



**Making an impact on SME compliance behaviour:  
An evaluation of the effect of interventions upon  
compliance with health and safety legislation  
in small and medium sized enterprises**

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# **Making an impact on SME compliance behaviour: An evaluation of the effect of interventions upon compliance with health and safety legislation in small and medium sized enterprises**

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This research explores how external interventions affect SME compliance behaviour. It examined the impact of intervention on standards of compliance, the processes by which compliance occurred and how external intervention impacted on these processes. The study was conducted in small hairdressing shops in 6 local authorities in England. The local authorities were selected on the basis of the types and levels of intervention conducted. Formal compliance with COSHH, electrical safety and risk assessment requirements was assessed in hairdressers in each of the local authorities, local authority case notes examined and interviews conducted with the manager/owners.

The research addresses the major issue in compliance – how can SMEs be encouraged/coerced into changing their behaviour to ensure that they achieve compliance.

Four findings emerge. The first is fundamental – SMEs conceive compliance in a different way to the view of enforcers. The small hairdressers in this study all believed they complied even though formal compliance levels ranged from 19.5% to 61%. The second finding is related to this and is that compliance was not found to be part of a rational decision-making process. The process of compliance was more one of the SME recognising the gap between what they were doing and how they 'ought' to operate and taking action to close that gap. In this study that 'gap' was best closed by personal face-to-face interaction. In local authorities that is most likely to be through inspection. A final major finding was that this face-to-face interaction did not have to come from the enforcer. Local college placement officers were effective at changing some compliance behaviours.

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## EXECUTIVE SUMMARY

This research explores the impact of interventions on compliance with health and safety law in small and medium sized enterprises (SMEs). It examined:

- 1) the impact of external interventions on compliance with risk assessment, Control of Substances Hazardous to Health (COSHH) assessments and electrical safety requirements in small hairdressers,
- 2) the processes by which SME owner/managers complied with legal requirements, and
- 3) the ways in which external interventions might impact the compliance process within small hairdressers.

Previous studies support the contention that SMEs want to be told exactly what to do and how to comply through face-to-face interventions with an inspector. Research shows that SMEs have major difficulties identifying hazards and find the concept of self-assessment alien. This view is accepted in government, and has been highlighted in previous HSE funded research. This report explores the process of compliance that occurs within SMEs to examine in greater depth the reasons for the apparent wish of SMEs for prescription, inspector driven compliance, and their inability to be able to identify the most obvious hazards. The overall goal of this research is to produce a framework for understanding how SMEs make compliance decisions. This can form the basis on which the impact and effect of interventions can be evaluated.

In the local authority enforced sector, various approaches are used to secure compliance with the requirements of health and safety legislation in the UK. These include inspection, educational activities including promotional campaigns and provision of training, and accident investigation. The type of approach adopted by local authorities is dependant upon the resources available to undertake inspections and follow-up activity; the views of those managing the health and safety function; and the field staff enforcing the legislation.

This project purposively selected six local authorities in England on the basis of the amount of intervention activity being carried out by local authority officers. Two authorities were selected because they performed very low levels of intervention, and two authorities were selected because although they inspected premises they did not follow up the recommendations made. The final two authorities carried out inspections, followed up recommendations and carried out educational activities. Within each authority six to seven hairdressers were interviewed, an independent compliance assessment was undertaken and the historical data on the local authority file was examined. Hairdressers were selected because they represent as a sector they have similar influences and motivating factors, they present relatively high health risks and they were present in sufficient numbers in authorities to enable sampling to occur.

The main findings of this research can be summarised around four themes; defining the meaning of compliance; exploring the process of compliance; identifying and explaining effective interventions, and discussing barriers and motivators to SME compliance. Before these findings are discussed, the limitations of this research needs be highlighted. SMEs are not a homogenous group, and care has to be exercised extrapolating conclusions about one industry to another or from the micro (1 to 9 employees) to the medium (50 - 249). 85% of the businesses within this study employed less than 10 people. The findings of this work do however confirm findings from work in relation to compliance in small food businesses. The second limitation was that this project focused on inspection interventions. This is due to the difficulties in finding the quantity of other types of intervention being performed in local authorities to allow scientifically rigorous investigation.

## **THE MEANING OF COMPLIANCE**

The small hairdressers in this study all believed they complied with the law even though formal compliance levels (judged by independent assessment) ranged from 19.5% (for COSHH), through 46.3% (for risk assessment) to 61% (for electrical safety). They believed that they were compliant until it was made known to them that they were not. In other words they viewed compliance reactively and not as a process in which they should be continually engaged. Compliance was not, as an enforcer would define it, complying with the requirements of the law. Compliance to the SMEs in this study was doing all they were told to at an inspection, or advisory visit or other intervention. In those SMEs in authorities where few interventions occurred, they still all believed they complied and believed that someone would let them know (they did not know who) if they did not. Non-compliance was related to harm, and many SMEs could not conceive non-compliance with self assessment or risk assessment type requirements as these are proactive. Non-compliance was also related to things they perceived that might be prosecutable.

## **THE NATURE OF THE COMPLIANCE PROCESS**

Compliance in this study was not found to be part of a decision-making process. In fact, compliance was not a decision. None of the SMEs in this study identified the range of options possibly available, weighed up the costs and benefits, and chose the most optimal course of action. Instead compliance was more a process of how the SME owner 'made sense' of what they were being required to do. Most of the small businesses in this study did not recognise that they were non-compliant. As stated above they believed they complied. They may have received general information in leaflets, or read trade news and articles about legal requirements but these did not cause the SME owner to realise that the situation being discussed in the leaflet was relevant to their own business. If they could not recognise that there was a difference between how their business operated on the ground and how it ought in order to comply with external rules and laws, they could believe they already complied and that no action was necessary.

In this study, one clear way that the 'gap' between how things operated and how they should have operated should have been identified is through the high levels of occupational ill-health prevalent in the businesses. One advantage of the methodology used was that it enabled the researcher to explore how businesses related legal requirements to their operations and how this impacted on hazard identification. 54 % of the hairdressing businesses in this study employed staff with dermatitis, 68% of businesses had staff with back pain related to the job. These were both accepted hazards of the job. When asked (without prompting) what the hazards of the salon were, SME owners identified hazards that might affect their clients, and general safety issues such as slips, trips and falls. 54% of SMEs stated that slips, trips and falls was a hazard they actively managed but only 2%(1 SME) had ever had experienced such an accident.

The most effective way of this 'gap' between how things operated and how they were meant to operate being identified was through face-to-face intervention of someone with power over the business. In this research this was the local authority inspector and unexpectedly the representative of local training colleges who inspected salons to ensure that standards are satisfactory for trainee placements. These inspectors would define the action needed by the SME, and generally, without argument, these recommendations would be implemented. This was not a decision taken by the SME. There was an overriding belief in a duty to comply.

## **THE IMPACT OF INTERVENTIONS ON COMPLIANCE LEVELS**

The SMEs in this study were reactive organisations. They relied on external influence to motivate change. The impact of inspection on formal levels of compliance was tested. The results from statistical testing should be treated with caution. Because the impact of the

activity of the training colleges had not been fully recognised before the case studies were conducted, and due to the limitation on the numbers of cases able to be included in the study, the numbers included in each category are small. In some instances they were so small that statistical testing was not possible (e.g. in the case of COSHH compliance). A further difficulty is that two main types of intervention were identified, that of the college and that of the enforcement agency. These would interact and it is impossible with the number of cases included in the study to unpick the impact of these on each other.

With those cautions in mind, it is possible to state that external intervention by local authorities or by training colleges had a positive impact on compliance levels in the SMEs in this study. Local authority inspections had a statistically significant impact on compliance with electrical safety requirements, whilst training college inspections were statistically significant in improving compliance with risk assessment legislation. The identification of the intervention by training colleges is particularly interesting and an important finding of this study. Although intermediaries have been identified as being important in ensuring compliance, these colleges are acting as compliance assessors, imposing punishment (the withdrawal of trainees) for non-compliance. The finding that inspection by enforcement officers is better at improving compliance with more prescriptive requirements, whilst the college inspections has more impact on compliance with risk assessment requirements is interesting, and raises questions about what the colleges are doing to improve compliance in this difficult area. It is an area that requires further research as this work did not examine the standards required by colleges, the areas covered and the methods used.

## **COMPLIANCE MOTIVATORS AND BARRIERS**

The different factors affecting the compliance process were also examined. The main motivators for complying, or trying to comply with the law were a general fear of the law (the enforcement action believed to follow from the identification of non-compliance); liability (being sued by clients); and the threat from local colleges in removing students from the workplace if non-compliance was not remedied. The reasons for non-compliance were seen to relate to a lack of 'awareness' of legislative requirements, or inadequate knowledge about how to comply with requirements. Time, money and poor management structures were not seen to affect the level of compliance achieved within an SME.

A final point needs to be made on the meaning of 'awareness'. Lack of awareness is often cited as the reason why businesses do not comply. It is important to examine what awareness means. In these case studies 'awareness' means not being able to relate legislative requirements to individual business operations – it is about recognising non-compliance. It could be easy to equate a problem of lack of 'awareness' with a solution of more information. More information in these cases will not make situation better, it may even make it worse by producing an information overload. What is needed is for the SME to recognise there is a difference in how they are operating and the levels of illness in their businesses, with how it ought to be. In this study, face-to-face intervention was the most effective way of making businesses recognise the existence of a 'gap'. After encouraging the recognition of a problems, the existence of an inspector then identifies ways of remedying this non-compliance, and these are received by the SME with an understanding of the power that the inspector has- either enforcement powers, or in this case power to remove trainees.

This study has focused on understanding why SMEs prefer prescription, why written information frequently fails to touch on business operations, and on examining why higher compliance levels are achieved by different interventions. By focussing on how SMEs make sense of requirements, and by accepting that SMEs believe themselves to be compliant, the importance of encouraging and coercing SMEs to recognise their non-compliance is clear. The intervention proven in this study to do that is face-to-face discussions. SMEs pose a huge challenge to enforcement resources due to their sheer number, but intervention strategies in this sector must consider how to get SMEs to recognise the 'gap' between what they are doing, and what they should be doing.

Inspections are the most common intervention used by local authorities and this research has shown that in the hairdressing sector they are effective in improving compliance with prescriptive-type legislation. The enforcement and resource challenge posed by over one million SMEs means that other interventions need to be devised that overcome the issues of the lack of recognition of non-compliance. It is likely that these will need to 'personalise' compliance issues and the challenge is to devise 'personal' forms of intervention that are feasible considering the resources available to enforcement authorities. The role of placement officers in this study was unexpected and suggests that vocational training may be an important in improving compliance in sectors with high trainee numbers.

# 1.0 HEALTH AND SAFETY IN SMALL AND MEDIUM SIZED ENTERPRISES (SMES)

## 1.1 INTRODUCING AND DEFINING THE PROBLEM

Small and medium sized enterprises are large in number (98% of all businesses in the UK) and although the popular misconception is to equate small with low risk, operate in all business sectors. Accident rates in small businesses can be higher than in large operations (for instance the fatality rate in SME manufacturers is twice that of large ones) and occupational health incidence is unknown. In enforcement terms the huge numbers of SMEs pose challenges because of their numbers, diversity and their difficulty to penetrate.

Although it is generally accepted that inspection works (Wright, 2004; Rakel, 1999), this is a difficult intervention to operationalise on the scale needed to cope with SME numbers. However SMEs are different to large business and different interventions are known to work in them. Previous empirical work in food safety compliance has shown that educational approaches to inspections are significantly more effective than inspections driven by enforcement objectives (Yapp and Fairman, 2004). That study also concluded that general deterrence (whereby prosecution of one affects the behaviour of many) does not occur within small food businesses (Fairman and Yapp, forthcoming). There is also empirical evidence showing that enforcement activity is better at achieving compliance with prescriptive requirements than with enforced self-regulatory requirements (Fairman and Yapp, forthcoming; Baldwin, 2004). Interventions such as mailshots, and leaflets have not been shown to be effective in SMEs.

Inspection and face-to face intervention appear to work but studies into compliance are dogged with methodological problems and some of the evidence base lacks rigour. Previous work on compliance has identified that there are differences in the way that enforcers and business define compliance (Fairman and Yapp, 2003). This poses real problems to researching compliance and means that studies based upon self completion questionnaires, without empirical evidence of actual compliance are flawed (Yapp and Fairman b, forthcoming). Both the HSC (HSC, 2001) and academics (e.g. Hutter, 1999) have highlighted the need for empirical evidence on the impact of enforcement on business behaviour and compliance levels.

This research looks at the impact of interventions on how businesses operate, how they respond to regulation and what effect this has on levels on compliance within businesses. The method used overcomes some of the methodological issues in previous studies by using in-depth qualitative data collection techniques to explore compliance process, what SMEs mean by compliance, and the levels of formal compliance in these same businesses.

The model that will be developed of compliance within SME can then be used to develop, target and evaluate interventions on businesses, examining the impact of compliance on different aspects of the compliance process.

## 1.2 DEFINING SMES

Whilst several different definitions exist for small and medium sized enterprises (SMEs<sup>1</sup>), the most commonly accepted interpretation is that adopted by the European Commission in 1996, shown in Table 1. This definition based upon employee numbers, annual turnover and balance sheet, is now incorporated into all community programmes<sup>2</sup> and is the definition used within this research.

**Table 1:** Definition of small and medium-sized enterprises

<b>Criterion</b>	<b>EC's single definition</b>		
	Micro	Small	Medium
Maximum number of employees	9	49	249
Maximum annual turnover	N/A	7 million ECU	40 million ECU
Maximum annual balance sheet total	N/A	5 million ECU	27 million ECU
Maximum % owned by 1, or jointly by several enterprises not satisfying the same criteria	N/A	25%	25%

SMEs form a vital part of the economy – there are 20 million SMEs in the European Economic Area<sup>3</sup>. The Department of Trade and Industry (DTI) estimates that there were 3.8 million SMEs in the UK at the beginning of 2002, employing around 12.6 million people, with an estimated annual turnover of £1.1 billion (DTI, 2003).

The DTI's Small Business Service collects data relating to the numbers of businesses within different industry sectors in the UK, shown below in Table 2. The table shows that overall, SMEs account for 99.8% of all businesses. 69.3% of all businesses do not employ any staff – e.g. they are sole proprietors or self-employed owner-manager(s). Only 0.2% of businesses employ more than 250 staff.

<sup>1</sup> For example those made by the Bolton Committee, 1971; section 248 of the Companies Act 1985; and that of the DTI.

<sup>2</sup> Recommendation 96/280/EEC (Official Journal (OJ) L 107, 30.4.96). Proposals have recently been made to provide further clarification to this definition – see Recommendation 2003/361/EC (OJ L 124, 20.5.03).

<sup>3</sup> OJ C 118/5, 20.5.2003.

**Table 2:** Number and percentage of businesses by industry sector and number of employees in the UK, 2002

Businesses	Size (number of employees)				Total Number
	None <sup>4</sup> (%)	1-49 (%)	50-249 (%)	250 or more (%)	
All industries	69.3	29.9	0.7	0.2	3,797,725
Agriculture, Hunting and Forestry; Fishing	68.2	31.7	0.1	0.0	175,290
Manufacturing	58.8	37.7	2.8	0.7	298,425
Construction	83.3	16.4	0.2	0.0	733,610
Wholesale and Retail Trade; Repairs	50.6	48.4	0.9	0.2	527,185
Hotels and Restaurants	14.9	83.5	1.3	0.2	131,190
Transport, Storage and Communication	80.9	18.4	0.6	0.2	240,800
Financial Intermediation	71.8	26.7	1.0	0.5	63,290
Real Estate, Renting and Business Activities	68.9	30.5	0.5	0.1	882,440
Health and Social Work	76.6	22.1	1.0	0.2	224,205
Other Community, Social and Personal Service Activities	79.0	20.6	0.3	0.1	418,340

Source: DTI Small Business Service, 2003

## 1.2 SME CHARACTERISTICS

The Confederation of British Industry (CBI) notes that SMEs *“have special needs of their own and are all faced with the challenge of one or more of a group of special characteristics”* (CBI, 1996). These ‘special characteristics’ that differentiate them from large businesses are seen to include:

- Short track records;
- A heavy reliance on niche markets;
- A lack of specialist skills;
- A low cash flow;
- A small asset base; and
- The need to make changes in structure and ownership at various stages of growth.

SMEs are predominantly non-unionised (Buultjens, 1994), a factor important in relation to health and safety compliance. The input of safety representatives and union pressure for improvements in safety are rarely present in SMEs. Formal systems of compliance are uncommon in SMEs (Purcell and Gray, 1986; Lamm, 1995; Lamm, 1997). They are less likely than large businesses to have internal expertise for dealing with regulation (Scott, 1989; Dawson et al, 1988).

Regulation normally requires that SMEs take some action likely to involve expertise, finance and management. Taking into account the characteristics of SMEs described above, SMEs are likely to find regulations difficult to implement. A low cash flow will result in strict control of staffing, and SMEs may not have personnel available to monitor changing legal requirements, and interpret and implement the necessary controls (Hillary, 1995). Time is seen to be a limiting factor in dealing with regulatory requirements. Large businesses may employ an entire department of legal and technical specialists. Within the SME, responsibility for dealing with regulations often falls to the proprietor who may not have any specialist skills.

<sup>4</sup> “None” comprises sole proprietorships, partnerships comprising only the self-employed owner-manager(s), and companies comprising only an employee director.

SMEs differ from large businesses in their attitudes towards regulations and policy-making. Large businesses are often represented on working groups tasked with reviewing policies, as well as by organisations that lobby on their behalf (e.g. the CBI). They usually employ specialists and have an increased ability to implement and monitor legal requirements, resulting in large businesses (and their representatives) calling for self-assessment and self-regulatory approaches (see section 2). SMEs in the past have had little chance to access policy-making bodies in this way (Woolfson, 1995). They often do not belong to a trade body that can represent their views, neither do they have the time to attend working groups in order to express their views on proposed policies.

Recently the Government made a commitment to increase the voice of SMEs in debates on policy and regulatory development (Cabinet Office, 2001; Food Standards Agency, 2001). The DTI's Small Business Service was established in 1999 in order to help to support small businesses. It has commissioned a survey programme, to be carried out three times a year, to gauge the needs, concerns and problems that SMEs face in order to fulfil their potential (Michaelis *et al*, 2001). Evidence suggests that SMEs often wish to be told exactly what they need to do to comply with legal requirements, and self-assessment may appear to be a daunting task (Hillary, 2000; Institute of Chartered Accountants of England and Wales, 2000).

Research indicates that SMEs suffer from a disproportionate impact of regulations upon their business in terms of compliance costs. Work conducted by the Better Regulation Task Force (BRTF) found that smaller companies are often at a competitive disadvantage compared with larger firms because of the cost and time involved in regulatory compliance (BRTF, 2000). The Institute of Chartered Accountants of England and Wales (ICAEW) estimated that the average cost of compliance with regulations is equivalent to 4-6% of smaller businesses turnover (ICAEW, 2000). They calculated that the average cost of implementing new legislation represents a significant, and increasing, cost for SMEs: £4,100/year for micro-businesses in 2001 (compared with £3,600/year in 2000 and £1,700 in 1999) and £10,100 for small businesses in 2001 (compared with £8,000/year in 2000 and £4,700 in 1999) (Institute of Chartered Accountants, 2001).

An evaluation of the Manual Handling Operations Regulations 1992 also concluded that the price of control was higher in a small business (the equivalent of £341/per person) compared with that in a large organisation (£37/per person) (Lancaster *et al*, 2001). Further research commissioned by the Health and Safety Executive indicated that these costs are likely to be due to economies of scale when purchasing personal protective equipment, training and equipment. For example, large organisations are likely to employ an in-house specialist able to deliver appropriate training at a cheaper cost than buying such services in (Lancaster *et al*, 2003). Unlike large businesses, SMEs are unable to spread the cost of compliance over a range of operations or products (Franklin and Goodwin, 1983).

### **1.3 THE IMPACT OF SMES UPON HEALTH AND SAFETY**

The vast majority of companies in the UK are small, and due to the nature of their operations, management styles, financing and the markets they operate within, they have inherent problems in complying with regulation. A fundamental question that needs to be addressed therefore is what the impact of these vast numbers of SMEs is to health and safety problems in the UK. This fundamental question is very difficult to answer with the current evidence base. To address this questions, two issues are important. Firstly ways of measuring impact need to be identified. These are likely to be measures or metrics that can be used as indicators or proxies of impact, and the relative merits of such measures needs to be assessed. Secondly the data needs to be sought for those metrics.

### **Ways of measuring the impact of SMEs on health and safety**

In determining the effect of SMEs upon health and safety within a population, it is necessary to establish the types of data that can be used in such assessments. The predominant type of information collected by various organisations relates to 'output' data (Yapp and Fairman, 2003). Within health and safety this includes the numbers of fatalities, accidents, injuries and work-related ill-health, as well as the associated effect of lost working time (expressed as the numbers of lost working days). These data sources are collected regularly and when analysed over a period of time can indicate general trends and areas of concern. It is important to recognise that such data does have limitations:

### **Levels of reporting**

Whilst there is an increased likelihood for the public to report injurious incidents (due to the potential for compensation), the levels of reporting remain very low within the self-employed sector (HELA<sup>5</sup>, 2002). Fatalities are well recorded but the levels of recording of non fatal accidents and ill-health are known to be low (HSC, 2004). When levels of accidents officially reported to the HSE are compared with self assessed reports through the Labour Force Survey, under-reporting is known to be 42.9% for employees and 63.4% for the self-employed (HSC, 2004).

### **Linking cause and effect**

This is a particular issue for the 'health' related statistics. As noted by the Health and Safety Executive occupational ill-health *"presents challenges for progress measurement, reflecting factors such as the latency between exposure and disease, and the difficulty of attributing individual cases of illness to occupational causes"* (Health and Safety Executive, 2002). In addition, certain disease-related fatalities may be work-related, but other factors that are hard to identify and/or eliminate may also contribute to the fatality rate (International Labour Organisation, 2003).

Within the UK, output data relating to occupational ill-health and accident rates are collated using various methods. Safety statistics, i.e. fatalities, accidents and injuries are collated by the Health and Safety Executive using information reported by businesses via the Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1995<sup>6</sup>. Health-based information is also collated by the Health and Safety Executive using information reported via the Labour Force Survey, The Health and Occupational Reporting Network<sup>7</sup> and the Department for Work and Pensions' Industrial Injuries Scheme. The Health and Safety Executive and National Statistics analyse the information collected and produce regular reports summarising key data and trends.

### **The contribution of SMEs to health and safety problems**

Identifying and evaluating the relative impact of SMEs to national accident and ill health statistics is not possible with the current recording mechanisms. The size of business is not systematically recorded by the Incident Contact Centre and so breakdown of national statistics by size is not conducted routinely (Morrison, 2004).

Nationally across all business sizes, the number of fatal injuries decreased to 226 in 2002/03 (compared with 251 in 2001/02), continuing the downward trend seen throughout the 1990s. The incidence of major injuries increased by 1.5% to 28,426 in 2002/03, compared with 28,011 in 2001/02. The numbers of people affected by occupational ill-health was estimated to be around 2.3 million in 2001/02. 1.1 million people reported being affected by a musculo-skeletal disorder (MSD) in 2001/02. The overall numbers of people suffering from

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<sup>5</sup> Health and Safety Executive/ Local Authority Liaison Committee

<sup>6</sup> Known as RIDDOR.

<sup>7</sup> Formerly known as ODIN.

occupational ill-health is estimated to have increased, although changes to the survey design means that it is difficult to make direct comparisons. It is estimated that the prevalence rate of stress and related (mainly heart) conditions has increased over time and is now double the level it was in 1990 (Health and Safety Commission, 2003). Incidences of MSD have stayed the same, whilst indications show that there has been a reduction in asthma and dermatitis (Health and Safety Commission, 2003).

