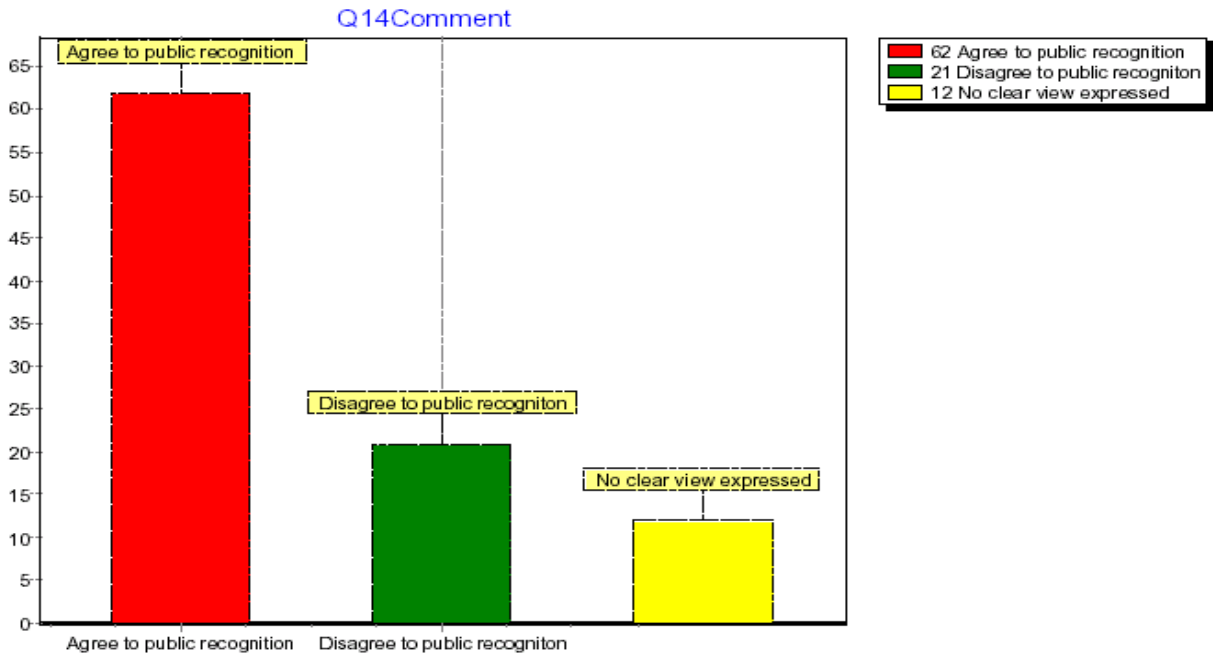
Most respondents agreed with the suggested criteria for assessment, but there was a wide range of opinions about who should make the assessment. Many of those advocating a combination approach supported employee assessment being an essential element of that approach.

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



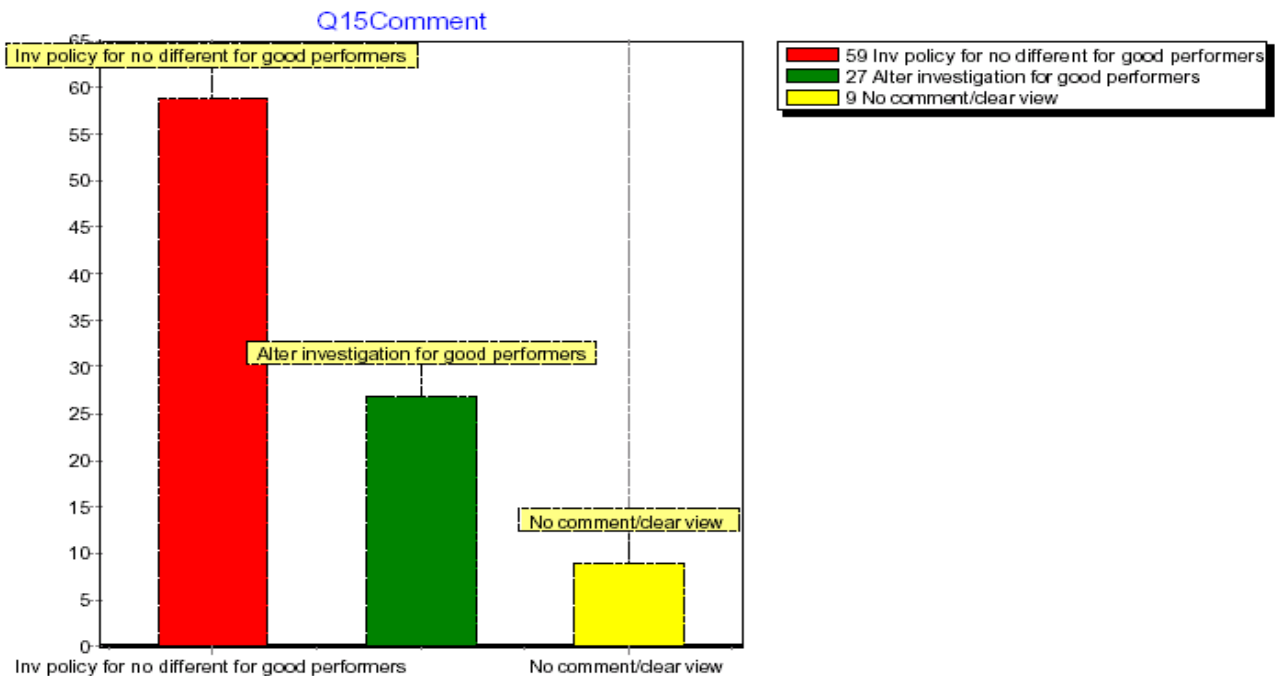
The majority of respondents suggested that not intervening proactively should result in no planned proactive interventions.