Within the UK, over 40 million working days were estimated to have been lost in 2001/02. Of this, 33 million lost working days were attributed to ill-health (Health and Safety Executive, 2003). Again, differences have been made to the way in which data is collected, but this figure compares with 18 million working days lost due to ill-health in 1995. It is believed that this increase is due to a rise in stress, depression and anxiety among workers (Health and Safety Commission, 2003). The numbers of lost working days also affects the nation's economy. The Commission of European Communities (2002) estimated that the cost of compensatory payments and benefits across OECD<sup>8</sup> countries was \$122 billion in 1997<sup>9</sup>. France and Germany alone accounted for \$92 billion (Commission of the European Communities, 2002).

A common misconception is that most SMEs operate in low risk sectors. Table Two highlights that this is not true. In those industries perceived as high risk, SMEs pre-dominate. In construction, 83.3% of businesses are self-employed and 16.4% employ less than 50 employees. In agriculture, 68.7% are self employed with 31.7% employing less than 50 staff (HSE, 2004). An Health and Safety Executive research project examined the risks posed by different industry sectors. This showed that SMEs did not present a lower risk than large businesses (York Consulting, 2000).

Although, business size specific data is not routinely collected, HSE has carried out analyses of the contribution of small businesses to total accident numbers in specific fields. For instance in manufacturing a complex picture emerges from analysis of accident statistics. The rate of fatal injury and amputation in small workplaces is around double that in large workplaces (defined as greater than 200 employees) (HSC, 2001). However other major injuries have higher rates in medium and larger workplaces (fracture and those requiring admittance to hospital for over 24 hours).

A further indication of the impact that SMEs make to the total levels of health and safety problems is obtained by looking at statistics from those sectors that are predominantly small and medium sized. For instance both the agriculture and construction sectors are all SMEs according to DTI statistics (Dti, 2003). This is shown in Table Two. Statistics collected for 2001/02 indicate that the fatality rate within the agriculture sector has fluctuated over the years, although the rate decreased from 39 fatalities in 2001/02 to 36 in 2002/03. The Labour Force Survey showed that the numbers of reportable injuries increased by 37% between 1996/97 and 2000/01 (from 2020 to 2760), although this fell to 2670 in 2002/03<sup>10</sup>. The prevalence rate for ill-health believed to be attributed to working within this sector was 6500 cases of ill-health per 100,000 workers. This is statistically significantly higher than the average rate for all industry types (Health and Safety Commission, 2003).

Within the construction sector a similar picture emerges: the number of fatalities decreased in 2002/03 to 71 from 80 in 2001/02. It should be noted that the construction sector accounted for 31% of all fatalities in 2002/03. The numbers of major injuries increased, whilst there was no overall trend detected for the numbers of reportable injuries between 1997/8 and 2002/03. The prevalence rate for ill-health related to the construction sector was 5600 workers affected

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<sup>8</sup> Organisation for Economic Co-operation and Development.

<sup>9</sup> This figure excludes the Netherlands, Portugal, Italy and Spain.

<sup>10</sup> The Health and Safety Commission acknowledge that rise between 1996/7 and 2001/02 may be due to improvements in the levels of reporting (Health and Safety Commission, 2003)

per 100,000 workers, also significantly higher than the average of all industry types (Health and Safety Commission, 2003).

Some academic literature supports the view that the accident rate is higher in SMEs than in larger firms (Holmes et al, 1997; Salminen S, 1997; Oleinick et al, 1995) and that small firms are over-represented in high risk industries and sub-contracting (Leigh, 1989).

The high proportion of fatalities and ill-health arising in these industry sectors that are made up solely of SMEs indicates that SMEs pose a high risk to the health and safety of workers and the general public. Whilst SMEs may employ fewer staff and have the potential to impact upon fewer people compared with large businesses, they still operate high-risk enterprises. The numbers of people affected by occupational ill-health and injuries outlined above indicate that SMEs contribute significantly to the overall levels of illness and injury in the UK. This area needs further investigation.

## 2.0 REGULATION TO IMPROVE OCCUPATIONAL HEALTH AND SAFETY

### 2.1 AN OVERVIEW OF REGULATORY APPROACHES

Health and safety law is a form of 'social regulation', whereby the government seeks to direct or encourage behaviour which (it is assumed) would not occur without such intervention (Ogus, 1994). In attempting to measure the impact of such law, the regulatory regime is important (Hood et al, 2001). This includes the law, its enforcement and other rules and standards that are in operation.

Within this definition of regulation, a variety of approaches have been taken by governments across the world, all aimed at influencing the behaviour of individuals and organisations. The following discussion examines the various approaches that have been adopted, both within the UK, and in other countries with similar regulatory goals within the field of health and safety, food safety and environmental protection. Examination of this range of areas of law is thought to be relevant as these areas of regulation attempt to change business behaviour in order to reduce risks being created.

Within social regulation, there are two predominant styles: 'command and control' and 'self-regulation'. In reality, most regimes comprise a mixture of these approaches.

#### **'Command and control' regulation**

Command and control (or 'direct regulation') typically involves regulation through public agencies charged with implementing the law (Hutter, 1999). For environmental health legislation this means that the regulator defines rules and acceptable procedures and standards for industry. These are then enforced by an Agent of the State (Fairman, 1999). Within the UK, the main agencies are the Environment Agency for environmental protection; the Health and Safety Executive for occupational health and safety; and local authorities for food safety and occupational health and safety.

The main advantage of this type of regulation is that it creates certainty by setting out clear boundaries within which businesses can operate (BRTF, 2003). However, many criticisms have been made of this approach, in that it stifles innovation, is inefficient, costly, hard to enforce and focuses upon 'end-of-pipe' solutions (Ayres & Braithwaite, 1992; Aalders & Wilthagen, 1997; Gunningham *et al*, 1998; Hutter, 1999). These problems are generally accepted, and have led to an increased interest in developing regulatory alternatives<sup>11</sup>.

#### **Self-regulation**

Self-regulatory approaches move the emphasis away from specific requirements, towards wider broad-based goals. 'Pure' self-regulation can be defined as "*a process whereby an organized group regulates the behaviour of its members*" (OECD, 1994:7).

Within the regulation of business behaviour, true self-regulation operates in limited areas. Self-regulation is more common in the control of professional standards of behaviour by professional bodies (e.g. law and medicine) or a form of it operates where it is overseen by an arms-length regulator (such as the Press Complaints Commission). However the form of self-regulation used to control the creation of risks within business is enforced by regulators. It imposes the requirement upon businesses to determine their own internal rules and procedures to fulfil the regulator's policy objectives. These rules and procedures are then approved or rejected by an enforcing agency, who also monitors whether these internalised rules are being adhered to (hence the term 'enforced' self-regulation) (Braithwaite, 1982).

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<sup>11</sup> For example see BRTF (2003) for a discussion about alternatives to 'classic' regulation.

The overarching goal of occupational health and safety legislation is to secure the health and safety of those within the workplace – including both employees and the wider public. The ethos of this approach is acknowledged to stem from the UK's Robens Report (1972) and led to reforms at both the national and international level (International Labour Organisation, 2003). This has been translated into the legislation by placing broad duties upon businesses, thereby requiring industry to identify and control risks (Bacon, 1994). This ensures that industry itself is legally liable for the risks it causes and is thus encouraged to adapt continuously as new technology emerges. This contrasts with 'command and control' regimes, whereby the legislative standards will be ossified at the state of the art as at the time of the legislation's composition (Ayres & Braithwaite, 1992).

Inherent within self-regulation is the need for businesses to continually monitor and evaluate their compliance with legislative duties. Ayres and Braithwaite (1992) suggest this can be achieved by an in-house compliance group or officer within a business. Some research indicates that self-regulation and enforced self-regulation is cheaper for both regulators and the regulated compared with government enforcement in command and control regimes<sup>12</sup>. However, it has been noted that in firms that are "*too small to afford their own compliance group*" (Ayres & Braithwaite, 1992:106), self-regulation may be unsuitable and that therefore 'command and control' regimes may be more appropriate.

Self-regulatory approaches do have disadvantages - occupational health and safety research has shown that the regulatory structure outlined in the Robens Report (1972) did not consider the diversity of employers and their ability in understanding how self-assessment actually works, and the lack of human initiative in implementing self-assessment and control (ACSNI, 1993; Dawson *et al*, 1988; Genn 1993). As shown in the brief discussion in section 2.2 above and explored in more detail in section 4.1 below, SMEs are likely to display such characteristics, and have in fact been shown to have particular difficulties in implementing the self-assessment requirements of environmental health legislation (e.g. Health and Safety Laboratory, 2000).

Studies have also shown that in most cases employers only implement safety improvements if detailed advice is given in terms of what they should do, together with it being enforced by an enforcing agency (Hutter, 1988; ACSNI, 1993). As Aalders and Wilthagen note, "*without it being externally "forced" on them, people will often not take matters of safety and health seriously until they come into direct contact with severe injury or death*" (1997:421). Smaller firms tend to display a lack of expertise and ability to identify risks associated with activities, as well as being unable to afford the necessary safety specialists. Self-regulation depends upon worker empowerment, market conditions, knowledge within companies, capacities for change, and motivation. SMEs in particular may have problems in self-regulating in any form (Dawson *et al*, 1988; Genn, 1993; Aalders & Wilthagen, 1997).

Despite this, there has been a general move towards self-regulatory approaches within environmental health in developing self-regulatory approaches, for example community action, such as that envisioned by Local Agenda 21, green consumerism and voluntary agreements (Royal Commission on Environmental Pollution, 1998). The requirements for risk assessment in occupational health and safety legislation, and hazard analysis and hazard analysis critical control points (HACCP) requirements within food safety are all examples of enforced self-regulation (Cabinet Office, 2000; Food Standards Agency, 2001).

In addition to the above regulatory regimes, a number of non-regulatory approaches are emerging within the field of environmental regulation. These are generally based around the use of economic instruments, the development of compensatory mechanisms, freedom of information and public disclosure.

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<sup>12</sup> For example, Braithwaite, 1982; Advisory Committee on the Safety of Nuclear Installations (ACSNI), 1993; Baldwin & Cave, 1999.

## **Economic instruments**

The use of economic instruments are still being developed across the world, although have been a particular focus within environmental regulation. Instruments include the creation of markets (such as tradeable permits to pollute within environmental protection); taxes (such as the landfill tax); and tax credits or subsidies (such as those given under the Common Agricultural Policy). One of the main disadvantages of in using economic instruments relates to being able to 'price' acceptable or unacceptable behaviour in such a way so as to achieve the desired behavioural changes within businesses and avoid any unwanted and unintended side effects. For example, the UK landfill tax aimed to reduce the amount of polluted soil being dumped in landfill sites. Whilst the tax did result in a reduction of soil being dumped in these sites, more has been diverted to unregulated sites, for example golf courses (BRTF, 2003).

Requiring businesses to 'pay' for the unwanted side effects of their activities, such as causing pollution and creating illness or injury, forms the basis of economic arguments within occupational health and safety regulation. The scheme 'Return to Work' operates in the US, Canada, New Zealand and Australia and acts by offering employers reduced insurance premiums for fewer claims and/or by adopting good practices. Within the US, an increase in the take-up of 'Return to Work' has been noted. This has been attributed to the fact that workplace compensation has increased, thereby encouraging businesses to seek ways in which to reduce these compensation costs (Wright *et al*, 2004).

Within the US, Canada, Australia, New Zealand and some European countries (e.g. Switzerland, Liechtenstein), workers compensation insurance has to be paid by employers in order to ensure the financial security of workers injured or suffering from occupational diseases attributed to their workplace (European Agency for Safety and Health at Work, 2001).

Within the UK, the costs of ill-health and injury are effectively hidden from employers due to the provision of the National Health Service which is funded by National Insurance contributions made by all businesses and tax-payers.

## **Public disclosure and freedom of information**

The potential effects of improving access to information about the environmental performance of businesses by maintaining public registers have been explored in different countries. The US has a culture of open access to such information, with the aim of using consumer pressure to motivate businesses to improve their performance. 'Naming and shaming' is a process by which corporate misdemeanours can be made known to the general population. This is a mechanism advocated by some as a tool to improve business behaviour (Braithwaite and Drahos, 1999).

Within the UK, enforcement agencies such as the Health and Safety Executive and Environment Agency use 'naming and shaming' initiatives that aim to promote business compliance by providing information to consumers and third parties. Details of convictions for non-compliance are published on their websites as part of this initiative. It is not clear the extent to which these approaches improve the level of compliance with occupational health and safety legislation within businesses, although companies are increasingly concerned with the effects of negative publicity. Reputation management is increasing used as lever by enforcement agencies to attempt to make compliance issues more 'important' in relation to other business priorities.

## **2.2 THE REGULATION OF HEALTH AND SAFETY IN THE UK**

The approach of occupational health and safety regulation in the UK is typified as self-regulatory (Dawson *et al*, 1988; Sinclair, 1997; Aalders & Wilthagen, 1997). This approach

has emerged from the findings and recommendations of the Robens Report (1972) which itself was based on two assumptions:

“Firstly, that the primary function of health and safety law was to establish a framework within which self-regulation could flourish and industry itself could take responsibility for health and safety matters. Second, that there should be workforce involvement so that health and safety should be the responsibility not only of employers and senior management but also of employees” (Baldwin, 1995:127-28).

This report resulted in the enactment of the Health and Safety at Work Act 1974 (“the Act”) which set out a framework of legal duties, including a general duty laid upon employers to take all reasonably practicable measures to provide a safe and healthy working environment. This approach is consistent with the European Commission’s key policy objective of taking a preventive approach towards health and safety<sup>13</sup>.

Although the regulation of occupational health and safety is referred to as self-regulatory, it is not pure self regulation, where regulation and enforcement would be performed by the industrial and commercial groups themselves. The Health and Safety at Work Act 1974 defines the roles and responsibilities of employers, employees and third parties in relation to health and safety. It effectively makes criminal the duties that developed through common law precedent in the civil courts. These duties are broad and goal-based and through specifying the goal and not the means to achieve it, responsibility for that duty lays clearly with the duty holder. In this sense it is self regulatory. The duties are limited by the concept of ‘so far as is reasonably practicable’, a phrase which betrays their common law roots.

Recently the ‘self-regulation’ underlying the Act has been termed ‘self-adaption’ (McQuaid, 2004). This refers to the ability of organisations to shape themselves and their activities in response to changing environments and external stimuli. This concept is based upon calls for increased reflexivity in organisations and legal systems to cope with an ever increasing complex and interdependent environment (Beck, 1992). Whether it is labelled as self-regulation or self-adaption the broad duties of the Act do force the responsibility for occupational safety and health onto the risk creator- a recommendation of the Robens report.

Detail of how to meet these broad duties are laid out in Regulations made under the Act. These can lay down prescriptive rules e.g. on the guarding of machinery or workplace standards. Increasingly though Regulations are based on a risk management philosophy where the duty holder is told to assess a specific hazard, evaluate the risks against standards specified by law and devise and implement control systems. This type of law is aimed mainly at controlling specific physical, biological or chemical hazards<sup>14</sup> or at addressing failures in safety caused by inadequate safety management<sup>15</sup>. Regulations such as these are forms of ‘enforced self-regulation’. Duty holders are required by law to assess conditions within their companies and implement appropriate control systems. All of the promises and pitfalls of such enforced self-regulatory approaches described in section 1.4.2 apply to Regulations under the Act.

The prescriptive rule-type Regulations under the Act define legal minimums. They are relatively easy to interpret. The standard of compliance is sometimes difficult, terms such as ‘suitable’ and ‘sufficient’ and the use of ‘so far as is reasonably practicable’ require case-by-case interpretation. Advice on compliance is produced in the form of Guidance, Codes of Practice and Approved Codes of Practice. The broad nature of the duties under the Act, the self-assessment nature of much of enforced self-regulation and the good practice defined in the Approved Codes of Practice could lead to a situation where duty holders find it hard to

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<sup>13</sup> Enshrined within EC Framework Directive 89/391, OJ L 183, 29.6.89.

<sup>14</sup> For example Control of Substances Hazardous to Health 2002; Noise at Work Regulations 1989

<sup>15</sup> For example The Management of Health and Safety at Work Regulations 1999

interpret their responsibilities and understand what specific measures are required in their case to comply with the law.

The regulation of occupational health and safety is unique in UK risk regulation in that it is founded upon stakeholder representation (Fairman, 1999). The tripartite basis of occupational health and safety regulation is enshrined in law and the Health and Safety Commission consists of a Chair (appointed by the Secretary of State), three nominees from the CBI and the Trades Union Congress and two nominees from local authorities (to represent the public interest). The Health and Safety Commission directs both the enforcement arms – the Health and Safety Executive and the local authorities in terms of enforcement policy and approach. The Health and Safety Executive also has responsibility for setting objectives, allocating resources, making policies, reviewing priorities, as well as undertaking enforcement duties.

This recognition of health and safety as a common issue for workers, employers and the public is enshrined in the Robens philosophy, and is common to many regulatory systems for occupational safety in other European countries (e.g. Sweden, Netherlands). Policy and law are developed by all the stakeholders so theoretically the aims and mechanisms used in law will be acceptable to those affected by it. Although large in number, the interests of SMEs have traditionally been poorly represented in policy development. Even the tripartite structures of health and safety regulation have been perceived to fail to represent SMEs and their particular difficulties with regulation.

### **2.3 APPROACHES TO HEALTH AND SAFETY REGULATION IN OTHER COUNTRIES**

The approach taken in regulating occupational health and safety within other countries across the world varies significantly according to both the political will of the policy-makers. The Netherlands has adopted a strong self-regulatory policy, whereby the primary responsibility for occupational health and safety lies with employers and workers. The Working Conditions Act 1990 implements this policy by giving *“priority to objectives rather than to provide specific measures”* (International Labour Organisation, 2003:44). In 1998 this was taken one step further by the Dutch government and the social partners establishing joint sector agreements (in a move towards ‘pure’ self-regulation, as opposed to the Government enforcing requirements).

In Australia, occupational health and safety legislation is based around a codification of the common law ‘duty of care’ and a general duty for all those at work to take reasonable care to minimise injury to others. This general duty is supplemented by a number of specific regulations and codes of practice. Thus, whilst the underlying philosophy of health and safety legislation has moved towards a self-regulatory style, it has been noted that many prescriptive rules remain in place:

“While the principal Acts have been amended to incorporate the Robens-style approach, Australia is still largely operating under a prescriptive regime in the subordinate legislation” (Australian Chamber of Commerce and Industry, as quoted in Industry Commission, 1995:40).

In direct contrast to these self-regulatory philosophies, the US-style of regulation is much more government-led. The three strategic goals of the US Occupational Safety and Health Agency (OSHA) are to:

Reduce occupational hazards through direct interventions;  
Promote a safety and health culture through compliance assistance, co-operative programmes and strong leadership; and  
Maximise the effectiveness and efficiency by strengthening capabilities and infrastructure (OSHA, 2003).

The Occupational Safety and Health Act of 1970 includes a general duty for employers to ensure the place of employment is free from recognised hazards that are capable of causing death or serious physical harm to employees. The enforcing agency is then is charged with setting prescriptive standards with which businesses are expected to comply.

## 3.0 ENFORCEMENT

### 3.1 AN OVERVIEW OF ENFORCEMENT APPROACHES

Enforcement can generally be defined as a “*process by which compliance is sought*” (Richardson *et al*, 1982). Within this broad definition it is clear that a range of different approaches can be taken by enforcement officers in order to achieve the goal of compliance. These approaches include criminal justice proceedings; administrative tools; and educational initiatives (Ogus and Abbot, 2002). Criminal justice proceedings include prosecutions, serving of formal cautions and warnings. Administrative tools include issuing improvement, prohibition and emergency prohibition notices and tools for administering licences, i.e. the power to issue licences, set conditions and the power to suspend and revoke licences. More educational approaches include advisory visits, production of written information to highlight and explain relevant regulatory requirements and holding seminars and training courses. Ogus and Abbot (2002) note that there is a growing use of administrative tools, particularly in the application of licences within the US and Australia in comparison with the UK.

The aims of these approaches can be classified into two categories: those aimed at ‘deterrence’ and those of ‘compliance’:

*“The principal objective of a compliance law enforcement system is to secure conformity with the law by means of insuring compliance or by taking action to prevent potential law violations without the necessity to detect, process and penalize violators. The principal objective of deterrence law enforcement systems is to secure conformity with law by detecting violations of law, determining who is responsible for their violation, and penalizing violators to deter violations in the future...”* (Reiss, 1984:23-24).

Whilst penalties such as prosecution or issuing of statutory notices can therefore be applied in both systems, they are integral to the deterrent approach. Penalties within compliance systems are seen primarily as threats rather than sanctions to be carried out. Within most enforcement systems, a mixture of the two approaches will be adopted, although when faced with non-compliance the two systems react differently. The deterrence-based system will mobilise its detection mechanism to await a violation in order to punish, whereas a compliance-based system will attempt to prevent its occurrence using the threat of punishment. The use of the punishment is seen as a sign of failure within the compliance system, whereas within deterrence systems it is seen as a sign of success.

Compliance strategies are the predominant system of enforcement within environmental health systems, due to the complexity of detecting violations and the unclear links between cause and effect (Reiss, 1984). In addition, other factors have increased the reliance upon this approach, e.g. the inspectors themselves and the characteristics of businesses involved. Work completed by Wilthagen in 1993 showed that regulation by inspectors depended upon the inspector’s notions and motives regarding efficacy, reasonableness and job satisfaction. The fact that enforcers and businesses need to have a continuing relationship also tends to force a more flexible, conciliatory approach towards enforcing regulation. This style of approach is noted to exist throughout the European Community, whereby enforcers “seek to establish and maintain a working relationship with managers” (Aalders and Wilthagen, 1997:422).

The characteristics of businesses also affect the response of the enforcing agency. Pollution control officers were found to base the level of their response to a violation by considering:

- The wilfulness of the violation;
- The likelihood of recurrence; and
- The past behaviour of the firm (Hawkins, 1984).

Bowles (1971) suggests that compliance of the majority of companies is dependent upon the punishment of the small percentage of companies that will always disregard the law. This implies that enforcing agencies need to identify whether a company is 'good' or 'bad'. Kagan and Scholz (1984) classified businesses into three different types:

- "Amoral calculators", motivated entirely by profit-seeking. Non-compliance stems from an economic calculation;
- "Political citizens" ordinarily inclined to comply with the law but non-compliance stems from a principled disagreement with regulations regarded as arbitrary or unreasonable; and
- "Organisationally incompetent", whereby non-compliance is attributed to failures of management, knowledge and systems.

Within these categories it is evident that businesses classed as 'amoral calculators' are more likely to be 'punished' by enforcing agencies for non-compliance, whereas the latter two groups may benefit from the provision of information and advice in order to improve understanding and thus compliance.

Deterrence strategies have traditionally been adopted in the US in dealing with environmental regulation, as well as within the UK's Inland Revenue Department in dealing with business taxation. Both the US and Inland Revenue have recently incorporated more compliance-based initiatives in addition to their deterrence strategies. The Inland Revenue set up a separate Business Support Unit in 1999 in order to promote compliance by providing advice, information and assistance to businesses. This operates alongside the traditional inspection unit which continues to investigate non-compliance, thus retaining the deterrent philosophy. The Inland Revenue acknowledge that the traditional 'stick' approach does not deter businesses that are non-compliant due to poor awareness of their legal obligations (Packham, 2004).