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



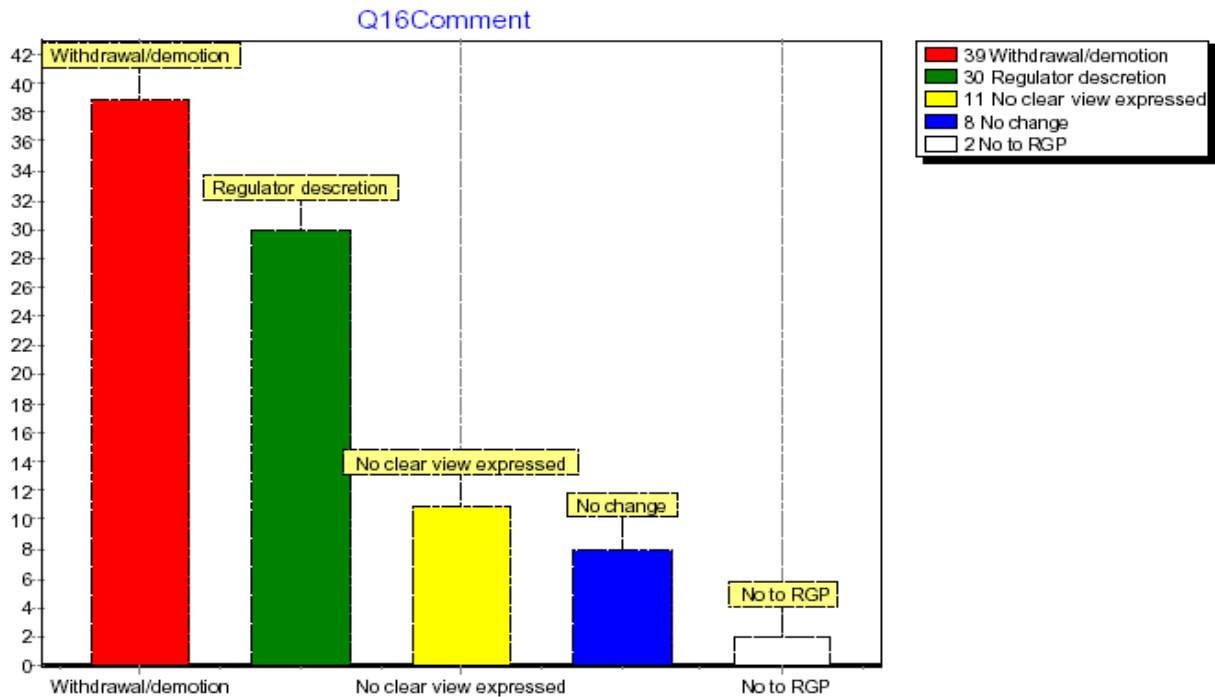
There were many suggestions as to what form public recognition should take from website listing to formal awards. A number commented that if companies wanted public recognition for their performance, that was already available through various award schemes.

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



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

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



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

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

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

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