### **3.2 ENFORCEMENT BODIES AND THEIR APPROACHES**

Variations in enforcement model (compliance/ co-operation or deterrence/ sanctioning) occur within local authority environmental health services (Hutter, 1999); between enforcement agencies (Grabosky and Braithwaite, 1986); and between countries (Vogel, 1986). Whilst the academic literature identifies compliance/co-operation strategies as predominant in health and safety and environment enforcement, the practices of UK law enforcement agencies indicate a more ambiguous approach. All the centralised enforcement agencies (Health and Safety Executive, Environment Agency and Food Standards Agency) have either adopted or seriously considered schemes such as 'naming and shaming', publication of results of inspections, prosecutions and notices or ensuring high profile prosecutions. Within the compliance/deterrence paradigm it is difficult to determine the underlying motivation for these measures (Fairman and Yapp, forthcoming).

The Government and centralised enforcement agencies have developed enforcement policies in order to clarify the approach that can be expected from agencies. The Enforcement Concordat sets out what businesses and others can expect from enforcement officers (Cabinet Office, 1998). The Concordat is based upon the principles in the White Paper "Modernising Government" and reinforces the risk-based approach to inspection previously recommended by the Cabinet Office (1999a and 1999b). This results in higher risk activities attracting more enforcement attention. The Enforcement Concordat was agreed by Central and Local Government and is based upon the principles of good enforcement, i.e. actions taken by enforcing agencies should be transparent, accountable, consistent, targeted; and proportional (Cabinet Office, 1999b and 1999c). The principles are enshrined in the HSC's Enforcement Policy Statement, which are required to be incorporated in local authority's enforcement policies under the Commission's Guidance to local authorities (issued under section 18 of the Health and Safety at Work Act).

The Cabinet Office estimates that at present 96% of all Central and Local Government organisations have signed up to the Concordat, including the Health and Safety Commission<sup>16</sup>. It is intended that the Enforcement Concordat is supplemented by additional statements of enforcement policy. Within

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<sup>16</sup> See [www.cabinet-office.gov.uk](http://www.cabinet-office.gov.uk)

occupational health and safety these include the Health and Safety Commission's enforcement policy; the recent development of the Enforcement Management Model; and individual local authorities enforcement policies. Whilst one aim is to promote consistency of approach, the discretion of agencies and officers also acts as a positive feature of the compliance strategies as part of the flexible, conciliatory approach discussed above (Hawkins, 1984; Hutter, 1988, Dawson *et al*, 1988). As the Health and Safety Commission notes, "*consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends*" (Health and Safety Commission, 2001a:18).

One feature of enforcement policies is to establish what types of enforcement responses can be expected when faced with non-compliance. The policies within agencies charged with enforcing UK regulation do vary, in particular when outlining the circumstances in which prosecution may be appropriate. For example, agencies (i.e. Health and Safety Commission/Executive, Environment Agency and Food Standards Agency) acknowledge that prosecution should be undertaken where the matter is sufficiently serious to warrant action, but the Environment Agency specifically adds to this by stating that:

"A prosecution will not be commenced or continued by the Agency unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be" (Environment Agency, 1998:6).

Within occupational health and safety, consistency is achieved through various means. The enforcement policy of the Health and Safety Commission provides the overall framework for Health and Safety Executive and local authority enforcement officers and has been supplemented with guidance issued under section 18 of the Act. This sets out the broad principles that local authorities should adopt in enforcing health and safety legislation, including:

Publishing a statement of enforcement policy and practice;  
A system for prioritised planned inspections;  
A service plan detailing local authority priorities, and aims and objectives for enforcement of health and safety;  
Capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health and safety failures;  
Arrangements for benchmarking performance with peer local authorities;  
Provision of a trained and competent inspectorate; and  
Arrangements for liaison and co-operation in respect of the Lead Authority Partnership Scheme (Health and Safety Commission, 2001a).

This is supplemented by guidance provided by HELA (as Local Authority Circulars), as well as the HELA Audit Protocol (HELA, 2003) which sets out guidance for inter-authority auditing of local authority's management of health and safety enforcement. This allows some assessment of enforcement policies to be undertaken between local authorities, and thus the promotion of consistency of approach.

Individual local authorities are able to develop their own enforcement strategies within these bounds in order to contribute to the attainment of the broad objectives set out in the "Revitalising Health and Safety" strategy statement of June 2000. This document set national targets for improving health and safety performance:

- To reduce the number of working days lost per 100,000 workers from work-related injury and ill-health by 30% by 2010;
- To reduce the incidence rate of cases of work-related ill-health by 20% by 2010;
- To reduce the incidence rate of fatalities and major injuries by 10% by 2010; and
- To achieve half the improvement under each target by 2004 (Department of the Environment, Transport and the Regions, 2000).

This was supplemented by the HELA Strategic Plan for 2001-2004 (Health and Safety Commission, 2001b), which identified priority areas (hazards and sectors) for targeting in order to achieve these targets. Priority hazards include slips and trips; workplace transport; falls from height; work-related musculo-skeletal disease; and work-related stress. Priority sectors include construction, agriculture; and the Health Services.

The intervention strategies used by local authority health and safety enforcers has been recently examined (Howard and Galbraith, 2004). They identify routine inspection and formal enforcement activity as the most common intervention to ensure standards in the local authority sector, but believe that education, earned autonomy, intermediaries, partnership, motivating senior managers, sector specific initiatives, intermediaries and best practice all have scope of increased use in the sector. They recognise however that these may be inappropriate interventions for small and medium sized enterprises.

There are a number of different sources of information on local authority activities, but it is difficult to identify year on year differences or trends within or between authorities. Local authorities are required to complete a reporting form (LAE1) providing statistical information and detailing the actions they have taken to deal with occupational health and safety to HELA annually. This information is summarised and published annually in the HELA 'National Picture' and 'Statistics Bulletins'. Qualitative information is extracted and summarised in the HELA Annual Report. LA are also requested to supply details of their prosecutions. Information is taken from these forms and is added onto a database maintained by the Health and Safety Executive's Local Authority Unit. This database contains details of the prosecution activity within individual local authorities, and is published on the Health and Safety Executive's website. Not all local authorities have reported their activities to HELA in recent years, resulting in difficulties in assessing the various activity and initiatives adopted by different local authorities (Plom, 2004). Within the data that is available, it is clear that local authorities have adopted a range of strategies in dealing with occupational health and safety within their districts, for example:

Swale Borough Council, Milton Keynes District Council and the London Borough of Lewisham undertake few preventive inspections within businesses, predominantly due to resource restrictions; Kingston upon Hull City Council maintains a high profile health and safety enforcement service in the city. The number of preventive inspections has increased for the third consecutive year and the highest risk premises in the programme have all been inspected for the second year running; Bradford Metropolitan District Council employs three full time officers to undertake proactive inspections in "high hazard" areas, including call centres; display screen work-stations in travel agents; window cleaners; storage of liquid petroleum gas; steel stockholders; and the safety of workplace transport at large shops and warehouses; Taunton Deane Borough Council targeted an initiative at catering premises, undertaking inspections solely in catering premises for one month with a special emphasis on slips; and Telford and Wrekin District Council developed (in conjunction with Business Link) a quick and simple questionnaire on health and safety for local businesses (HELA, 2002).

The actual impact of these different types of interventions upon SME compliance within occupational health and safety is not an area that has previously received a great deal of attention. The majority of studies undertaken have examined the ways in which businesses receive occupational health and safety information, and the preferences of businesses in receiving such information. Few have actually investigated whether these preferred initiatives have a measurable impact upon compliance levels<sup>17</sup>.

In a recent study of food safety legislation in England and Wales this issue was investigated. It was found that compliance with food safety requirements was significantly improved in food SMEs within local authorities offering high levels of education and contact activity (such as advisory visits and subject-specific seminars), compared with local authorities relying on more formal enforcement approaches (such as following up non-compliance with service of statutory notices or prosecution). The predominant motivator to improve food safety was seen to be a generalised fear of enforcement activity and associated publicity and a perceived 'duty' to comply ( Yapp and Fairman, forthcoming).

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<sup>17</sup> For a description of many national and international studies, refer to Wright et al, 2004.

However, it is important to note that this does not support the use of a deterrent approach to enforcement. The study of food safety compliance found, in line with many other studies, that prosecution did not have a deterrent effect on any other business (general deterrence), although formal enforcement action impacted on the individual business that action have been taken in (albeit for a limited time period). This was due to the overwhelming belief of the SMEs involved that they fully complied with food safety requirements unless and until told otherwise by the enforcing officer, and they were unable to link issues that might result in a prosecution with conditions within their own premises. Thus, enforcement activity within businesses did not result in a change in behaviour within other businesses, who believed that they were already compliant (Fairman and Yapp, forthcoming).

Enforcement strategies in occupational health and safety elsewhere in the world vary, for example in Australia, where inspectors find acceptable risk management systems in place, they then only examine the top four hazards for the particular sector (Gunningham and Johnstone, 1999). When faced with non-compliance, enforcement is based upon a compliance strategy. Within this, the emphasis is placed upon education and persuasion rather than formal enforcement activity (Industry Commission, 1995).

Within the US, OSHA has pursued a relatively strong policy on deterrence. Research undertaken by Scholz and Gray between 1979-85 indicated that enforcement and specific contact with enforcement agencies led to a reduction in the number of injuries within the manufacturing sector (Reported in Industry Commission, 1995). OSHA, in its strategic plan emphasises that it's strategy of deterrence since 1971, has resulted in a general decline in fatality rates and occupational injuries and illness rates. However, it also acknowledges that the current fatality rates of 5,270 in 2001 (excluding September 11 deaths) and 5.7 million injury and illness cases is still 'unacceptably high' (OSHA, 2003). This has led to the development of additional, compliance-based initiatives, such as free on-site consultation programmes for SMEs and interactive e-tools in addition to it's deterrence-based strategy.

Within Switzerland, the broad duty upon employers to provide 'healthy working conditions' under the Labour Act 1964 is monitored and enforced by the 26 cantonal labour inspectorates. These inspectorates rely on administrative tools of enforcement, including the processing of building permits where these encroach upon worker well-being and safety (e.g. with respect to lighting, window size, ventilation)(European Agency for Safety and Health at Work, 2001).

## 4.0 COMPLIANCE PROCESSES WITHIN SMEs

### 4.1 THEORIES OF COMPLIANCE

May (2004) contends that businesses have negative and positive motivations to comply. The negative motivations are related to threats of getting caught and punished and are bound up with deterrence theory. The positive motivations are related to general 'duties to comply'.

Within theories of compliance different perspectives operate. Deterrence theory is an economic perspective where it is assumed that firms comply with a regulation if the benefits of not taking action to comply are exceeded by the probability of being detected and the costs of being caught (Ogus and Abbot, 2002). Theoretically, to be deterred from committing an offence, the anticipated profit must be less than the costs associated with being caught, as discounted by the perceived risk of such apprehension (Ogus and Abbot, 2002). Deterrence theory assumes rational behaviour by individuals and organisations, and market processes. It assumes that human intentions can be represented by utility functions, that rational actors have sufficient knowledge about their situation and the consequences of their action.

Enforcement approaches attempting to tap into deterrence are those that publicise formal enforcement sanctions being taken, advocate the certainty of being 'caught' breaking the law, publicise the 'costs' of getting caught, highlight the range of costs such as insurance and reputational, and attempt to force action and motivation in businesses by playing on their fears.

Lack of empirical evidence to support a simple model of deterrence as an explanation of why businesses comply (Scholz, 1997) has led to studies that examine how other factors interact with deterrence. This work has been used to develop deterrence theory and build an alternative paradigm that looks at the understanding of social behaviour, focussing on non-market approaches and on the establishment of norms (Edelman, 2004). Both Scholz and Gray (1990) and Genn (1993) suggest that people within organisations make decisions within a 'bounded rationality', and that deterrence only becomes important when non-compliance is brought to their attention. The bounded rationality (Simon, 1955) of individuals within organisations is a result of the removal of their ability to choose from the widest possible range of options possible for decision to be made – they have already had their choices limited by virtue of working in an organisation with specific aims and objectives, procedures and policies and organisational structure. Organisational structures, rules or culture can bound the rationality of individuals. Perrow (1999) refers to this as shaping the premises of their decisions.

A number of theories of compliance are based much more in the understanding of social behaviour, and how rules and norms are established within organisations. These have their foundation in organisational theory and organisational learning. The organisational literature suggests that decisions in organisations are made in incremental steps (Lindblom, 1959), by systems analysis and rational procedures (Leavitt, 1975) and by programmed responses to routine problems (March and Simon, 1960). An alternative view to normative decision-making is offered by Weick who focuses on how the 'sensemaking process' shapes organisational behaviour. Weick (1995 and 2001) argues that the kind of rationality of individual or organisations necessary for normative decision-making to take place (where individuals choose the optimal decision by consideration of the full range of information, where choices are made on the basis of the greatest utility for the individual, where choices are not constrained) does not occur often in reality and if you examine how actions are taken in organisations in the face of information requiring it, the process is much more about how people 'make sense' of information, cues and rules.

For Weick "seeing what one believes and not seeing that for which one has no beliefs are central to sensemaking" (Weick, 1995 p 87). Sensemaking only occurs where there is a meaningful disparity between the way things are and the way one wants them to be. Sensemaking takes place in the face of information overload, complexity and turbulence. As information load increases Weick contends that people punctuate the flow in predictable way, e.g by neglecting large parts of it. The information that is not neglected is highlighted and becomes more important. Information load therefore forces cues.

Complexity also affects what people choose to ignore and notice, with greater complexity forcing reliance on habitual and routine cues. Another occasion for sensemaking is where there is ambiguity (lack of clarity, or consistency in reality, causality and intentionality) around a situation (March, 1978).

When trying to examine how SMEs respond to risk regulation, this sensemaking framework can be used as an explanatory framework. In developing the discussion of this work it became clear that sensemaking provided a better explanatory framework than normative decision-making theory, and it will be used as a basis for examining the process of compliance within SMEs.

#### **4.2 COMPLIANCE PROCESSES WITHIN BUSINESSES**

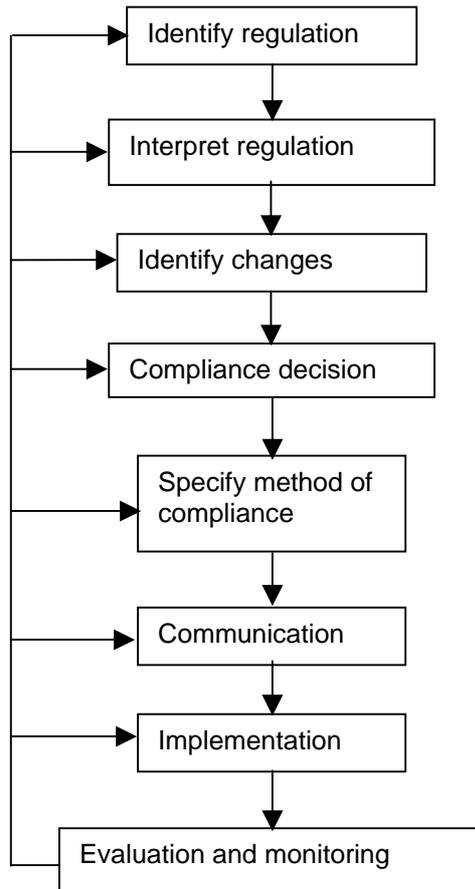
What happens when a business is faced with regulatory requirements? This decision-making process has been examined predominantly within the field of food safety (French and Neighbors, 1991; Loader and Hobbs, 1999; Henson and Heasman, 1998; Fairman and Yapp, 2004; Fairman and Yapp, forthcoming). All food businesses are subject to the same general legislation on food safety irrespective of size. Much of the legislation is rule-based, although there is a need for businesses to interpret and apply the rules to their own circumstances.

Building upon this work in food safety it is possible to outline a number of steps that a business theoretically would have to conduct to be able to implement risk regulation. It is important to note in light of the discussion in 4.1, that these steps are a theoretical construct, enabling data collection and the sequential process is unlikely to be found empirically.

The compliance decision process can be conceptualised as a number of on-going steps that are continually required to be undertaken. This is shown in Figure 1. The compliance process was seen to be initiated by the SME becoming aware of the existence of a regulation (**identify regulation**), understanding the implications of that regulation for the business (**interpret regulation**) and whether the existing operating procedures need to be changed in order to meet the requirements (**identify changes**). If the company establishes that changes are necessary, it then needs to decide whether it wishes to take steps to comply (**compliance decision**). Four possible decisions that could be taken were identified:

- Full compliance: either to go above and beyond the legal requirements (opportunism), or to comply in full with minimum requirements;
- Partial compliance: take some steps towards compliance;
- Non-compliance: no changes made to business operations; or
- Exit: a decision is made to leave the business sector altogether.

Assuming that the company decides to comply with the legal requirements, it will need to decide how to do so (**specify method of compliance**), communicate this intention to the staff and then take appropriate steps to put these methods into place (**implementation**). The final stages involve evaluation of the steps taken to ensure that they are sufficient to meet requirements and continue to monitor the situation to maintain compliance.

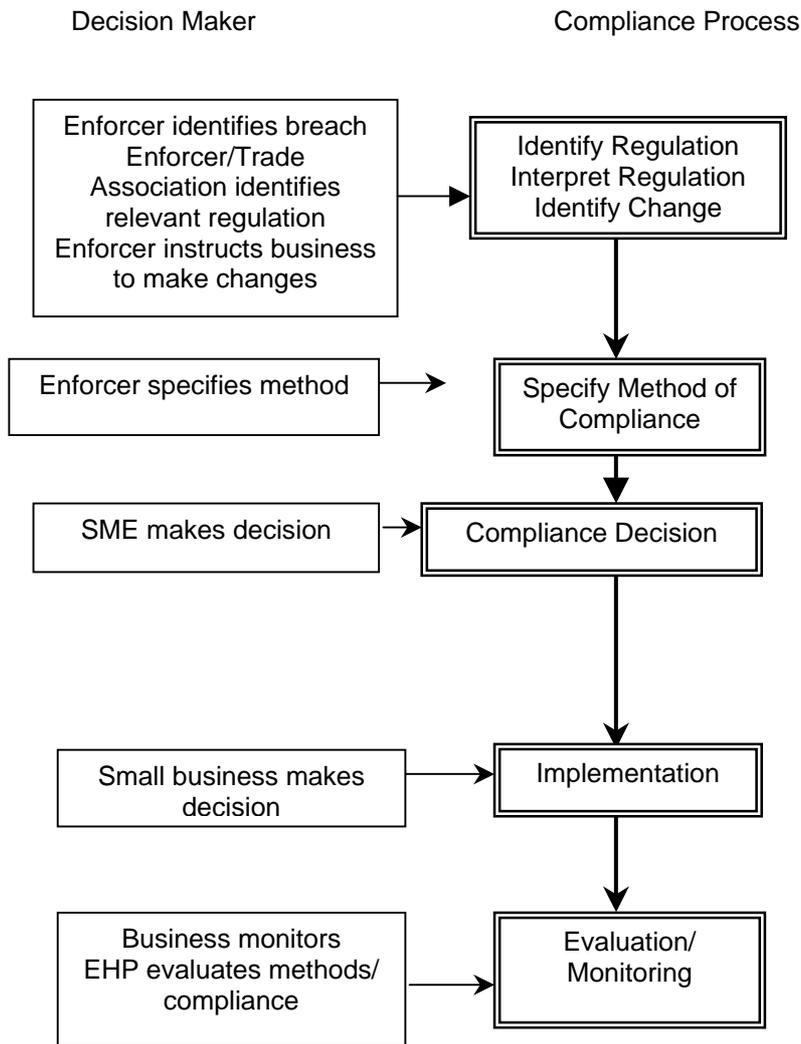


**Figure 1:** The general compliance decision process  
 Source: Henson and Heasman, 1998

One of the major limitations in applying this model to food SMEs in the project carried out for the Food Standards Agency was the lack of involvement of food SMEs within the majority of these stages (Yapp and Fairman, 2004a). In particular, SMEs only took ownership for two parts of this process: the compliance decision and implementing the chosen methods of compliance. SMEs tended to react to the information and advice given by other actors within the process, such as the local authority enforcement officers, trade associations, consultants and the Food Standards Agency. Very few SMEs sought out information, or took action proactively in relation to any aspect of food safety law. This attitude tended to override the effects of any motivating factors that existed within the business. The reactive nature of decision-making within these food SMEs impacts upon regulatory approaches, in particular enforced self-regulatory requirements. SMEs tended to respond to external intervention, predominantly that of the enforcement officer, rather than initiating action. For enforced self-regulatory requirements where there is an implicit requirement for businesses to monitor and evaluate the conditions within their premises against the legal standards, this is an obvious issue for consideration (Fairman and Yapp, forthcoming).

Based upon the finding of the Food Standards Agency study, an SME-specific compliance model has been developed and incorporates the role of the enforcer. This shown in Figure 2.

**Figure 2:** The compliance process in small food SMEs



Source: Fairman and Yapp, 2004

#### 4.2 THE BARRIERS THAT MAY AFFECT COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

Many factors can act as barriers preventing small businesses from complying with the law. Research indicates that the main barriers to compliance with health, safety and environmental health regulations within SMEs are:

**Lack of knowledge:** This includes a poor awareness and understanding of the regulations; inability to interpret the rules; and lack of skill in identifying hazards and risks (Hutchinson and Chaston, 1995; Henson and Heasman, 1998; Gerstenfeld and Roberts, 2000; Hunt, 2000; Health and Safety Laboratory, 2000; Environment Agency, 2000a; Petts, 2000; Cabinet Office 2000, 2001; Food Standards Agency, 2001; Taylor, 2001; Yapp and Fairman, 2004a);

**Lack of interest:** Compliance with environmental health regulations is not seen as a core business function (Gerstenfeld and Roberts, 2000; Health and Safety Laboratory, 2000; Fanshawe, 2000);

**Lack of skill:** In applying the legislation to the business and in identifying hazards and risks (Gerstenfeld and Roberts, 2000; Environment Agency, 2000a; Petts, 2000; Health and Safety Laboratory, 2000; Yapp and Fairman, 2004a; Taylor, 2001)

**Lack of money:** SMEs focus on immediate survival rather than on long-term potential benefits (Environment Agency, 2000a; Lancaster et al, 2001); and

**Lack of time:** (Health and Safety Laboratory, 2000).

Within occupational health and safety, one study investigating the implementation of the Management of Health and Safety at Work Regulations 1999 raised all the issues identified above, but also addressed a number of issues specifically related to enforced self-regulation (Health and Safety Laboratory, 2000). The project identified that SMEs in which risk assessment was being introduced found it difficult to carry out self-assessment due to a limited access to expertise. Even where they had extensive Health and Safety Executive guidance, many SMEs found the first step (hazard identification) so difficult that it prevented further action being taken. The individuals within the company viewed this as a technical step, those asked to identify hazards lacked confidence, their own risk perceptions affected the hazards they identified and they tended to ignore the health hazards. Generic written information provided by the Health and Safety Executive was not seen as specific enough – it did not give tailored answers for each particular company. Inspector's visits, particularly advisory visits, were seen as a beneficial and welcome information source.

### **4.3 THE MOTIVATORS THAT ENCOURAGE COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY**

Various national and international studies<sup>18</sup> of the factors affecting SME motivation have been undertaken. In particular, the fear of loss of credibility and the perceived duty to comply have been found to act as the main drivers motivating organisations to implement health and safety requirements into their business operations (Wright, 1998). The effect of occupational health and safety upon the financial performance within UK businesses is less clear. Businesses tend to see occupational health and safety as a cost - legislation requires them to make investments, but there is little or no perceived financial return to be made. Part of this attitude stems from employers not being financially accountable for the cost of accidents and ill-health (due to the system on healthcare in place in the UK). May (2004) has distinguished between negative and positive bases for compliance motivation. Negative motivations arise from fear of the consequences of being found non-compliant whilst positive motivations relate to good intention and a sense of obligation to comply.

#### **Fear of loss of credibility**

Wright (1998) identified the loss of credibility in a business as arising from a number of issues. Employers were seen to have a fear of adverse publicity, loss of confidence and increased regulatory attention after an accident or incident. This fear was greatest amongst high-risk businesses (e.g. chemicals and transport) of any size. This fear may be passed down the supply chain to smaller companies where a large company feels it may be tarnished by their poor performance. Interestingly legal enforcement action by an enforcement agency is seen as primarily a problem in terms of adverse publicity.

#### **Perceived duty to comply with health and safety regulations**

Research indicates that the need to comply with the law is the most commonly cited reason for occupational health and safety initiatives amongst all sizes of organisations. In a study of food safety, the perceived duty to comply acted as a motivator within businesses, even in cases where the SME disagreed with the requirements being made by the enforcement officer. Food safety legislation incorporates a system of “due diligence”, whereby a food proprietor can claim to have taken all reasonable precautions and exercised all due diligence to avoid committing a food safety offence<sup>19</sup>. In order to demonstrate their due diligence, many food businesses were found to be undertaking self-assessments and monitoring business operations. Businesses stated their motivation for doing this was to prove that their commitment to food safety, and to avoid enforcement action being taken with any food safety failures that might occur (Yapp and Fairman, 2004a).

The way in which the “duty to comply” affects motivation has been subject to several studies. It is not clear whether formal enforcement activity within businesses acts as a deterrent to others. Johnstone (2003) summarised evidence that the fear of prosecution does encourage compliance in others, although noted that this is not a blanket effect. Fairman and Yapp (forthcoming) found that although SMEs tended to have a generalised fear of formal enforcement activity, they were unaware of the reasons that enforcement action had been taken in other businesses. They also failed to make a connection between the reasons for formal enforcement activity taken elsewhere and food safety conditions within their own business.

### **4.4 NON-REGULATORY DRIVERS TO COMPLIANCE**

In light of the positive and negative motivating factors, other drivers and pressures can be seen to improve regulatory compliance.

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<sup>18</sup> Including Wright, 1998 and 2004; Gunningham and Johnstone, 1999; O’Dea and Flinn, 2003.

<sup>19</sup> Contained within Section 21, Food Safety Act 1990.

## **Supply chain pressure**

Supply chain pressure can be effective in ensuring compliance throughout the chain of companies supplying a large firm. Through contractual arrangements, large companies can exert commercial pressure on the smaller companies supplying them. Larger companies can impose auditing requirements on those supplying them. The 'contracting out' of large parts of public service provision has led to compliance with legislation becoming a business priority – without it smaller companies are unable to compete for contracts with large organisations. There is little evidence that businesses (large or small) are convinced by arguments that good legal compliance is good business practice. Supply chain pressure is one way in which that argument can be made.

## **Reputation management**

The protection of brand name is crucial to large businesses. Indeed post-Turnball, reputation risk has become a primary motivator for risk management. Power (2004) argues that this focus on reputation is fundamentally detrimental to the overall risk management processes carried out within companies, detracting attention and consideration from the issues causing the reputational problems.

However threats to reputation are a major driver for large companies and have been used by stakeholders, enforcement agencies and interested parties to exert pressure on businesses to control the risks they create. Whether reputation is such a crucial driver for small businesses is not known. They have much less brand image to protect, and are not liable to be exposed publicly by the media due to their relative lack of power in the market place. However small businesses do hold significant importance for their local communities and reputation locally may be important.

## **Insurance**

The Association of British Insurers (ABI) is currently promoting a scheme in conjunction with trade associations. Companies are being encouraged to demonstrate compliance with health and safety management systems developed by particular trade associations in return for improved access to the insurance market (ABI, 2003). The scheme was launched in 2003, and so far four trade associations have signed up to this (Humphreys, 2004). Therefore it is not yet clear how effective this will be in motivating businesses to improve their health and safety performance.

## **5.0 METHODOLOGY**

### **5.1 THE AIMS AND OBJECTIVES OF THE RESEARCH**

The enforcement of occupational health and safety legislation is undertaken by both local authority officers and officers from the Health and Safety Executive. To be effective, these enforcing agencies need to overcome the barriers preventing compliance and motivate the SME to take action. The enforcement strategy used by enforcing agencies in the UK is based upon a compliance approach, incorporating a range of different interventions. Little empirical work has evaluated the effectiveness of the different types of interventions used upon the compliance with health and safety legislation within SMEs.

Thus the main aim of this research is:

To investigate the compliance process within SMEs relating to health and safety legislation in order to understand how different factors affect this process and the ways that different interventions impact upon the compliance process in SMEs.

In order to achieve this aim, there are four objectives:

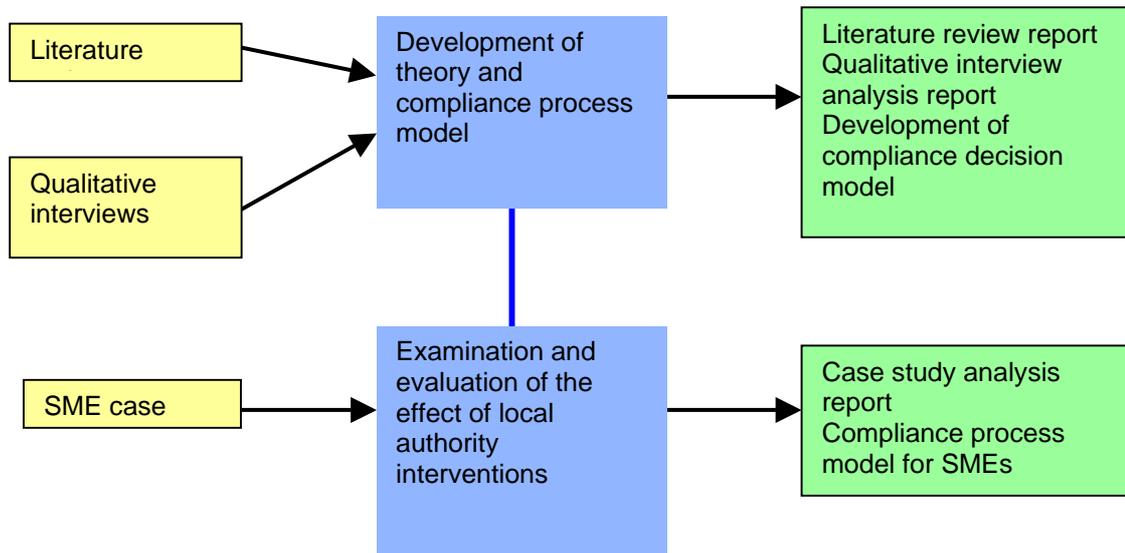
- Identify the enforcement approaches being used in local authorities;
- Define the meaning of compliance for SMEs in relation to occupational health and safety law;
- Develop a compliance process model that describes the decision-making process involved in achieving compliance with health and safety legislation; and
- Evaluate the impact of a range of different intervention approaches used by local authorities upon the compliance process within SMEs.

### **5.2 OVERVIEW OF RESEARCH DESIGN**

The research design is based upon previous work carried out by the researchers for the Food Standards Agency. It aims to select agencies carrying out health and safety enforcement in different ways, and examine what impact that had on the practices, decision-making and compliance of small business owner/managers. In order to select agencies carrying out different activities, it was clear that local authority enforcement sector would enable different approaches to be identified. Within the HSE this would not have been possible. Local authorities using different intervention strategies were selected, and a number of small businesses within those authorities were used as case studies. For each of these businesses the impact of the intervention was examined. Businesses had to be in the same business sector, as making comparisons across sector would not be valid.

The overall project design is shown in Figure 3. The first step was the development of a compliance process model specifically for the way that SME owners might respond to health and safety legislation. This was based upon a literature review and interviews with gatekeepers in the field. The second stage of the research involved the identification of the range of enforcement approaches used in local authority health and safety intervention, selecting appropriate cases based upon those authorities carrying out extreme levels of a particular intervention, and selecting cases of businesses within those local authorities to become part of the study. For each business an on-site assessment of compliance; an interview with the owner regarding their actions in regards to compliance and their perception of enforcement; and an analysis of the historical data from the enforcement agency was conducted.

**Figure 3:** Summary of project design



### 5.3 STAGE ONE: DEVELOPMENT OF THEORY AND THE COMPLIANCE PROCESS MODEL

A literature review and gatekeeper interviews were used to inform this stage<sup>20</sup>.

#### Literature review

The review examined in detail the policy and theoretical basis of the work and included:

Consideration of the definitions of SMEs;

The impact of SMEs upon occupational health and safety;

- The particular problems and needs of SMEs;
- The system of occupational health and safety regulation within the UK;
- The regulatory and enforcement strategies in the environmental health field across the world, and, more specifically, within health and safety regulation; and
- The process of compliance adopted by businesses in dealing with health and safety regulation.

This was used to identify the factors affecting each step of the process and to analyse the effects of local authority interventions. The SME-specific compliance model developed in this research shows how different barriers may impact the process at different stages and the most effective local authority interventions that may act to overcome these factors.

#### Interviews with SMEs and gatekeeper groups

The literature review provided the background necessary to develop a protocol for the exploratory semi-structured interviews. Using a less structured approach allowed greater freedom in the sequencing of questions and the amount of time and attention given to particular topics. The interviews investigated the issues raised by previous research including:

- Different group's perceptions of SME compliance with health and safety requirements;
- The factors required to improve health and safety compliance; and
- The barriers preventing compliance.

<sup>20</sup> Detailed results of this stage can be found within a report submitted to HSE in April 2004 (Yapp and Fairman, 2004b)

The objective was to develop an SME-specific model of the compliance decision process describing the factors necessary for SMEs to achieve compliance. Face-to-face interviews were held with gatekeeper groups, including the Chartered Institute of Environmental Health and the Inland Revenue. Previous interviews undertaken by the authors in the food safety field were also used as a basis for the development of the SME-specific compliance decision model. The responses were compared with the general compliance process model identified during the literature review. The interviews highlighted the particular difficulties that SMEs had in complying with each stage of the process and clarified the purpose of strategies adopted by local authorities and other groups within this process. A revised compliance model was used as an analytical tool within subsequent stages.

#### **5.4 STAGE TWO: EXAMINATION AND EVALUATION OF THE EFFECT OF DIFFERENT LOCAL AUTHORITY INTERVENTIONS UPON SME COMPLIANCE**

The literature review and interviews highlighted the range of strategies that local authorities use to enforce occupational health and safety legislation and the potential differences in standards of compliance within SMEs located in different local authorities. These differences were then tested using qualitative approaches. Various criteria were used in order to select the local authorities, and SMEs that were included within the research.

##### **Local authority selection process**

Due to time and resource constraints, only local authorities from England were included within the selection process. Previous work conducted by the authors investigated the impact of socio-economic conditions upon SME compliance with food safety requirements (Yapp and Fairman, 2004a). This indicated that generally compliance did not vary between local authority areas with differing levels of deprivation. There were however, in that study, some complex interactions seen between deprivation and other criteria in a quantitative evaluation. For this study deprivation is not a factor that will be tested in relation to compliance but all the businesses selected will be in areas of similar socio-economic conditions. The selection criteria were therefore: similar level of deprivation; and differing levels of interventions undertaken by the local authority. The selection process was undertaken in April 2004.

The most recent available data was obtained for deprivation and intervention approach, meaning that data was collected for different time periods for different criteria. This was inevitable because, for example, the most recent data available for the level of deprivation was 1998, data relating to prosecution activity was only for 2000/01; and the local authority returns submitted to the Health and Safety Executive were available for 2001/02 and 2002/03.

##### **Criteria 1: Level of deprivation**

As noted above, previous work that investigated the factors that affected SME compliance with food safety legislation concluded that the level of deprivation in a local authority area generally did not significantly impact upon business compliance. This research selected local authorities on the basis that they displayed extreme levels of deprivation. It was therefore decided that in the current project, local authorities would be selected on the basis that they were in similar socio-economic climates. An "index of deprivation" is produced by the Social Exclusion Unit<sup>21</sup> which assesses the deprivation in local authorities according to various criteria within the district, including the number of people that are employment-deprived and income-deprived<sup>22</sup>. The index of deprivation was the first selection criteria applied using data obtained from 1998. Local authorities within the top and bottom quartiles (i.e. within areas of least and worst deprivation) were excluded at this stage. This meant that 176 local authorities were considered in terms of their intervention activities (Criteria 2)

##### **Criterion 2: Level of local authority intervention activity**

Within this criteria there were two key issues that were considered:  
Inspection activity of the local authority;

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<sup>21</sup> Now contained within the Office of the Deputy Prime Minister.

<sup>22</sup> The data used can be obtained from [www.regeneration.dtlr.gov.uk/98ild](http://www.regeneration.dtlr.gov.uk/98ild)

“Follow-up” activities, for example the numbers of revisits made to premises, and the level of educational and promotional work carried out.

Initially this study wished to examine the impact of different interventions on compliance. On following up our initial investigations as to the nature of local authority interventions in achieving compliance in hairdressers, a major problem was encountered. There was little evidence on any major interventions in the hairdressing sector apart from inspections. Although a number of local authorities had carried out educational activities, these were normally ‘one-off’ and even in those authorities we had difficulty in contacting SMEs who had been involved in the intervention. This finding is supported by other work commissioned by the HSE that examined the perception of local authorities to interventions and found that inspection was by far the most common and accepted intervention (Howard and Galbraith, 2004). Consideration of these issues resulted in three categories of intervention activity for local authorities. These categorisations enabled the effects of inspections and other activities upon SME compliance to be investigated. The three groups were:

No inspection activity. These local authorities showed low levels of inspections being undertaken with little/no formal enforcement activity and little/no educational work (e.g. no promotional initiatives);  
Cursory inspection/ no follow up activity. These local authorities carried out inspections of premises, but typically did not carry out revisits of premises and carried out little/no additional educational or promotional initiatives; and  
Inspections/ follow-up activity. These local authorities carried out inspections with revisits (where necessary) and showed evidence of promotional or educational initiatives.

Local authorities are requested to report details of their occupational health and safety activities to the Health and Safety Executive each year<sup>23</sup>. A form known as LAE1 is submitted to HELA and contains details of the number of premises inspected in the year; the number of injuries reported and the numbers of injuries investigated. Information about promotional work and specific initiatives relating to the HELA priority hazards was obtained from several sources: the LAE1 form, local authority service plans, HELA Report on the national picture 2002/03 and directly from local authorities (either by telephone or by accessing local authority websites). An additional report was submitted to the Health and Safety Executive which analysed the content of local authority service plans held by the Health and Safety Executive (Yapp and Fairman, 2004c). A final shortlist of local authorities undertaking different levels of interventions was made and each local authority was then contacted by telephone to discuss the service provision. One of the reasons for doing this was to compare service provision in previous years to ensure a continuous approach had been adopted by the local authority.

Data was also available that related to the numbers of prosecutions undertaken, as well as the number of improvement notices served by each local authority. These were found within the LAE1 form and in data collected separately by the Health and Safety Executive Local Authority Unit. The levels of formal enforcement activity were recorded in order to provide a complete picture of the local authorities used within the research, but did not form one of the selection criteria. The predominant reason that formal enforcement activity was excluded from the selection process was due to the overall low levels of activity between local authorities. This meant that distinguishing between local authorities was difficult and less powerful a method to identify “exemplars” of intervention activity. The whole basis of this research design is purposively selecting ‘extreme’ examples of the variable/ factor that is of interest. This enables propositions to be tested though being able to replicate theoretically (what theoretically should be found) and literally (that what is found in one case can be replicated in another with the same conditions) (Yin, 1989).

One of the main problems at this stage of the selection process was that a number of local authorities had not submitted information about their service provision to the Health and Safety Executive. For example, only 51 local authority service plans had been submitted to the Health and Safety Executive

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<sup>23</sup> Data was obtained from the Local Authority Unit at HSE and HELA for 2000/01 (prosecution data); 2001/02 and 2002/03 LAE1 forms collated by HELA; and from available local authority service plans submitted to HELA (dates varied between 2001/02 to 2003/04).

<sup>24</sup>, and LAE1 forms for 2002/03 were received from 135 local authorities in total for the UK (this included Scotland, England and Wales). The selection process therefore was limited to consideration only of those local authorities that had submitted information to the Health and Safety Executive. Discussions with the Health and Safety Executive highlighted a number of local authorities that had either just been audited due to poor performance, or were about to be audited. It was felt that these local authorities were likely to be implementing changes in service provision and were therefore excluded on the basis of lack of continuity of service provision. Six local authorities were selected according to the criteria shown in Table 3.

**Table 3:** Summary of local authority selection criteria

	LA <sup>25</sup> 1	LA 2	LA 3	LA 4	LA 5	LA 6
No inspection activity	♦	♦				
Inspection/no follow-up activity			♦	♦		
Inspection/ follow-up activity					♦	♦

### SME selection process

Following discussions with the Health and Safety Executive, hairdressers were chosen as the target business sector for the case studies. These were chosen on the basis of a number of criteria:

- The need to develop a standard interview protocol that would test a number of issues that were all relevant to the SMEs. Therefore one type of business sector was required;
- The need to have a sufficient number of the particular business group located within the local authority being studied. Experience from the food safety project showed that a large population size was needed to sample from due to difficulties gaining access;
- The need to select a business group that was likely to receive regular health and safety inspections. Low risk businesses, such as offices are unlikely to be inspected more than every 5 years and may even be excluded from the inspection programme;
- The need to select businesses that do not receive any other interventions from Environmental Health that could affect their behaviour. This excluded food businesses that receive regular food safety inspections; and
- The need to select businesses that had a number of occupational health and safety issues that could be explored within the interview.

Hairdressers were proposed as the most suitable sector on the basis of the above requirements. For example [www.yell.com](http://www.yell.com) indicated that most local authorities had at least 40 hairdressers in their area; hairdressers tended to receive inspections at least every 4 years; and they have a number of occupational health and safety issues (dermatitis, MSD, requirements to complete COSHH assessments<sup>26</sup> and risk assessments in some form, and electrical safety issues).

A list of all hairdressers in the local authority area was compiled using [www.yell.com](http://www.yell.com) and each was sent a letter<sup>27</sup>. The letter outlined the purpose of the project and invited SMEs to participate. A follow-up telephone call was made to randomly chosen SMEs from the list 1-2 weeks later to request an interview. The numbers and types of SMEs participating were maximised by contacting at the most convenient times of the day – typically either before the business opened (before 9.00am) or at the end of the day (after 5.00pm), as well as carrying out visits at the SMEs convenience. SMEs were assured anonymity within the research report and from the local authority. The objective was that

<sup>24</sup> This means that less than 12% of local authorities in the UK submitted service plans to HSE.

<sup>25</sup> Local authority

<sup>26</sup> COSHH stands for Control of Substances Hazardous to Health and assessments are required by the COSHH Regulations 2002.

<sup>27</sup> See Appendix 1.

between 6-8 SMEs within each local authority would take part (36-48 SMEs in total). This number would provide an accurate profile of the local authority approach taken, as well as being a manageable dataset to analyse rigorously. The case studies used multiple sources of data, thus validating the qualitative approach, and included:

- The local authority case history for the SME was examined;
- The SME proprietor or manager was interviewed; and
- A professional judgement of compliance within the premises was made.

### **Case study format**

#### **a) Local authority case history**

Prior to the interview, the relevant case history was examined at the local authority office. Notes were taken about interventions received from the local authority and previous compliance history. These were then explored during the interview by questioning the SME about these experiences and their responses to such interventions.

#### **b) SME interviews**

The interview protocol consisted of semi-structured questions about various topics<sup>28</sup>. This allowed respondents freedom to discuss particular relevant issues in detail, whilst ensuring that the same topics were discussed within each interview. The interview protocol was piloted in four SMEs<sup>29</sup> to ensure questioning was targeted and clear to understand. Interviews were with the owner-manager.

Interviews were tape-recorded, varying in length from half an hour to over an hour, depending upon the receptiveness of the SME and their willingness to discuss the issues being raised.

SMEs were questioned about the barriers preventing them from complying with occupational health and safety legislation and what motivated them to take action. The compliance process model was used as a framework to allow data collection during the case studies and to evaluate the impact of the different local authority interventions upon SMEs. This provided detailed information about the barriers, the factors motivating SMEs and the impacts of local authority interventions at each stage of the compliance decision model. A more detailed compliance process model was developed from these findings.

#### **c) Professional compliance assessment:**

At the end of the interview an inspection of the premises was completed. Any obvious non-compliance was noted and the SME questioned in order to clarify the reasons for inaction. Compliance was assessed according to key occupational health and safety requirements. This allowed identification of problems with particular issues. The key issues considered were:

Risk Assessment  
COSHH  
Electrical safety

Risk assessment and COSHH requirements are self-regulatory issues whereby the SME has to undertake the assessments of their business and take 'necessary' steps to monitor and control the hazards identified. The onus is on the SME to demonstrate their compliance with requirements. Questions about dermatitis and MSD (in particular back pain) were included in the interview protocol in order to assess the levels of awareness about the problems and the types of control measures being adopted by SMEs. Electrical safety represents the more prescriptive element of health and safety legislation, setting out a clear requirement to test appliances and the installation on a regular basis.

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<sup>28</sup> See Appendix 2.

<sup>29</sup> Within two local authorities not included within the rest of the research.

Each subject area was assessed against criteria based upon occupational health and safety legislation, and accepted good practice<sup>30</sup>. SMEs were then assessed as to their level of compliance. A summary of the key criteria used to determine compliance levels is found in Appendix 10.3.

### **Data analysis methods**

The analysis examined the levels of compliance within SMEs located within different local authorities for the different subject areas. The data gathered in the compliance assessment stage was analysed using chi-square ( $\chi^2$ ) tests. The tests calculated the expected levels of compliance and compared them with the actual levels recorded for a range of different variables.  $\chi^2$  tests analysed whether the results were significantly different from those expected. Information relating to statistical testing is found in Appendix 10.4.

Data was also analysed using specialist software (NVivo 2.0) and pattern-matching techniques in relation to the compliance process model developed. The main feature of NVivo software is its ability to allow coding of data into various themes and categories. These can be reviewed in order to test theoretical concepts and identify key issues. There were three main areas of analysis:  
Validation of the steps within the compliance process;  
Investigation of the barriers and motivations of SMEs within each process stage; and  
Examination of local authority interventions and their effect upon the compliance model.

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<sup>30</sup> *Assessment based upon requirements of the Health and Safety at Work Act 1974 and the regulations made thereunder. Accepted good practice taken from HSE regulations and ACOP: "Five steps to risk assessment"; "COSHH"; "Electrical Safety at Work". The numbers of staff employed by the SME dictated the assessments made, for example, those employing less than 5 staff do not have to produce written risk assessments*

## 6.0 RESULTS

### 6.1 SUMMARY OF LOCAL AUTHORITY AND SME PROFILES

The case history held by the local authority for each SME was checked (where available) prior to each interview taking place in order to:

Verify the classification assigned to the local authority, in terms of their inspection activity and any other occupational health and safety work undertaken by the local authority. This enabled a profile for each local authority to be established;

Establish a database of SME profiles; and

To provide a template of data for on-site verification during the SME interview

#### **Verification of local authority classifications**

Information obtained from the SME case files held by the local authority indicated that SMEs had been subject to a variety of different interventions from the local authority. These included no interventions at all; cursory inspections and no follow-up activity; and those receiving inspections and follow-up activity such as advisory visits and seminars. The local authorities were then classified according to their health and safety activities into three groups:

No intervention: i.e. no inspections, educational initiatives or other interventions;

Cursory inspection with no follow up activity: i.e. no letters sent to businesses after an inspection to outline any requirements /recommendations; no educational initiatives such as seminars (that were attended by the case study SMEs); and

Inspection/ with follow-up activity: i.e. letters sent after inspections; advisory visits made; educational initiatives such as seminars attended by SMEs.

Table 4 summarises the levels of occupational health and safety activity within each local authority area. Only one local authority ran in-house health and safety training courses, the remainder were held by local colleges and other training providers. Three local authorities ran subject-specific seminars. LA3 noted that few hairdressers (8 in total) attended the seminar, the remainder of hairdressers received a cursory inspection with no follow-up activity received from the local authority. The other two local authorities had reported good attendance (between 15 and 30 attended each session held): these were both classed as authorities with “interventions and follow-up activity”.

**Table 4:** Summary of the levels of occupational health and safety service provision within local authorities

Intervention group	Local authority	LAE1 inspection data (2002/03)	<i>Educational activity</i>
Little/no intervention	1	69/2268 premises inspected (3%) 0 Improvement Notices (IN) served 0% injuries investigated 1.6 full time equivalent (FTE) staff	No inspections of local businesses (target outdoor events instead). No in-house health and safety courses No promotional work in Euro Health and Safety Week No newsletters/leaflets
	2	41/1969 premises inspected (2.1%). 31 of these were combined with food safety inspections 2 IN served 100% injuries investigated 0.35 FTE	No inspections of businesses No in-house health and safety courses No promotional work in Euro Health and Safety Week Health and Safety Executive leaflets sent out only on request.
Cursory inspection/ no follow up	3	362/1783 premises inspected (20%) 118 IN served 3 prosecutions in 2000 49% injuries investigated 3.2 FTE	No in-house training courses, local education centre runs courses Seminar 2003 on salon safety, poor attendance. Those that didn't attend received cursory inspection (40 salons inspected) – no follow up letters or visits made Newsletters sent out 2/year
	4	664/2584 premises inspected (26%). 25 IN served 26% injuries investigated 3.1 FTE	Local bylaws in place Inspections carried out - sheet detailing contraventions left with the SME but no copy retained by local authority (i.e. no follow up/ limited records) No in-house health and safety courses No newsletters Produced own guidance notes on legislation and risk assessment
Inspection/ follow up	5	70/1150 inspections (6.1%). 97 visits in total 1 IN 11.5% injuries investigated	In-house health and safety courses (on demand) Seminars held: 2004 seminar on "nail bars" – attended by many hairdressers. Included mock salon exercise and e-COSHH. Run with local college + local business. Handbook and CD given Newsletter sent out 2/year Health and Safety Executive and in-house leaflets Inspections followed up with letter/visit
	6	524/1658 premises inspected (32%) 42 IN served 100% injuries investigated 1.6 FTE	No in-house training courses Seminars held – 2 in last 5/6 years for hairdressers. Run in conjunction with local college and nurses (for dermatitis information) Library of health and safety resources set up October 2003 Health and Safety Executive leaflets sent out on request Inspections followed up with letter/visit

### Summary of SME profiles

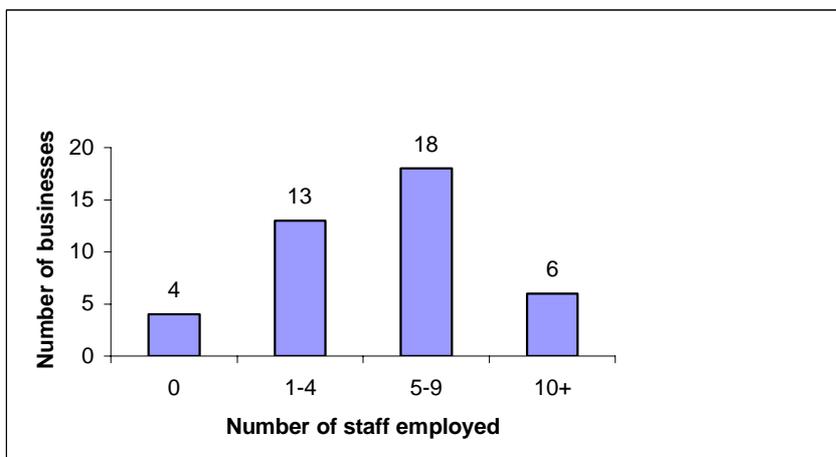
All hairdressers in the local authority area were contacted by letter using information obtained from [www.yell.com](http://www.yell.com). The numbers of hairdressers contacted varied between local authorities, from 41 in LA5 to 96 in LA4. The aim was to ensure that between 6-8 SMEs were interviewed from each local authority. The majority of SMEs were contacted by telephone 1-2 weeks after the letter had been sent to them to arrange an interview. The actual response to the letters was very low – typically between 1 and 3 businesses responded from each local authority. In total 41 interviews were held, although 2 were telephone interviews which meant that no compliance assessment was completed. Figure 4 shows the numbers of interviews held within each local authority.

**Figure 4:** Distribution of SME interviews held



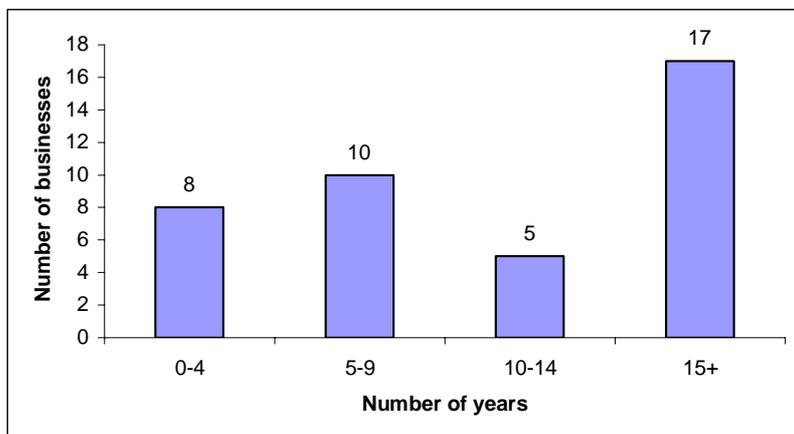
The numbers of staff employed by each SME was recorded because this information needs to be taken into account when assessing compliance. SMEs with more than five staff need to provide various written documents as part of their employer's duties (e.g. written health and safety policy; risk assessment etc.). Figure 5 provides details of the number of staff employed by the SMEs interviewed and shows clearly that the majority were micro-businesses employing less than 10 staff (85%, or 35 SMEs).

**Figure 5:** Numbers of staff employed by SMEs



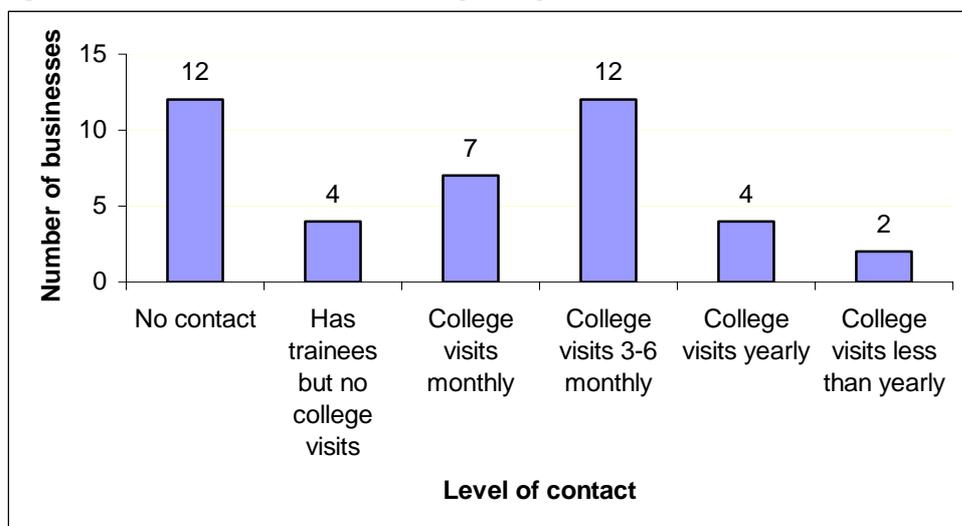
The number of years that the SME proprietor had owned the business was established as it was felt that this might influence the SMEs attitude towards, and understanding of occupational health and safety requirements. Figure 6 shows this below:

**Figure 6:** Number of years in business



Another important issue that emerged from the interviews was that many SMEs had trainee hairdressers on work placement from the local colleges, or pupils from local schools on work experience placements. College trainees received regular visits from the college course assessor in their workplace, and assessors also met with the SME proprietors to discuss various issues, including occupational health and safety matters. The number of visits made by assessors varied across the local authorities, but were reported to be as frequently as twice a month, to yearly, or in some cases the college did not visit at all. Figure 7 shows the levels of contact that SMEs had with colleges and/or schools.

**Figure 7:** Levels of contact with training college



The amount of contact that SMEs had with the college and the local authority was cross-tabulated in Table 5. This table will be used to examine compliance assessment variations as it became clear that the impact and type of interventions made by the training colleges was much more influential than originally envisaged. In order to ensure that group sizes did not become too small causing problems for data analysis, several of the above categories were combined:

SMEs with either no contact at all with the college, or that had trainees but received no college inspections became “NO CONTACT”,

Those receiving college inspections yearly or less frequently became “CONTACT YEARLY OR LESS”, and

Those receiving college inspections monthly, 3 or 6 monthly became “AT LEAST 2 VISITS/YEAR”.

**Table 5:** Summary of the numbers of SMEs receiving different levels of contact with the college and the local authority

COLLEGE ACTIVITY	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
	No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	12.2% (5)	22% (9)	4.9% (2)	39% (16)
Contact yearly or less	9.8% (4)	7.3% (3)	29.3% (12)	46.4% (19)
At least 2 visits/ year	7.3% (3)	4.9% (2)	2.4% (1)	14.6% (6)
Column total (i.e. total SMEs in LA group)	29.3% (12)	34.1% (14)	36.7% (15)	100% (41)

## THE LEVELS OF COMPLIANCE WITHIN THE SMES

The compliance levels within SMEs were assessed in order to:

Examine whether the levels of compliance varied between local authorities with different intervention approaches; and

Examine the levels of compliance with different types of occupational health and safety issues between local authorities with different intervention approaches.

Due to the unexpected influence of the local hairdressers training colleges upon SME behaviour, the results also examine the levels of compliance between SMEs receiving different levels of intervention from the colleges.

Compliance was assessed against three key subject areas:

Risk assessment

COSHH

Electrical safety

### Compliance with risk assessment requirements

Whilst only those SMEs employing more than 5 staff are required to complete written risk assessments, those with fewer than 5 staff are also required to consider the hazards and risks inherent within their business. Therefore all SMEs were assessed for their compliance with this requirement. In total 34% (14 SMEs) were unaware of the concept of risk assessment and therefore had not taken any action to implement requirements. Of the remaining 66% (27) that were aware of the requirement, 81% (22)<sup>31</sup> had implemented risk assessments (either written or unwritten). This means that 54% complied with risk assessment requirements, and 46% (19) did not. Table 6 summarises the levels of SME compliance according to the different levels of interventions experienced. Figures 8 and 9 show the levels of compliance according to local authority intervention and college activity respectively.

**Table 6:** Summary of the levels of compliance with risk assessment requirements

COLLEGE ACTIVITY	Compliance level	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
		No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	Comply	2.4% (1)	2.4% (1)	2.4% (1)	7.3% (3)
	Non-comply	9.8% (4)	19.5% (8)	2.4% (1)	31.7% (13)
Contact yearly or less	Comply	2.4% (1)	4.9% (2)	2.4% (1)	9.8% (4)
	Non-comply	4.9% (2)	0% (0)	0% (0)	4.9% (2)
At least 2 visits/year	Comply	2.4% (1)	7.3% (3)	19.5% (8)	29.2% (12)
	Non-comply	7.3% (3)	0% (0)	9.8% (4)	17.1% (7)
Column total (i.e. total SMEs in LA group)	Comply	7.3% (3)	14.6% (6)	24.4% (10)	46.3% (19)
	Non-comply	22% (9)	19.5% (8)	12.2% (5)	53.7% (22)

### Compliance

The table shows that the largest group of SMEs implementing risk assessment requirements in full were those receiving both local authority inspections/follow up activity and 2+ college visits/year ( 19.5%, or 8 SMEs in total). Section 6.5 examines the reasons given for implementing risk assessment into the business in order to identify which acted as the strongest motivator – the local authority or the college.

87% (13 SMEs) of those with written risk assessments in place had been in business for more than 15 years.

<sup>31</sup> 5 of these risk assessments were in unwritten format, and 2 SMEs were in the process of writing their risk assessments at the time of the interview. These were classed as being compliant.

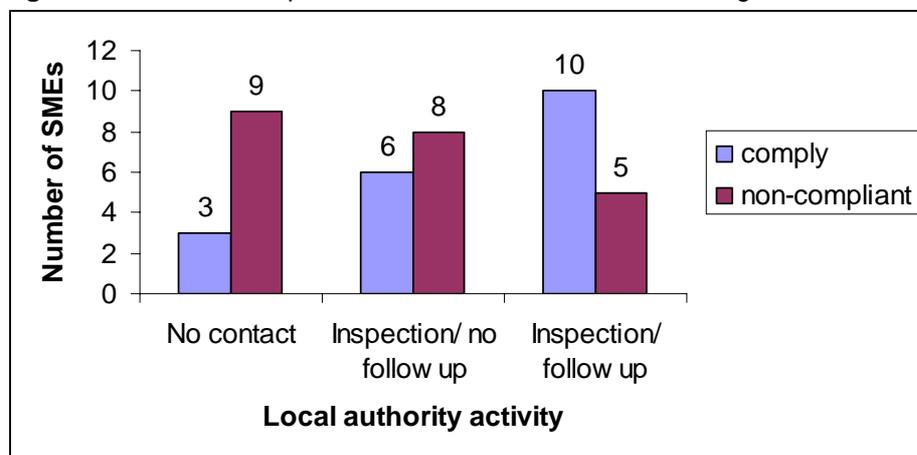
24% (10 SMEs) reviewed their risk assessments at least yearly: all belonged to a trade association and 22% (9) had been in business for >5 years. All but one received regular contact with the local authority or college<sup>32</sup>.

5% (2 SMEs) were implementing risk assessment policies at the time of the interview. These were deemed to comply as a local authority inspector would be unlikely to take formal enforcement action if such businesses were visited at this time. In addition, 24% (10 SMEs) were also deemed to comply with requirements, despite irregular review procedures being in place to assess policies. Again, this assessment was made on the basis that formal enforcement action would be unlikely.

**Non-compliance**

54% (22 SMEs) were deemed to have failed the requirements: 41% (17 SMEs) were unaware of the requirement to implement risk assessment. 12% (5) were aware of the concept of risk assessment but had not taken action because they either did not realise that the risk assessment requirement applied to their business (9%, or 4 SMEs) or because it was felt that risk assessment was unnecessary (2%, or 1 SME).

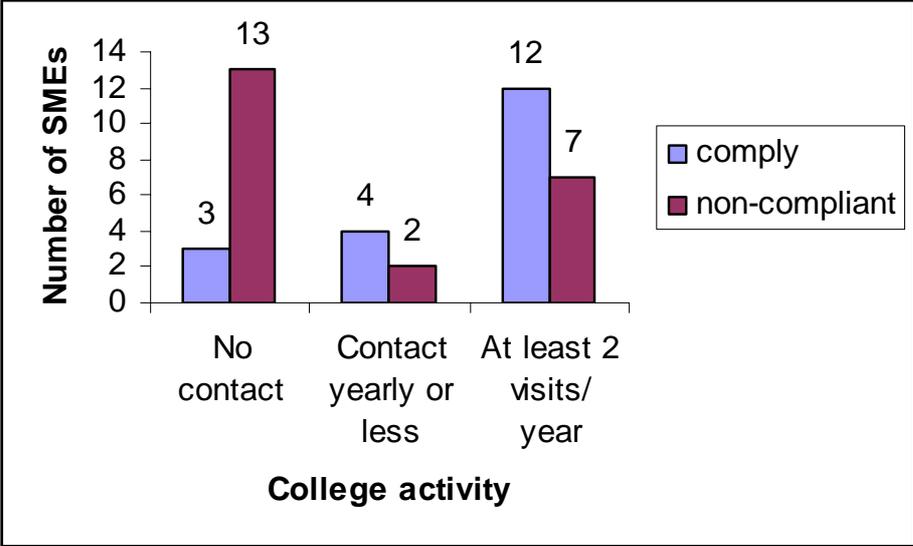
**Figure 8:** Levels of compliance with risk assessment according to local authority activity



$\chi^2$  tests show that there are no significant differences in the levels of compliance in the different intervention groups ( $\chi^2= 4.76$ ,  $df = 2$ , NS). Details of the tests are contained within Appendix 10.4.

<sup>32</sup> 1 SME had no contact with either local authority or college but had a personal friend who was a health and safety consultant. He carried out regular health and safety inspections for the SME and implemented a risk assessment in the salon free of charge.

**Figure 9:** Levels of compliance with risk assessment according to college activity



$\chi^2$  tests show that there is a significant difference in the compliance levels between college intervention groups:  $\chi^2= 8.06$ ,  $df = 2$ ,  $p<0.05$  (see Appendix 10.4 for full details).

The results of these statistical tests should be treated with caution:

- From Figure 8 above it can be seen that compliance in those areas with local authority interventions is better than compliance in authorities with none,
- But that this impact is not shown to be statistically significant,
- The small numbers in each group makes reliance on the tests unwise, and
- There is a clear interaction between the different types of intervention by colleges and local authorities which will impact on the validity of tests.

When the project was designed, the researchers were aware of the possible impact of the colleges are an intermediary. The widespread involvement of college representatives in safety inspection was not anticipated however and this leads to the need to test compliance in a larger number of SMEs.

### Compliance with COSHH requirements

Whilst only those SMEs employing more than 5 staff are required to complete written COSHH assessments, those with fewer than 5 staff are also required to consider the chemicals used within their business. Therefore all SMEs were assessed for their compliance with this requirement. In total 12 SMEs were unaware of the concept of COSHH (similar to the numbers for risk assessment). Of the remaining 29 that were aware of the requirement, 27<sup>33</sup> had taken some steps to implement requirements in their business. This means that 63% complied in some form with COSHH. Table 7 shows the levels of compliance within SMEs according to the different levels of interventions experienced.

The numbers of SMEs complying is broken into a third category – partial compliance. This is because of the prevalence of SMEs collecting Safety Data Sheets to comply with COSHH but not carrying out an assessment of how they used the products/chemicals. Although the salon may have been complying with spirit of COSHH if they implemented all the controls specified in the sheets, this could not be tested and there was evidence of the salon as a whole not 'owning' the assessment process but relying of staff to read the warnings and instructions. Therefore these SMEs were deemed to have partially complied. This however meant that statistical testing was not possible due to low numbers in many categories.

**Table 7:** Summary of the levels of compliance with COSHH requirements

COLLEGE ACTIVITY	Compliance level	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
		No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	Met in full	2.4%(1)	2.4%(1)	2.4%(1)	7.3% (3)
	Met in part	0	7.3% (3)	0	7.3% (3)
	Failed	12.2% (5)	12.2% (5)	2.4%(1)	17.1% (7)
Contact yearly or less	Met in full	0	0	0	0
	Met in part	2.4%(1)	4.9% (2)	2.4%(1)	9.8% (4)
	Failed	2.4%(1)	0	0	2.4%(1)
At least 2 visits/year	Met in full	2.4%(1)	2.4%(1)	7.3% (3)	12.2% (5)
	Met in part	2.4%(1)	4.9% (2)	22% (9)	12
	Failed	4.9% (2)	0	0	4.9% (2)
Column total (i.e. total SMEs in LA group)	Met in full	4.9% (2)	4.9% (2)	9.8% (4)	19.5% (8)
	Met in part	4.9% (2)	17.1% (7)	24.4% (10)	46.3% (19)
	Failed	19.5% (8)	12.2% (5)	2.4%(1)	34.2% (14)

### Compliance in full

It was difficult to assess the quality and frequency of reviews carried out by SMEs, mainly because these tended to be done only when update sheets were received by suppliers. Some of the SMEs had linked the COSHH assessments with their risk assessments and updated the COSHH information at the same time. 19.5% (8) SMEs demonstrated that formalised reviews of the COSHH assessment were in place and were carried out annually with the review of the risk assessment. These SMEs had used information from the product suppliers and adapted for their own salon, they had also included information about cleaning products as well. These SMEs had either received 2+ visits/year from the college or inspections from the local authority.

### Compliance in part

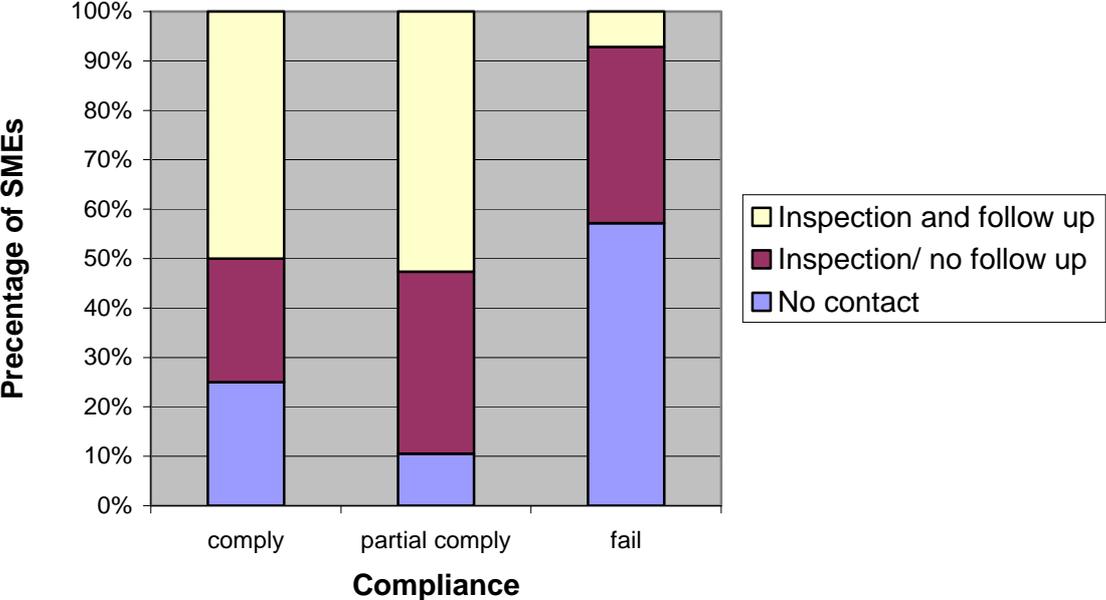
46.3% of SMEs (19) reported simply collecting chemical information sheets from suppliers on an ad hoc basis. This tended not to be sought actively by SMEs, instead sheets were collected as and when the supplier sent them through.

### Failed

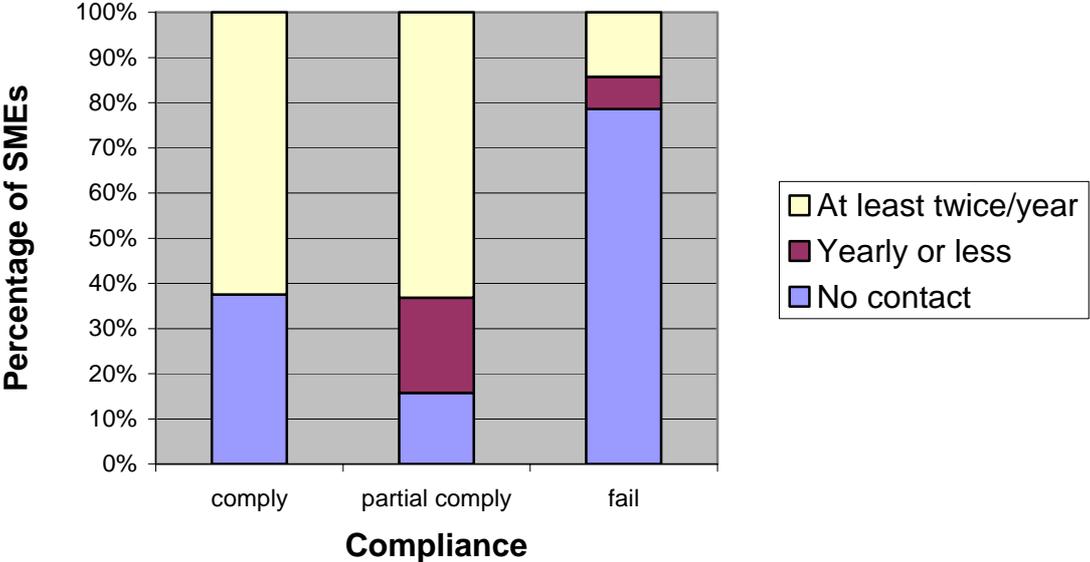
<sup>33</sup> The 2 SMEs that had not taken any steps to implement requirements were sole proprietors and did not believe any steps were required.

34.2% of SMEs were deemed to have failed COSHH requirements by virtue of the fact that they had not heard of the concept. 2 SMEs had heard of it but had chosen not to take any further steps because they felt as sole proprietors it was not necessary. 12 SMEs were unaware of the requirement and had not assessed the risks posed by the chemicals used in their business. 9 of these SMEs did not belong to a trade association.

**Figure 10:** Levels of COSHH compliance by local authority intervention



**Figure 11:** Levels of COSHH compliance by college intervention



### Compliance with electrical safety requirements

Electrical installations and appliances need to be checked regularly, recommended to be every 5 years for installations and annually for appliances. SMEs were asked about the actions taken in relation to the testing of electrical appliances in their business

**Table 8:** Summary of the levels of compliance with electrical safety requirements

COLLEGE ACTIVITY	Compliance level	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
		No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	Comply	2.4% (1)	14.6% (6)	2.4% (1)	19.5% (8)
	Non-comply	9.8% (4)	7.3% (3)	2.4% (1)	19.5% (8)
At least 2 visits/year	Comply	2.4% (1)	7.3% (3)	24.4% (10)	34.1% (14)
	Non-comply	7.3% (3)	0% (0)	4.9% (2)	12.3% (5)
Contact yearly or less	Comply	2.4% (1)	2.4% (1)	2.4% (1)	7.3% (3)
	Non-comply	4.9% (2)	2.4% (1)	0% (0)	7.3% (3)
Column total (i.e. total SMEs in LA group)	Comply	7.3% (3)	24.4% (10)	29.2% (12)	61% (25)
	Non-comply	22% (9)	9.8% (4)	7.3% (3)	39% (16)

### Compliance

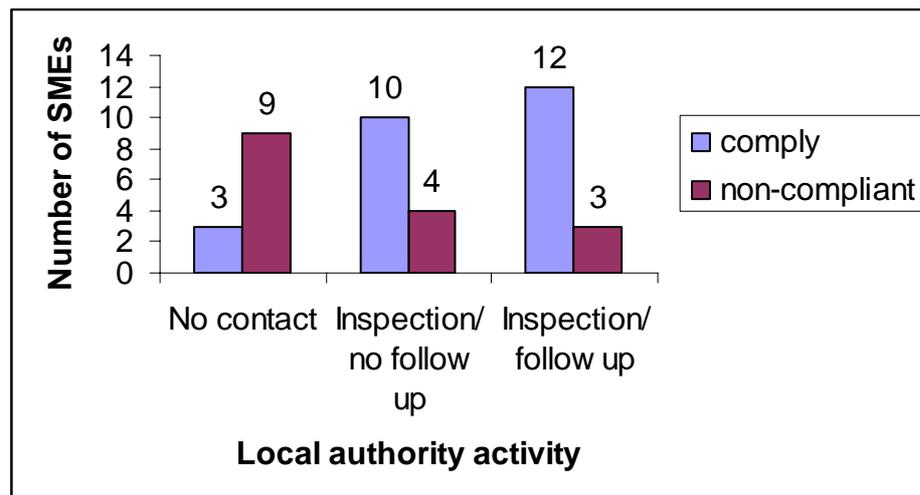
61% (25 SMEs) had appliances checked annually, the majority of these SMEs were located in areas with local authority and/or college interventions.

### Non-compliance

22% (9 SMEs) had previously carried out electrical testing, but were deemed to have failed requirements as tests were completed infrequently, or because they had tested them originally when they had bought the premises but had not planned to re-test them on a regular basis. 17% (7 SMEs) had not had any tests completed and therefore failed the legal requirements.

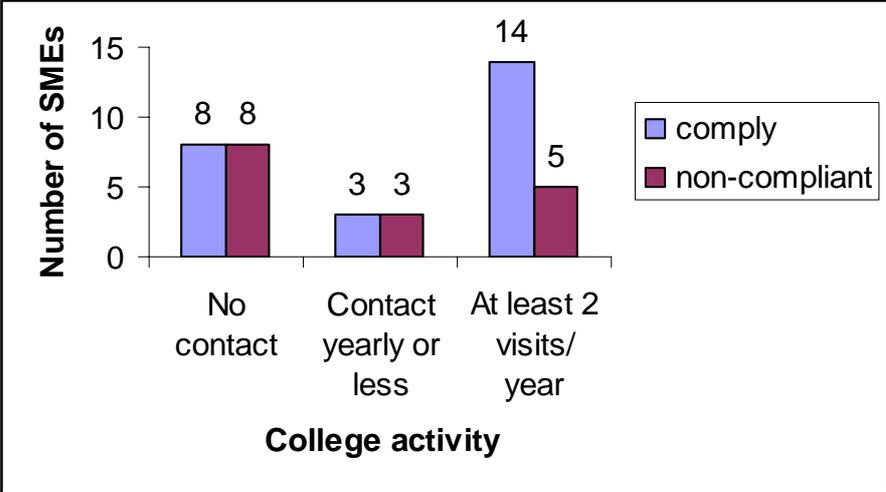
Figure 12 and 13 show the levels of compliance according to local authority intervention and college activity respectively.

**Figure 12:** Levels of compliance with electrical safety requirements according to local authority activity



$\chi^2$  tests show that there is a significant difference in the levels of compliance in the different intervention groups ( $\chi^2= 9.45$ ,  $df = 2$ ,  $p<0.01$ ). Details of the tests are contained within Appendix 4.

**Figure 13:** Levels of compliance with electrical safety requirements according to college activity



$\chi^2$  tests show that there are no significant differences in the levels of compliance in the different intervention groups ( $\chi^2= 2.40$ ,  $df = 2$ , NS). Details of the tests are contained within Appendix 10.4.

## THE SMES CONCEPTION OF COMPLIANCE

SMEs believed with differing levels of certainty that they complied with the legislation - none said that they did not comply with the law. SMEs either believed that they “definitely” complied (54%, or 22 SMEs), or “thought” that they did (46%, or 19 SMEs). Those that displayed less certainty indicated that they relied upon the local authority to advise them about compliance issues:

*“As far as we’re aware. We are also only too aware of our failings, or possible failings in that we think we do, and we do try and keep abreast. And we think we do what we can. But I’m also quite happy for [the local authority officer] and anybody else to come in at regular intervals if they want to and take note of any stuff that comes through and I’m only too happy to, wherever reasonably practicable to implement that and comply.”* Salon 1, LA6

*“I’m sure there’s loads of things that they’d find wrong that I don’t know about but really we just do what we’re told”.* Salon 1, LA4

*“You think everything here looks OK, but then when you’ve got someone else coming in that that’s their job to find everything you actually do. So I’m glad that they do it more frequently because then I haven’t got anything to worry about...”* Salon 1, LA5

47% (9) of the SMEs that “thought” that they complied were unaware of the risk assessment requirements. Of these, 21% (4 SMEs) employed more than 5 staff.

Of the 54% (22 SMEs) that stated that they “definitely” complied, 45% (10) were unaware of risk assessments (60%, or 6 of these SMEs employed more than 5 staff) and 32% (7) did not check their electrical appliances annually:

*“Yes. It’s common sense really. Most health and safety is common sense you know”.* Salon 1, LA2

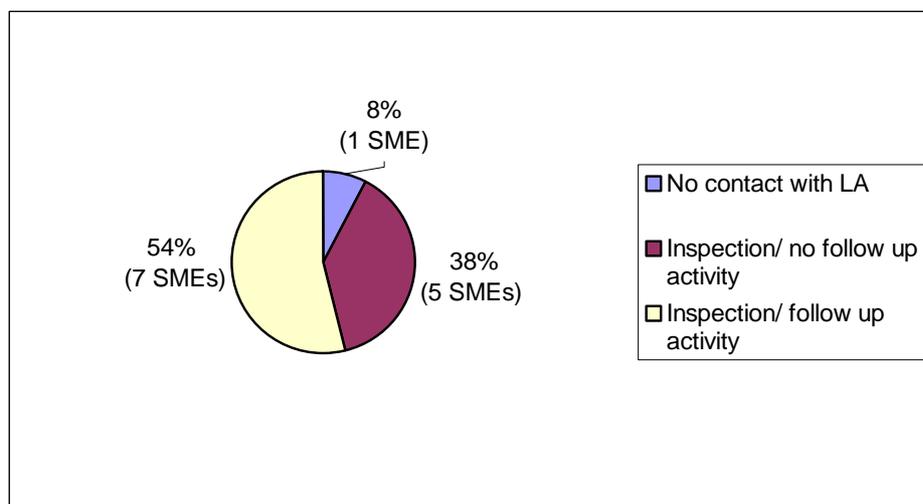
*“I don’t really know what else would be expected of us.”* Salon 5, LA1

SMEs were asked whether they planned to make any health and safety improvements in their salon. 32% (13 SMEs) did have plans including:

- Structural renovation/expansion to improve staff facilities (15%, or 6 SMEs);
- Training (5%, or 2 SMEs);
- Risk assessment (2%, or 1 SME);
- Improving staff use of gloves (2%, or 1 SME); and
- Consideration of the requirements of the Disability Discrimination Act 2004 (although not strictly related to occupational health and safety) was mentioned by 7% (3 SMEs).

15% (2) of these SMEs were instigating the improvements at the request of the local authority, the rest were proactive. All SMEs saw these as improvements to their business, rather than issues of non-compliance with occupational health and safety legislation. Figure 14 shows where the SMEs planning improvements to their business were situated in terms of local authority activity.

**Figure 14:** Distribution of SMEs planning improvements within local authorities



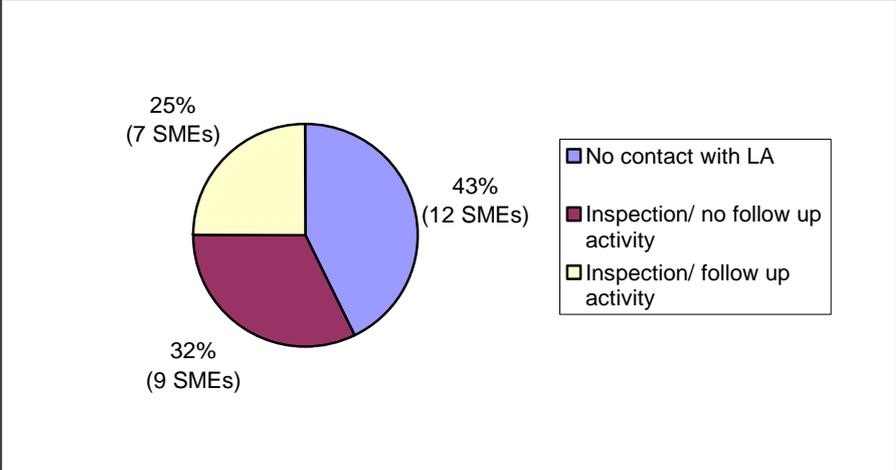
Of the 68% (28 SMEs) that had no improvements planned, 57% (16) did not belong to a trade association.

**Table 9:** The numbers of SMEs with no improvements planned

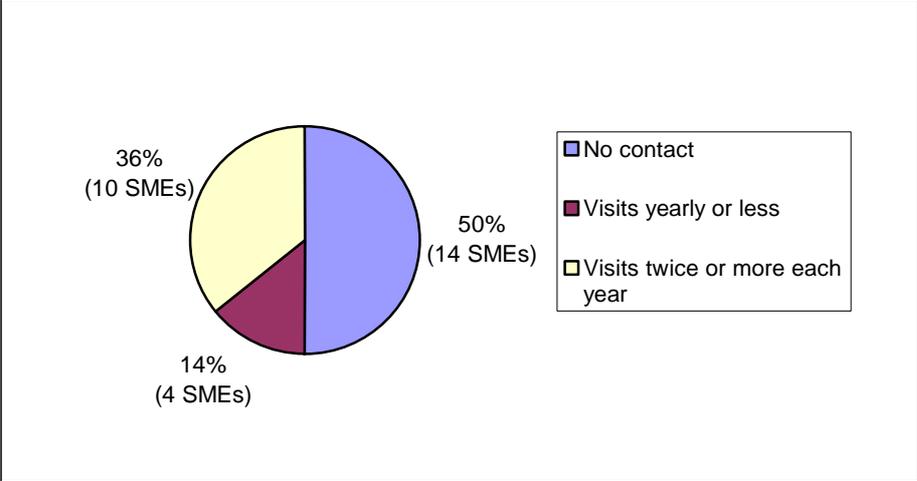
COLLEGE ACTIVITY	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
	No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	17.9% (5)	25% (7)	7.1% (2)	50% (14)
Contact yearly or less	10.7% (3)	3.6% (1)	0% (0)	14.3% (4)
At least 2 visits/year	14.3% (4)	3.6% (1)	17.9% (5)	35.7% (10)
Column total (i.e. total SMEs in LA group)	42.9% (12)	32.1% (9)	25% (7)	100% (28)

The following figures show the distribution of SMEs with no planned improvements within local authority areas (Figure 15) and receiving different levels of interaction from colleges (Figure 16).

**Figure 15:** Distribution of SMEs with no improvements planned within different local authority areas



**Figure 16:** Distribution of SMEs with no improvements planned receiving different contact levels from colleges



Those that had no improvements planned often cited the reason for no more action being taken because they weren't sure what the occupational health and safety requirements were:

*"No, not really... I think I do everything, you know, how I feel it should be done. Whether it would be right for a health and safety person who came in, I don't know do I? I mean, like I said I've only seen them once". Salon 2, LA1*

*"I think there's always room for improvement but thinking off the top of my head right now I'm not sure how we would improve things. I'm not sure what's expected of us in a way because we've never had any literature to say you must do this, this and this... Salon 5, LA1*

## THE COMPLIANCE PROCESS

The compliance process undertaken by SMEs was examined through a series of both general questions about accessing occupational health and safety legislation as well as more specific questions about dealing with hazards. In particular, emphasis was given to identifying the process involved in dealing with the self-regulatory requirements contained within occupational health and safety legislation. The compliance process model developed in section 4.2 was used to guide the presentation of the results. The sequence of steps here is for ease of presentation. In reality there was little evidence for sequential steps occurring.

### Identify and interpret regulations

This was tested by examining the ways that SMEs accessed information on occupational health and safety legislation and the effects of different interventions in raising awareness about legal requirements. This included identifying the sources of information used by SMEs and assessing whether these were sought proactively by the SME or whether they tended to wait until it was provided to them. Table 10 shows the information sources available to SMEs. 66% (27 SMEs) relied on a combination of information sources.

**Table 10:** The types of information sources used to obtain occupational health and safety information

<b>INFORMATION SOURCE</b>	<b>NUMBER OF SMEs</b>
National Hairdressers Federation (NHF)	49% (20)
Hairdressers Journal	24% (10)
Local authority	54% (22)
College	39% (16)
Flyers	22% (9)
Website	5% (2)
Consultants	7% (3)
None	12% (5)

Written information was seen to be of limited use, a number of SMEs noted that they had not actually read the leaflets sent to them:

*“To be quite honest I didn’t even really read it. Health and safety is an issue, but you just don’t, it’s common sense... Salon 1, LA2*

*I get things periodically but I don’t always read them...”. Salon 4, LA3*

Some comments showed how the SMEs filtered information, and because the language of the leaflets did not describe situations or contexts that related to their own businesses, the information was discarded:

*“I can’t honestly say that I read everything about it. You know, I might read the first paragraph or something and think well this doesn’t apply to me”... Salon 3, LA3*

Several noted that the information sent to them from the trade associations tended to be specific and more directly relevant to them than the information from the local authority:

*“more helpful than that from the council because it is like, to us. It’s not a general ‘do this, do this’. It’s purely for hairdressing. They only tell you the things that you need to know, rather than what catering needs to know and all that sort of thing”. Salon 2, LA3*

*"The federation is a little bit more, well, they're more used to hairdressing so whereas the council, it's an overall health and safety isn't it?" Salon 6, LA6*

The majority of these sources of information were seen to be reactive – receiving leaflets, flyers, information from the NHF and journal. Only 2 SMEs mentioned accessing the internet to follow up on occupational health and safety issues. Where local authorities had held seminars for hairdressers<sup>34</sup> it was noted that within the SMEs participating in the interviews, 9 SMEs had attended these seminars and 1 SME attended a privately run course. Reasons for doing these were predominantly from a sense of duty, to protect staff and customers by being seen to do something proactive:

*"We've been inspected twice, and obviously if you're having somebody coming to inspect you... you like to think that you've actually got everything in place before that happens. So it was nice to have something like that, saying well this is the guidelines or this is you know, areas that have changed and what you should be aware of..." Salon 6, LA5*

*"That's why I do go to a lot of the seminars... They've just had the most recent ones which was to do with nail bars. Because although you get updated with all the new treatments you don't ever get updated with all the new laws and legislation and the latest one being the asbestos and the disability stuff. I didn't know about that and I should know. You know, being naïve, that's not a good enough excuse but sometimes I wish it was a bit more known." Salon 1, LA5*

SMEs were also asked how they would find out if the law changed and whether they had any mechanisms in place to identify such changes. 15% (6 SMEs) proactively sought out changes to health and safety law by attending seminars, regularly carrying out internal health and safety inspections or using the internet specifically to identify changes. 83% (5) of these proactive SMEs received at least two visits from the college each year, and all received some form of inspection with or without follow-up activity from the local authority. These SMEs were often prompted to act by the media:

*"You know, and if you do hear anything on the radio or you spot anything in a trade article or something like that because that's the way we are, we do link in and we take it, you know" Salon 1, LA6*

The remaining 85% (35 SMEs) relied on information being given to them. The majority (89%, or 31 SMEs) of these were confident that they would be informed of relevant changes:

*"Well I would hope so, but I don't hold out much hope of being told..." Salon 1, LA1*

Those that were confident about being told tended to expect someone to inform them, either the local authority:

*"We usually get like letters from the council. Leaflets every now and again" Salon 1, LA5*

*"I don't know to be quite honest, I'd wait for them [the local authority] to come in and tell me because I know in most cases they'll say right this, this and this has to be done and you just have to do it... Salon 1, LA4*

A Trade Association:

*"The only way that we get any idea about new laws is from the Federation of Small Businesses. If anything ever does come out they tend to send out a bulletin to make sure that every business that's part of the federation is obviously kept up to date. But that would be the only way. If we weren't a member of that we wouldn't know. Salon 5, LA1*

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<sup>34</sup> Of the SMEs attending local authority seminars (22%, or 9 SMEs), the majority were attended within LA5 (inspection/follow up activity) (78%, or 7); although 22% (2 SMEs) attended seminars in LA3 (inspection/ no follow up activity).

*“Through the hairdressers federation... Well because it’s hairdressing, they find everything out for us, you know... Salon 6, LA6*

The media:

*“or you read in paper, don’t you, you read about it, like new law that’s coming in October, isn’t it, about disability...” Salon 7, LA6*

The college:

*“At the moment I think Interhair would let us know or [the local] council. They’d let us know certain things”. Salon 2, LA5*

11% (4 SMEs) were not confident, these received no inspections from the local authority, received either yearly or less or no visits from college and none belonged to a trade association.

Section 6.2 showed that there were differences in the SMEs awareness of risk assessment concepts (66%, or 27 SMEs, were aware; 34%, or 14 SMEs, were not aware). Table 11 shows the levels of awareness in SMEs receiving different interventions. This shows that 56% (15 SMEs) aware of risk assessment received at least 2 college visits a year and 78% (21 SMEs) received some form of local authority inspection activity.

**Table 11:** The numbers of SMEs aware of risk assessment

COLLEGE ACTIVITY	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
	No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	3.7% (1)	14.8% (4)	7.4% (2)	25.9% (7)
At least 2 visits/year	7.4% (2)	11.1% (3)	37% (10)	55.6% (15)
Contact yearly or less	7.4% (2)	7.4% (2)	3.7% (1)	18.5% (5)
Column total (i.e. total SMEs in LA group)	18.5% (5)	33.3% (9)	48.2% (13)	100% (27)

SMEs were questioned in order to establish how they had become aware of the requirements for risk assessments, and thereby identifying whether one information source was seen to be more effective than another:

- 26% (7 SMEs) stated that they found out from local authority during inspections
- 19% (5 SMEs) had found out from college visits when checking student placements;
- 11% (3 SMEs) found out from college students having to complete a risk assessment as part of their course;
- 33% (9 SMEs) had general business awareness of the requirement, e.g. from previous employment in other salons or business sectors; and
- 11% (3 SMEs) had paid for consultants to carry out a health and safety inspection/paid for information updates that had advised of the risk assessment.

Table 12 shows that where SMEs were unaware of the concept (34%, or 14 SMEs), 71% (10 SMEs) had little/no contact from the college. Where either the local authority or college made regular inspections/follow ups 14% (2 SMEs) were still unaware. Examination of these SMEs indicated that they had only recently started the business (less than 1 year in business), only 1 inspection from the local authority had been received and only risk assessment leaflets had been given.

**Table 12:** The numbers of SMEs unaware of risk assessment

COLLEGE ACTIVITY	LOCAL AUTHORITY ACTIVITY			Row total (i.e. total SMEs in college group)
	No contact	Inspection/ no follow up	Inspection/ follow up activity	
No contact	28.6% (4)	35.7% (5)	0% (0)	64.3% (9)
At least 2 visits/year	14.3% (2)	0% (0)	14.3% (2)	28.6% (4)
Contact yearly or less	7.1% (1)	0% (0)	0% (0)	7.1% (1)
Column total (i.e. total SMEs in LA group)	50% (7)	35.7% (5)	14.3% (2)	100% (14)

### Compliance decision

Once SMEs were aware of the legal requirements, they took action to implement steps. There did not tend to be a decision about whether or not to comply. Only 7% (3 SMEs) were found to have not complied with requirements made:

- one was waiting for the inspector to return to help her complete her risk assessment (confirmed by the local authority);
- one was awaiting a builder to install ventilation; and
- one SME had been told to do a risk assessment but had not complied because they did not expect to receive another inspection for some time:

*“What’s the point?... It’s not been enforced and I haven’t had regular inspections”.*  
Salon 5, LA3

SMEs generally complied with requirements regardless of whether they agreed with them or not. Those SMEs that had implemented written risk assessment into their business were asked whether they believed that they improved occupational health and safety. Consensus was split equally between those that thought it was “common sense”:

*“Well we were always taught at the college or when you first started hairdressing that everything, it just comes automatically anyway. Salon 6, LA6*

and those that believed the process has been beneficial in raising awareness:

*“I think it makes you aware... because I think especially when you’ve got young staff. You know, it’s things like in the staff room, colours are on one side, food’s on the other. You know, do not put food on that side where your chemicals are... its keeping everybody else on top of it all”.* Salon 1, LA6

### Specify method

This part of the compliance process was examined by questioning SMEs about the risk assessments completed. Whilst not all SMEs had written risk assessment in place, the compliance process relating to self-regulatory requirements was tested by examining the quality of SME understanding about hazards and risks in terms of:

- The types of hazards identified;
- The types of controls identified as appropriate to the business;

#### a) Identification of hazards

SMEs were asked to identify the main hazards that they believed affected their business. Slips, trips and falls (STF), electrical safety and chemicals were the main hazards noted by SMEs:

- Slips, trips and falls were noted by 55% (22 SMEs);
- Chemical safety was noted by 34% (14 SMEs); and
- Electrical safety (the use of electrical equipment in close proximity with water) was noted by 36% (15 SMEs).

These were hazards that were seen to affect both customers and staff, and were generally perceived to be “common sense” issues that were obvious hazards in the salon.

*“Obviously one of the main ones, because we’re working with water, is not to touch, you know, any of the electrical sockets, hand-dryers, whatever with wet hands...” Salon 4, LA1*

#### **Only one salon mentioned dermatitis as a key health and safety issue:**

*“For staff I suppose, probably things like dermatitis, I suppose...I mean in all their inductions they’re given leaflets on dermatitis. How to prevent it...” Salon 6, LA3*

However, SMEs were then asked about staff-related health issues in order to identify whether there were in fact incidences of problems.

Dermatitis: 58% (24) of the salons interviewed had existing staff or had previously employed staff with dermatitis. Of these, 42% (10) had been in business for more than 15 years. 8% (2) of the salons noted that the problem was so severe that it had been reported under the requirements of RIDDOR.

*“Quite a lot of girls actually give up because of it but then some just carry on because they like it so much and put up with it. Salon 1, LA4*

*“Not everyone gets it, but most of the juniors at some stage suffer from it”... Salon 3, LA2*

42% (17) reported never having problems with dermatitis. 47% (8/17) of these had been in business less than 5 years.

**Back pain:** SMEs were asked whether they suffered from back pain, 68% (28) had experienced current or previous back pain. Only 22% (9 SMEs) stated this had never been a problem and 12% (5) of these had been in business <5 years.

*I suffer with that very badly myself... I’ve spent the last 2, 3 years going to see the chiropractor... Salon 4, LA1*

*“I’ve had an operation, from hairdressing. Oh yes that’s definitely posture. I had a terrible pain and I was ill for quite a long time...I still get pain in my leg which is the sciatic nerve which is from the back but it’s not continuous... I mean if you’re going to work on your feet it’s going to affect you.” Salon 6, LA2.*

RSI: Only 5% (2 SMEs) mentioned wrist problems, one was due to arthritis, one carpal tunnel. Therefore the following sections will focus upon dermatitis and back pain issues.

*“I did go beginning of last year because I had a problem with my hand. I had carpal tunnel...They say it’s a repetitive injury so the nerves get trapped here...They operate on you to cut the tendon to release the nerves underneath. As a last resort they do that, I had that done last July”. Salon 5, LA1*

#### **b) Selection of control measures**

In terms of staff-related health issues, there was a general attitude towards dermatitis and back pain as being “inevitable” consequences of working within a salon. In particular with back pain SMEs often felt that it was something that could not be overcome.

### **Dermatitis:**

Control measures noted by SMEs depended upon their view of the cause of the problem. The majority of SMEs believed that dermatitis was caused through shampooing and having wet hands (46%, or 19 SMEs), through a reaction to the chemicals being used (10%, or 4 SMEs), or stress (7%, or 3 SMEs).

Various different control measures were noted for dealing with dermatitis, although SMEs often relied on a combination of these measures:

- **Re-allocating the work load of those affected**

Only 2% (1 SME) had actually altered the working practice for the staff affected:

*And again for her what we've done with her, she does hairdressing every other day. She's a colour technician on the days in between. So she washes hair, she's a stylist and then the next day to give her hands a rest she's a colour technician. All she does is colour so she wears gloves and we try not to let her shampoo. So she's a very good girl that's got a problem with her hands so we do alternate days with her. So she can do one day and her hands might go a bit sore but she puts her cream on that night and the next day she doesn't, you know, she'll colour for us. So we've created the position for her". Salon 3, LA4*

- **Changed the use of products**

12% (5 SMEs) had purposefully bought more expensive products in order to avoid dermatitis problems:

*"And I don't use cheap shampoos and that kind of thing, and that can cause dermatitis". Salon 1, LA3*

*"I bought products.. natural products with lots of oil in them which helps the problem". Salon 3, LA2*

- **Improving procedures within the business**

7% (3 SMEs) noted that they undertake staff surveillance to check for any signs of problems:

*"It's like through the girl that got dermatitis, from then onwards we started doing a monthly check. You did them on the computer for us didn't you? So everybody automatically at the beginning of the month, we all have our hands checked... When you've got new staff, if you start you know...at least if you catch it all at the beginning you can deal with it. Salon 1, LA6*

- **Control at receiver**

The majority of SMEs relied on this approach in dealing with dermatitis - in terms of training staff to dry hands, wear gloves and use creams. Staff wore gloves to protect themselves from chemicals. Fewer used them for shampooing as a protective measure – gloves were only worn here if they had dermatitis:

*"The lady that's been with us quite a long time now, she actually uses rubber gloves all the time. Because that's the only way we've found that she can. She only gets affected slightly and it's only come on probably in the last 4 years...". Salon 3, LA3*

*"but the water and the shampoo did agitate her hands so she wears gloves every time. Every time she goes anywhere near the basin...". Salon 4, LA1*

Drying hands was seen as an important part of avoiding problems:

*"But it's really down to, it's not personal hygiene, it's looking after yourself, drying hands properly when you shampoo. Water is the real culprit... Drying your hands properly, move your rings..."* Salon 2, LA3

*"..that's her own fault because she doesn't wipe her hands properly"* Salon 3, LA1

Using barrier creams and moisturisers were also seen as a way to avoid dermatitis:

*"We've got hand cream in the back that Wella produce, especially for hairdressers and I've always provided everything like that. Everything that you could need. And I've always said it's there for you to use it...I think it's just common sense."* Salon 6, LA6

- **Nothing**

7% (3 SMEs) believed that the skin simply needs time to adjust

*"For long periods their hands are damp, and it passes. If they can get over the first two months, the skin toughens up and they go past it. It's mainly shampooing"* Salon 4, LA5

- **Leaving the hairdressing sector**

12% (5 SMEs) noted that they had had staff that had left because of the problem.

*"She actually had to give it up in the end because it just went all up her arm"*. Salon 2, LA5

**Back pain:** Most of the SMEs that noted problems with back pain accepted this as an inevitable part of the job and one that was not easily dealt with:

*"Any hairdresser that says they don't suffer would be lying -you stand up for 9 hours a day"*. Salon 2, LA3

*"I mean if you're going to work on your feet it's going to affect you."* Salon 6, LA2

Various control measures were identified, although these were not seen to overcome the problem completely – only 12% (5 SMEs) said that the measures taken solved the problem, for 44% (18 SMEs) it just improved the situation.

- **Altering work practices**

Adjustable chairs:

*"And one of my girls is extremely tall and we've actually got a hydraulic chair for her...so she can sit and cut, and when she wants to stand up to blow dry she can stand up"*. Salon 3, LA4

Use of cutting stools:

*"No, we use cutting stools ever such a lot and I think that alleviates a hell of a lot. I mean, I'm the tallest one in here, so if anybody's going to get it, it's me. And I'm OK, because we all do tend to use the stools. And when we get a new member of staff in, I mean Nicky, well she's been here a month, you can always tell because ...give them a few weeks, they've got the hang of it and they will sit and they will use the stools. Once you've used them, it's hard work standing up. It makes sense because you are naturally comfortably sat at head level, you know, you're not bending down and twisting..."* Salon 8, LA3

▪ **Control at receiver**

Improving posture – training staff

*“Teach people to stand properly, bend, you know, bend your knees...you do get brilliant leg muscles”. Salon 2, LA3*

*“And also during the training we do correct juniors on standing...Whether they always do it and whether they take it up at the end of it, it’s like you can only go so far...” Salon 1, LA6*

Wearing flat shoes

*“I wear flat shoes or just a small heel and I use the hydraulics properly I don’t have any problems. It’s just the fact that I’ve just got bad posture” Salon 1, LA6*

Chemical safety for customers:

SMEs were asked what precautions were taken to prevent problems from occurring with chemical treatments. The predominant method was to complete a skin test before the customer attended the salon for the treatment. 61% (25 SMEs) carried out some form of skin testing on customers at least 24 hours beforehand, although tests varied (e.g. elbow, wrist or behind ear; 24-48 hours before; sealed with nail varnish or not; colour used – black/colour to be used). Not all of these skin tested existing customers – only 5% (2 SMEs) actually re-tested existing clients:

*“If we’ve done their hair within 6 months you don’t have to re-test. If they haven’t had their hair coloured in your salon for 7 months then they’ll have to do the skin test before we colour their hair. If they’ve never had a colour here we have to do a skin test. And even on our training nights ... we have to have skin tests at some point the week before and then come back within 24 hours”. Salon 3, LA4*

Only 24% (6) of the above SMEs stated that they would refuse to colour the hair if the client refused to take a skin test:

*“Well we’re in a quandary because ... we’ve had to say well we can’t do it then and they’ve gone to another salon who’s done it. But what if that’s the one client that reacts?” Salon 3, LA4*

*“I would rather turn the business away. Because at the end of the day it’s my name on the plate really...” Salon 5, LA5*

22% (9 SMEs) did not carry out skin testing on clients, or completed inappropriate tests:

*“To be honest it is very rare that you actually come across somebody that’s ever had a reaction. .. The reality of actually trying to do somebody, get them to come back... it’s not going to work.. We don’t actually, it is something that we should do, but we don’t, we just go ahead and do it” Salon 8, LA3*

*“because if you’re going to react it will happen quite quickly. We test them behind the ears and get them to walk around for a few minutes”. Salon 5, LA2*

Barrier creams and cotton wool were used to protect clients when applying perms etc as a matter of good practice in all SMEs.

## Communication and implementation of control measures

### Dermatitis:

All SMEs provided gloves for their staff to wear, but the majority left the decision as to whether or not to wear gloves with the staff. Only 10% (4 SMEs) enforced a requirement for staff to wear gloves when colouring customer's hair.

*"I have to enforce that they put the gloves on because I think it's my responsibility to do that. So at the end of the day it's a bit like a builder, you can supply the hard hat, if they have an accident and they haven't got it on, it's your fault" Salon 5, LA5*

SMEs generally placed the responsibility for taking precautions onto the staff. It was left to staff to decide on the level of protection to be taken:

*"I've covered myself... if anybody wanted to mix up hair colours using a mask and goggles and gloves and aprons. It's all there but they don't use it..." Salon 3, LA4.*

Interestingly this is the same company that stated that they would refuse to colour client hair if refused a skin test.

SMEs noted that staff will wear gloves to protect their hands from becoming stained by tints, although it was a voluntary issue:

*"You have to really otherwise your hands would be all coloured brown... There's boxes and boxes of gloves for them. If they don't wear them it's their own fault". Salon 3, LA4*

*"We would wear gloves if we're doing a very dark colour. We would sometimes wear gloves to remove colour but perming we wouldn't wear gloves. And if we're doing foil work we wouldn't wear gloves to apply the colour either because it just doesn't feel the same with gloves on"...  
"And sometimes actually by wearing gloves and your hands getting very hot and sweaty it can actually, that can irritate them more than the colour...". "We only use them for dark colours, so it stops our nails and hands getting stained". Salon 5, LA1*

Communicating control measures to avoid dermatitis and back pain was generally not part of a formalised process within the SME. There was a heavy reliance upon the training colleges to inform students about general occupational health and safety issues. SMEs did carry out some form of induction training in the company, generally informal discussions between the owner and new staff member.

Whereas the wearing of PPE was generally not enforced by management, those control measures relating to general salon-centred issues were. This particularly related to sweeping up hair from the floor regularly and clearing up any water spillages in order to avoid slipping hazards.

### Evaluation and monitoring of control measures

24% (10 SMEs) were found to review their risk assessments regularly. 90% (9) of these SMEs were located within local authority areas undertaking inspections with follow-up activity and/or received at least 2 visits from the local college each year. These SMEs noted that there was a requirement to review the risk assessments each year:

*"Yes you have to. You have to do that every year" Salon 6, LA6*

Those that did not undertake any formalised reviews of work practices noted that this because these had not changed and therefore there was no need to complete a review. SMEs held this view even where suppliers had launched new products:

*"...basically its pretty much the same because obviously you're using the same tools, training equipment. And really nothing much changes you know."* Salon 6, LA1

*"But it's not been re, updated or whatever...But then again generally nothing really changes..."* Salon 6, LA4

SMEs generally did not demonstrate a formalised approach to monitoring control measures put in place – if they did not overcome the problems being experienced, then they tended to believe that they had taken all the steps that they could. This was mainly relevant to issues of dermatitis and back pain:

*"well they do these chairs which you can adjust...I find it very difficult when I've stood all my life and I'm only a shortarse"* Salon 6, LA2

*"A lot of people though were never taught to stand properly from the start...The thing is you've got to support yourself. If you're free-standing you're going to have backache problems..."*  
**Have you ever used a cutting stool?** *"Tried that it didn't work"* Salon 7, LA5

*"Sometimes you find it in apprentices when they first start off...they have to dry them properly and use hand cream on them... but usually if anybody does actually suffer from dermatitis they just have to give up."* Salon 6, LA1

## 6.5 REASONS FOR COMPLIANCE

A number of reasons were given for complying, or taking steps that were believed to be compliant with the law, some SMEs gave a number of reasons for taking specific steps in compliance.

### General duty to comply

66% (27 SMEs) stated that they complied with occupational health and safety legislation "because it's the law". This also included those who were afraid of the local authority:

*"We would do it, oh yes, because I mean they can get quite funny at anything. I mean they can really push it...and over something silly like that I wouldn't want to be shut down so obviously, yes we would get it done"*. Salon 6, LA4

*"I suppose its, just health and safety is just kind of like Inland Revenue, tax. You just don't mess about, you stick with it, you do everything properly"*. Salon 1, LA5

Many SMEs had not received local authority inspections and had therefore never been told to do anything by the local authority. In addition, where inspections were carried out with no follow up, SMEs were often not required to undertake work. This meant that there were less SMEs available within the case studies that could be questioned about responses to such interventions. In total 41% (17 SMEs) had been required to undertake works following an inspection.

Of those that had been told to complete work, the majority (94%, 16 of the 17) had complied, even if where they did not agree with requirements. Requirements were often quite prescriptive – for example, filling in a health and safety poster or carrying out structural:

*"..they'd actually come out and insisted that we had a glass window put into the door to the staff room. Reason being that if somebody was on fire in the salon and we were in the staff room, we would be able to see them. So we said, well we would have thought we would have heard them by then!... I mean it was a woman then that came out and I mean we did, we did comply, yes. That was one they insisted on..."**"It was one of those things that it was really sort of made to be 'well you really should do this'. And so OK, we'll go down that way and we did actually do this..."* Salon 8, LA3

*"But I mean I don't think it's a major problem. I mean OK, we all use the toilet but other than that, I mean you can count on your hand the number of clients that actually use it, you know. So I personally don't think it's a big problem... We would do it, oh yes,". Salon 6, LA4*

*"No. Well I did it because I wanted to stay with the law and she was a scary girl. People that tell you what to do and there's a way and a word." Salon 6, LA2*

In addition, the inspector also completed informal visits to assist in the completion of the risk assessment. 35% of the SMEs implementing some form of risk assessment (7/20) had done so because the local authority had told them to do it during an inspection:

*"I think actually somebody probably did come 4 years ago and we did discuss risk assessment" Salon 3, LA4*

In terms of electrical testing requirements, 61% (25 SMEs) complied with requirements. 80% of those complying (20) did so because the local authority inspector had required it:

*"because the health and safety chap ... told us we had to...and I like to try to keep within the law..." Salon 4, LA3*

There was almost complete unanimity between all SMEs in terms of being unaware of what the levels of enforcement activity were within the local authority:

*"I can't say we've heard, the odd food place might have got closed down over a number of years going back a while. But in general, I don't know as you'd hear of it really..." Salon 7, LA5*

*"I don't know...I've never heard of it, but that's not to say they don't". Salon 4, LA4*

However, businesses either assumed that quite strict enforcement action could be taken by the local authority if non-compliance was found in the premises:

*"Because I thought she was, well because if I didn't I would be closed down or something like that... Well I gather, is that you have a health inspection, a health and safety inspection, if they bring up points and then you don't action them, you know, they have the power to turn round and say right, they'll warn you. If you still don't do it, they have the power to close your business..." Salon 6, LA5*

*Well I think they could enforce you to do it [RA] and if you didn't comply I suppose shut you down" Salon 4, LA5*

Or were completely unsure as to what action could be taken:

*"I don't know really. I really don't know. I mean nobody's been since then to check and make sure I've done it. But I do know that they just do on the spot checks... I suppose they would tell me again and then I suppose if it's really serious. I don't think it's a closing down thing but for something perhaps more serious then I suppose that would be the stance that they would take..." Salon 5, LA6*

*"I don't know. I'd expect them to tell me, and then I could obviously rectify it". Salon 1, LA5*

In one particular local authority district where there was very little enforcement or intervention activity, the SMEs did not believe that it was the role of the local authority to enforce health and safety requirements:

*"I just thought that if you're a private business then it's your own responsibility for health and safety". Salon 3, LA4*

*"I always would have assumed that health and safety was Government. Not down to local county councils". "I wouldn't expect them to do anything. It wouldn't be their responsibility, would it? It's my space ...But I don't think it's anything to do with the council. What goes on in here is between client and stylist, isn't it? Or client and proprietor. That's my responsibility". Salon 4, LA1*

### **Pressure from the local hairdresser training college**

17% of the total number of SMEs (7) and 28% (7/25) of those SMEs with contact with colleges stated that the reason that they complied with the legislation was because of the local training college. They noted that the college could remove workplace students if standards were inadequate:

*"When they take on a salon...we've got trainees that need training and we go to Paragon and say 'will you train our trainees'. So they say 'yes but we'll come and inspect your salon first'. So they come and inspect it to make sure they're happy with our standards and with our health and safety and that we're going to uphold everything that they teach..." Salon 2, LA3*

*"They do come and check up that you've got everything. They've been to see I've got liability and I'm insured and all things like that. Yes they do do that. I don't think they allow them in if you're not covered" Salon 7, LA6*

Where the college had required health and safety posters, accident books and risk assessments to be implemented in the business, all SMEs complied – predominantly because of the threat of being withdrawn from the college placement system. One SME was awaiting a visit from the college to help him do the risk assessment.

Of the 20 SMEs that had complied (either in full or in part) with risk assessment requirements, 50% (10) had taken steps to comply because of the college visiting and requiring an assessment to be undertaken.

*"So we have to have it done for us to have trainees. If that's not done, no trainees. So it is sort of catch 22". Salon 8, LA3*

Or because it was part of the NVQ Level 3 training course for managers:

*"Oh yes I sat and did all them a couple of years ago...It was part of the college course anyway, I've done that." Salon 1, LA6*

### **Reputation**

20% (8 SMEs) had taken steps to implement health and safety issues because they wanted to protect their reputation:

*"You know, I don't want people saying 'oh God, I went there'..." Salon 2, LA3*

### **General good "business" practice**

When asked about risk assessment requirements, 7% (3 businesses) stated that it was general good "business" practice to have done so:

*"in general if you're in business you know that you have to do a risk assessment anyway. Salon 6, LA6*

This was also noted to be a factor in several SMEs that tested their electrical appliances annually:

*My actual basic hairdryers are serviced every year. Basically because they get clogged with dust and hair.... They just don't work so you get them checked every year to make sure they're still in good condition". Salon 2, LA1*

### Moral duty

10% (4 SMEs) cited a moral obligation to protect both customers and staff, particularly as many of their staff were young school-leavers:

*"We do care about young people. We want the workplace to be a good place to be".* Salon 3, LA4

### Liability

Only 7% (3 SMEs) specifically mentioned liability as the reason for implementing requirements:

*"Well I think in today's society, we're getting so Americanised where we sue, sue, sue for everything aren't we... Peace of mind. I mean you're clients coming in to you. You want everything to be safe. You don't want any problems. You don't want any hazards... I wouldn't want the worry of it... I mean you do your best but.."* Salon 6, LA1

In general however, 51% (21) SMEs discussed their worries about being sued and the effect it would have on their reputation. This was not in response to complying with requirements but related to problems with treatments going wrong etc.

*"We're all frightened to death. If you care you're frightened to death..."* Salon 3, LA4

*"Yes, because people can get a bad reputation just by hearsay can't you. You know, through no fault of your own. A bad reputation goes around a lot quicker than a good one really, doesn't it?..."* Salon 4, LA4

The impact of concern over liability on the motivation of the SMEs to proactively find information of requirements is shown in Table 13. Of the 51% (21 SMEs) that mentioned liability, the majority had a better awareness of legislative requirements. The levels of awareness of those SMEs worried about liability are significantly higher than those unconcerned. It is unclear as to whether awareness of risk assessment causes SMEs to worry about reputation (because of more knowledge or interest) or worries about liability meant that SMEs found out about risk assessment requirements.

**Table 14:** Awareness of health and safety issues and level of anxiety about liability

<b>Awareness of issues</b>	<b>Worried about liability: 51% (21 SMEs)</b>	<b>Not worried about liability: 49% (20 SMEs)</b>
Aware of risk assessment requirements	86% (18)	45% (9)
Implemented risk assessment requirements	71% (15)	40% (8)
Aware of COSHH requirements	86% (18)	55% (11)
Implemented COSHH requirements	100% (21)	45% (9)

SMEs that were not worried about liability stated that their public liability would cover them if anything was wrong:

*"It's what our insurance is there for... if anybody wants to sue, if you can subsequently prove that we've done something wrong the insurance company pays, not us. We try and comply, we try and do what we can but if we've got it wrong, we don't expect, we don't profess to be perfect. If it's something we've got wrong and the insurance company end up paying, that's not a reflection on us"* Salon 1, LA6

*"But it doesn't worry me from a financial point of view because obviously we've got a very good insurance, that covers our public liability..."* Salon 5, LA1

## 6.6 REASONS FOR NON-COMPLIANCE

The vast majority of non-compliance was due to a lack of awareness and understanding of the legal requirements. Examples included SMEs that had not heard of risk assessment or COSHH; or those that knew that electrical appliances should be tested, but believed self-testing was sufficient to comply.

46% (19 SMEs) had implemented COSHH in part. Several of these businesses believed that information given from the chemical suppliers, placed in a file was sufficient to comply with the regulations:

*"See, it's all here already. I don't see why I need to write it out again because that is our business." "I think that is what puts people off, is just having to write it all out again". Salon 2, LA5*

*"I personally feel that if we know the risks, that we're using the products and companies that we deal with tell us what we've got. And we follow those guidelines, then do I need to?" Salon 5, LA3*

Others that had incorporated a more specific COSHH assessment did not review this because they did not believe it was necessary:

*"I don't change my stock, I use the same stock repeatedly. 2 purposes really. One is if it's not broken don't fix it. I know what they're capable of. And 2, like you've just said, when you start chopping and changing products, you need to have to learn to know what they're about. And I really, I don't have the time to keep renewing my knowledge on each product. So I stick to what I know basically". Salon 4, LA1*

Where SMEs had been told to undertake health and safety requirements, SMEs generally complied with requirements regardless of whether they agreed with them or not. 7% (3 SMEs) were found to have not complied with requirements made, only 1 of these had actually made a decision not to comply.

## 7.0 DISCUSSION

### 7.1 LIMITATIONS OF THE RESEARCH

The main problem encountered in this research was in identifying local authorities carrying out extremes of activity, and of finding businesses within these authorities that had had contact with local authority interventions. The research design was based upon one used in previous work undertaken within the field of food safety (Yapp and Fairman, 2004a). Food safety enforcement however is operated differently to that in health and safety. There are historic reasons for this: food safety enforcement has a history of external review. Originally rates of food safety were an Audit Commission 'environmental health service performance target'. This has led to food safety inspection numbers often forming one of the Best Value internal indicators used by local authorities within BV 166. Percentages of food businesses inspected yearly are also collected by the Food Standards Agency and poor performers are named. Food SMEs, included in the food safety project, were therefore all inspected at least every 18 months. All local authorities kept detailed records of these inspections, the contraventions noted, and the actions taken by the local authority in dealing with these issues. The study therefore had no difficulties in identifying businesses that had had contact with the local authority and had historical intervention data on each business.

Within the investigation of SME compliance with occupational health and safety legislation, there were huge differences between the service provision of the local authorities included in the research. Whilst one category of local authorities ("No contact") were not expected to inspect businesses and therefore keep records relating to businesses, the second group of local authorities ("Inspection/no follow-up") were found to keep incomplete inspection records. For example, LA4 issued businesses with an inspection sheet at the time of the health and safety inspection but kept no record on the premises file. This not only meant that subsequent inspectors visiting the premises would be unaware of the issues discussed at the previous inspection, but also meant that the interviewer could not question SMEs about previous local authority activity.

The local authority selection process was also problematic in terms of identifying local authorities that undertook additional promotional activities for occupational health and safety. For example, LA3 was originally placed in the "Inspection/follow-up activity" group, based on the LAE1 form examined, the service plan submitted to HELA and a telephone conversation with the principal health and safety officer at the local authority. However, when the SMEs were interviewed it became apparent that whilst they received inspections these were cursory visits, little or no information and advice given, no follow-up visits or letters were made and few SMEs had attended the promotional seminars held by the local authority. This is not to say that the local authority as a whole did not carry out such work, but that the SMEs participating within the research could not be categorised as having received follow-up activity. Following discussions with the Health and Safety Executive it was agreed to transfer this local authority into the other category ("Inspection/no follow-up activity").

Identifying local authorities undertaking follow-up activity for the SME category chosen proved extremely difficult. Service plans showed that whilst local authorities were carrying out promotional work, these were often generalised for all business types, or were targeting other sectors. Considerable time was spent consulting with various contacts at the Health and Safety Executive in order to identify local authorities that were known to have completed specific initiatives relating to hairdressers. These were then contacted and were only included if they also were found to follow up inspections with letters outlining contraventions and requirements needed and/or make revisits to premises.

Another problem arose as a result of the selection of hairdressers as the business sector to be examined. Prior to commencing the research, the researchers were aware that SMEs may have some contact with local hairdressers training colleges when students completed work experience. During the case studies it was found that not only did many SMEs have contact

with the colleges, but representatives from the colleges often carried out regular inspections of the premises themselves in order to fulfil their own legal obligations for ensuring the health and safety of their own students. This impacted on the analysis of the case studies, because the impact of the college's requirements upon the business often raised compliance standards, even where the SME had no contact with the local authority.

Although an unexpected finding, that made analysis of the data difficult, this area of the work is one of the most interesting of the whole study. Although intermediaries are often cited as having influence on SMEs, the training college was impacting the actions of the SME in a very unexpected manner. This is discussed in detail in Section 7.5. Further research would be beneficial in this area in identifying the content of the inspections completed by the college. For example, do they cover the same health and safety issues as the local authority?

Further investigation is also required to identify whether hairdressing businesses are unique in terms of receiving this additional support from local training colleges. It is likely that any vocational work, for example motor vehicle mechanics and construction workers that are based at a local college and receiving on-the-job work experience may also be receiving visits from college representatives and this may raise awareness of occupational health and safety requirements.

## **7.2 LOCAL AUTHORITY HEALTH AND SAFETY PROVISION**

One of the initial objectives of this research was to identify the range of local authority health and safety services. The findings were reported separately (see Yapp and Fairman, 2004c) but will be briefly discussed here. The review of local authority service plans submitted to the HSE showed that there was great disparity in the levels of service provided to businesses. Many authorities did not undertake health and safety visits unless combined with a food safety inspection (thereby limiting the sectors visited), or restricted service provision purely to investigating reported incidents. Others did carry out health and safety inspections and provided evidence of some follow-up activity (for example revisits, or service of improvement notices).

Whilst the service plans showed that local authorities did carry out educational initiatives, these were often limited in their scope. In particular, it proved to be extremely difficult to identify local authorities that had carried out any educational activities that had been accessed on a wide scale by the business sector targeted in this research project. The problems that resulted were discussed above in Section 7.1. However, there are wider implications as well, particularly in terms of the potential impact that such service provision will have on meeting the targets set by HSC/E in reducing accidents and incident of ill-health. This research shows that external actors have a major role to play in assisting SMEs to identify their health and safety responsibilities and to take appropriate action. If SMEs do not have contact with any other external actors then this will affect the level of their compliance with health and safety legislation.

## **7.3 CONCEPTIONS OF COMPLIANCE IN SMEs**

Theoretical work indicated that the compliance process consisted of several steps that needed to be taken in order to achieve legal conformity. However, empirically, 'compliance' was interpreted very differently by the groups participating in this research. This finding supports previous empirical work undertaken within food SMEs. This difference in interpretation affects both the 'compliance process' and the interventions employed to improve SME compliance with occupational health and safety requirements.

The objective of a law enforcement system is to secure conformity with the law (Reiss, 1984). The SMEs in this study predominately perceived the assessment of compliance as being someone else's responsibility. They viewed compliance in relation to the actions of external actors. For instance there were strong beliefs that:

If the law changed they would be informed by *outside agencies*,  
If health and safety issues were really important *someone* would make this known to them,  
and  
That they couldn't be expected to know all the requirements of the law and *other agencies* did this.

All of the SMEs in this study believed they complied. Examining the levels of compliance described in Tables Seven, Eight and Nine, it is clear that there were high levels of non-compliance. Only 19.5% of SMEs fully complied with COSHH (although another 54% partially complied by collecting SDS); 61% complied with electrical safety requirements, and 46.3% complied with risk assessment requirements.

What does this finding mean? One conclusion could be that they were all untruthful. This conclusion is rejected as on probing their views on specific issues, it became clear that when they talked of compliance they meant something different from enforcement officers. To enforcers compliance means 'complying with legal requirements'. An assessment of structures, procedures and practices can be made with reference to the legal requirements and standards expected by the enforcement agency. This is a formal definition of compliance. In this study that formal definition of compliance was not operationalised. To the SMEs in this study they were compliant until told otherwise.

This confirms the findings of the work with food SMEs. In that study it was found that SMEs view compliance as the 'outcome of the regulatory encounter (Fairman and Yapp, forthcoming). What this means is that at an inspection they are told they do not comply with the law and works are negotiated that will remedy the non-compliance. In this study a similar conceptualisation of compliance can be seen. All the SMEs believe they are compliant. In those authorities where no local authority intervention occurred they continue believing this indefinitely even though there were high levels of formal non-compliance (e.g. 77% (10/13) failed to have adequate risk assessments in place). In those authorities with interventions, they believed they complied until an inspector pointed out that they do not. Once they have completed the necessary works however, SMEs believed their businesses complied with health and safety legislation, unless and until told otherwise (generally until the next visit was carried out).

A very interesting finding of this study is that it is not just enforcement inspectors who are perceived as compliance assessors. Those seen to have responsibility for assessing SME compliance were not just local authority enforcement officers, but also representatives from the local hairdressers training college who visited salons in order to monitor student progress. SMEs viewed both of these types of visitors as 'compliance assessors', able to direct and advise on compliance with occupational health and safety legislation.

The SMEs interpretation of compliance shows that assessment of occupational health and safety standards within the business tends to be at a particular point in time. In contrast, enforcement officers and theoretical work views compliance as an on-going process requiring continual monitoring and evaluation. Enforced self-regulatory requirements such as risk assessment implicitly require businesses to monitor and evaluate their premises against legal standards. This research showed that SMEs did not tend to proactively carry out such activities. Around 25% (10) SMEs had implemented risk assessments that were monitored and reviewed at least annually. This approach had been adopted in response to directions from the local authority enforcement officers and visits from the local colleges, and an awareness that these would be checked at a future inspection. The purpose of completing the reviews were therefore at the request of those inspecting the premises, rather than as part of an evaluation of the actions taken to ensure that they fulfil legal requirements.

All the SMEs interviewed believed that they complied with occupational health and safety legislation. Although 13 SMEs discussed future plans for improvements to the business, they

believed that these were additional works aimed at raising standards beyond an already compliant level.

*“But we’ve just had a salon refit and we’ve just had new basins installed which were like 7 and a half thousand quid so that they could relax back and the actual chairs move back with you so that when you’re laid down, because we’ve got footstools, your back is in the right position and that type of thing...”* Salon 5, LA5

The compliance assessments undertaken by the interviewer indicated that over 50% (22) of SMEs had failed to undertake risk assessment, COSHH assessments and/or electrical safety requirements. Six SMEs failed all three requirements, these were predominantly within local authorities undertaking no health and safety activity, with little/no contact from the local colleges.

One of the main problems that was encountered during this research related to the standards of records kept by the local authority, in particular those local authorities classed as undertaking inspections with no follow-up activity. These particular local authorities did not keep records of the contraventions noted during inspections, or send follow up letters outlining issues to be addressed. Consequently, it is not possible to note whether SMEs had been advised of contraventions and had simply decided not to take action to remedy the non-compliance. However, where SMEs failed requirements they appeared to be unaware of their existence. These SMEs were predominantly located within local authorities that did not carry out any health and safety interventions, or received infrequent inspections with no follow-up activity. This indicates that local authority enforcement officers carrying out cursory inspections may not have discussed issues such as risk assessment and COSHH with SMEs.

SMEs also differ in their view of non-compliance. Enforcement officers and the theoretical work view non-compliance in a formal way, meaning that a business does not comply if it fails to meet any of the legal requirements set out. In contrast, SMEs tend to view non-compliance in terms of the realisation of a health and safety impact upon someone. For example, SMEs all believed that they complied with occupational health and safety legislation, even where non-compliance was pointed out to them by the interviewer (e.g. electrical safety requirements). These issues did not appear to be seen as relevant to the SMEs view of compliance, who saw such issues as ‘red tape’ and not being related to health and safety compliance:

*“Well I think there’s probably rules and regulations that we don’t apply to. Mainly because they’re maybe just red tape... I would think anything that we don’t do would be something we don’t know anything about and I would say there’s probably quite a lot that we don’t know anything about...”* Salon 3, LA3.

SMEs had a fear of both the local authority enforcement officers, and the local college assessors. Where steps had been required by these sources, SMEs tended to take steps to implement them because of a fear of the repercussions if they did not comply. There was an overwhelming belief that the local authority enforcement officers were able to take severe actions in the face of non-compliance: i.e. prosecutions and business closure. The repercussions of failing to implement recommendations of the colleges were also severe: potentially the business could lose their trainees, an important source of labour for them.

The SMEs conception of compliance is important for a number of reasons:

- As compliance means different things to businesses and in its formal sense, research into compliance cannot use data collection techniques that do not verify the reality of conditions within the business (e.g. self completion questionnaire) (Yapp and Fairman b, forthcoming),
- It impacts upon the effectiveness of using formal enforcement activity within a deterrence-based strategy (Fairman and Yapp, forthcoming). Undertaking “high”

- levels of prosecution within a local authority will not deter other businesses who believe that they are already in compliance with health and safety requirements,
- General written information, leaflets and courses may provide more information and facts for an SME. They will have little impact upon their conception of compliance and are unlikely to cause an SME to recognise areas of non-compliance within their companies. This is discussed later.

#### **7.4 THE COMPLIANCE PROCESS**

A compliance decision model originally developed by Henson and Heasman (1998) and modified by Fairman and Yapp (2004) in their work with food SMEs was used as a basis for data collection (see Figure Two). Question protocols and subject areas were based around the 'steps' required for compliance arising from a perspective of rational decision-making.

One of the most important findings from this work has been to show that this rational decision-making framework does not adequately explain the empirical finding. For such a framework to operate individuals and organisations would have to operate as rational actors with sufficient knowledge of the occupational health and safety hazards, their duties under the law and the operation of the enforcement agencies.

The framework was used however to present the results as it provides a simple means of ordering the data. The majority of these steps in that theoretical framework did occur to some degree and in some form, but were found to be initiated and even carried out for the SME by external agencies: the local authority enforcement officers, the college representatives, and consultants (if used). Even the "Compliance Decision" step did not really appear to be a "decision" – once told that action was required, the SMEs tended to take it. Information about the steps that were needed to be taken by SMEs to ensure compliance was provided by these agencies in various forms, monitoring and assessments of actions taken were completed by SMEs, but generally at the request of the external agencies.

The actual process of compliance within the SME was better described as:

- 1) Recognition that there is a 'gap' between how things are and how they ought to be,
- 2) Interpreting what that 'gap' means and considering what action is necessary, and
- 3) Implementing those actions.

This simple process recognises that SMEs see compliance as an outcome, not a process. Monitoring and evaluation and feedback are not a fundamental part of the process as where these stages did occur it was as a result of an 'awareness of the gap between how things are and how they ought to be' – it was because someone had required it be done.

#### **Becoming aware of the gap between the ways things are and the way they ought to be**

SMEs were generally reactive in dealing with occupational health and safety requirements. They did not actively seek out health and safety legislation or interpret it for their business. They relied upon external agencies to supply this information for them. Until it is made clear to the SME owner that there is 'a gap between how things operate in her salon and how they ought to', the SME owner can believe that they are complying with the law. This is because of the conception of compliance as 'doing everything an external agent requires'.

SMEs tended to believe that information about regulations would be sent to them if it was important and relevant. SMEs relied upon outside agencies to provide them with information about relevant regulations, for example trade associations and trade publications (in particular the NHF and the Hairdressers Journal); local colleges; local authority; health and safety consultants. The study noted that there was also little motivation among businesses to

proactively seek this information. Often businesses only become aware of a regulation when the local authority enforcement officer or local college representative visited the premises and informed them of the legal requirements. This has been highlighted by others (Fairman and Yapp, 2004; Cabinet Office 2000, 2001) and leads to two conclusions. Firstly, existing mechanisms for informing SMEs of legislation are not effective in reaching their targets. Secondly, SMEs are not actively monitoring legislative developments.

Work completed for the Health and Safety Executive noted that part of this problem related to the overwhelming amount of information that was available to SMEs (Hunt, 2000). This made it difficult for businesses to establish exactly what was relevant for their particular organisation. Information sent out by trade associations, regulatory agencies, or available on the Internet (for example signposting by the DTI's Small Business Service) was not being accessed proactively (although 2 SMEs noted that they did use the Internet to monitor health and safety issues). Therefore SMEs tended not to self-regulate their businesses, as they rely on others to advise them what is relevant to them.

Interpretation of regulations also was not actively undertaken by the SME. This tended to fall to various external actors including the local authority enforcement officer, local college representatives, health and safety consultants, as well as the more general information contained within briefings received from the NHF and Hairdressers Journals. SMEs tended to rely on these sources to clarify their obligations. SMEs showed a clear preference for targeted and specific information compared with less specific mail shots, although SMEs also noted a wish to be told exactly what they needed to do within their own premises:

*"from an employer's point of view basically, we hardly want to see them (the enforcer) and when we do see them, we want them to tell us exactly what needs to be done...  
Salon 3, LA3*

*"I feel from a business point of view, I think there should be a booklet with black and white instructions, this is how it is, this is what you need to do, and do it. Salon 5, LA5*

This study, in common with numerous others, found that awareness of SME owners of their legal requirements was low. This raises some very interesting issues. A major question is what these SMEs mean when they say they are 'not aware'. The Health and Safety at Work Act has placed duties on employers for over thirty years, civil liability has existed for hundreds of years. The SMEs in this study were aware that they had some responsibility for safety. An interesting finding of this study is that in the local authority where little or no intervention work was carried out, SMEs perceived safety still to be an issue but did not view the local authority enforcer as having any role in it. The point is though that all the SMEs had a general awareness of duties. What many did not appear to have was the knowledge about specific requirements or what that general duty actually meant in practice. Some of those saying that they were unaware of requirements were in local authorities that actively inspected or had links with training colleges. They will have been given verbal information or written documentation relating to legal requirements. However they would still claim to be 'unaware'.

Weick's sensemaking framework can help explain this, and the reliance on information sources shown in Table Eleven. For sensemaking to be initiated, there has to be a 'gap' between how things are and how they ought to be (Weick, 1995). In relation to regulatory compliance, this gap is the difference between how the business is operated in relation to external rules and how it should be operating if all the rules are obeyed. For the SMEs in this study, this 'gap' was rarely identified by written leaflets or written publicity. The findings show that the most 'effective' means of identifying the gap was the face-to-face intervention of an enforcement officer or of a representative of the training college who tells the SME that a gap exists. Until the SME recognises a 'gap' there is no need for them to make sense of regulatory requirements or to take action to remedy any non-compliance.

The small businesses in this study ignored most printed documentation and information as they do not initiate an occasion for sensemaking. Small businesses receive so much untargeted information that the majority of it is neglected. Few cues emerge from a mass of literature describing situations that from the perceptions of the business bear no relation to their own operations. There is not a problem, or 'gap' for the small business between the way things are and the way they want them to be. The intervention that draws the attention of the small business proprietor to the 'gap' is a targeted personal visit by an individual with power over the business operation e.g. the enforcement officer or the training college representative. They will identify that there is a disparity between how things are and how they ought to be, and the requirements of the enforcer or training college are then negotiated and a set of outcomes agreed. Once these are implemented, from the view of the SME compliance is achieved.

An alternative explanation for this lack of awareness could be that the SME owner was deliberately misleading the researcher, so as not to appear knowingly non-compliant. This is not thought likely as the interviews and compliance assessments generally corroborated the lack of awareness of specific issues.

Another way in which a gap should have emerged between 'the way things are and the way they ought to be' were the levels of occupational illness prevalent in these salons. SME owners (and presumably staff) tended to focus on issues of health affecting customers rather than workers, and on simple safety issues affecting the operation of the salon (for instance slips and trips). Although these issues are of course important, their focus is predominantly on the customer. The perception of SME owners is focussed on issues that will affect their customers and therefore their trade. The interest in safety in this case is because it could impact directly on their business if a customer was harmed.

In these salons however, high rates of occupational illness were identified. Both dermatitis and back pain were common amongst staff in the salons. These levels of ill-health were accepted as part of the job. There was a disparity between how safety issues and health issues were perceived. For example 54% (22/41) SMEs noted that slips, trips and falls were a major concern within the business, even though only 2% (1/41) SME had ever experienced an accident with a client slipping over. Only 1 SME stated that dermatitis was a major hazard within the business, even though over 50% of the SMEs interviewed employed, or had employed staff with dermatitis. Most of these SMEs related the occurrence of dermatitis with having wet hands (as opposed to due to use of chemical treatments – colouring, perming etc.). In addition, 69% (28/41) SMEs reported having staff with back pain that could be attributed to the job.

These findings supports those of the Health and Safety Laboratory (2000) which also found that SMEs tended to overlook health hazards within the business, concentrating predominantly upon safety issues. Information about hazards was not obtained from enforcement agencies such as the Health and Safety Executive or local authority. Instead, it was predominantly received through specific trade bodies: the Hairdressers Journal (a weekly publication) and the National Federation of Hairdressers. However it is clear that these SMEs have not identified a 'gap' or a 'problem' from the written information, even when faced with clear and real evidence of having ill-health in their salons that they can attribute to work. With such clear cut cases of ill-health attributed to work, the inability of SME owners to identify these as problems is perplexing. The literature in risk perception can go some way to explaining this. Where hazards are familiar, known, believed to be controllable, and are associated with benefits (i.e. the ability to work) then they are perceived as being less risky than other hazards. The focus on issue that affect customers is a clear case of safety being important if the SME recognises the business argument for it.

The predominant intervention that allowed SMEs to recognise the gap between the way things are in their salon and the way they ought to be was the face-to-face involvement of an external compliance assessor- enforcer or hairdressing college.

### **Agreeing action necessary with an enforcer or training college**

Once non-compliance is recognised, SMEs generally took action to implement the requirements into their business. This was particularly seen in relation to dealing with electrical safety requirements. Although it is only recommended that appliances are tested annually, the majority of SMEs believed that this was a specific requirement and therefore arranged for annual tests. In contrast, the self-regulatory risk assessments, also recommended to be reviewed annually, were not. SMEs were often not aware that there was a requirement to review the risk assessment at all.

The theoretical compliance process model in Figure Two showed that once SMEs were aware of the legislative requirements, they then need to decide whether or not to comply. Within occupational health and safety, this decision step was not seen – once they recognised they were non-compliant and told what action to take, they generally took it, regardless of whether they agreed with the requirements. Action was taken in response to both local authority enforcement officers and local college representatives requests. The reasons given were similar to the motivators identified by Wright (1998) – they thought that they had a duty to comply with the law, and they also wanted to protect themselves from legal action that might be taken by clients as a consequence of an accident.

The SMEs in this study did not select whether to act or not, they merely discussed and agreed how to act. There was no decision taken as to whether to comply, the only decision was how and when to comply. The majority of the SMEs perceived that there was an overriding 'duty to comply' with risk regulation. This view was so embedded in the majority of the SMEs interviewed, that to not comply was not considered an option. As compliance is the outcome of the regulatory encounter (SME view) rather than an on-going process of compliance with the requirements of the law (enforcer view), choosing not to do what an inspector required was not considered an option by 93% of SMEs interviewed.

This stage in the compliance process is about the SME accepting the need for remedial action and agreeing the nature of that action. Unlike in the study of compliance in food business, there was little argument, discussion or negotiation in relation to the requirements. Generally the SMEs accepted the action as being required and implemented it. Some SMEs disagreed with the requirements but still implemented them. This may be a factor related to hairdressing rather than being applicable to all SMEs in relation to safety.

SMEs were not proactive in implementing self-regulatory requirements such as risk assessments. SMEs were reliant on local authority enforcement officers and the local college representatives for guidance about how to carry out the assessments and implement practices and procedures in their business:

"The safety officer from [the local authority].is going to come up and go through it with me... Because it said on the form that you have to do certain risk assessments and things like that and ... I sort of thought well, how do you do it? What do you do?" Salon 2, LA5

The self-regulatory elements of health and safety legislation (i.e. completing risk assessments and COSHH assessments) require SMEs to identify hazards, assess risks arising from these hazards and to take steps to control and monitor these hazards. The ways in which SMEs actually completed these assessments was difficult to investigate, particularly as many had not undertaken appropriate risk assessments or COSHH assessments in their business. However, where appropriate risk assessments had been implemented, it was evident that many had received help from various sources. These included local authority enforcement officers, local college representatives and health and safety consultants visiting the premises and sitting down and assisting SMEs to adopt appropriate risk assessments.

There was general agreement that SMEs have difficulties in the "*recognition of hazards and the methods necessary to control hazards*" (Foster, 2002). Even where hazards were

identified by businesses, SMEs also need to understand that the risks posed by the hazards in question are significant enough to warrant action, i.e. the SME needs to be competent enough to complete a relevant evaluation of the risk posed (Bluff, 2003).

The SMEs interviewed recognised the existence of dermatitis and back pain as important issues, but tended to have an attitude of *fait accompli*, i.e. there was very little that could be done to avoid getting sore hands or a bad back. There was a general reliance upon the trade journal and trade association to give information about new products that could improve these problems, such as a new product to protect hands from chapping. Particularly for dermatitis, it was noted that the majority of controls were focussed around the use of protective equipment (use of gloves and barrier cream), rather than actually trying to overcome problems through altering work practices. For those that noted back pain was an issue, only 5 SMEs stated that the controls taken had been sufficient to solve the problem.

All of the actions taken to minimise the risks posed to staff within these businesses tended to revolve around providing equipment as a means of control, i.e. providing gloves, requiring staff to wear flat shoes. There was little evidence that SMEs even considered whether it was possible to introduce better systems of work, such as restricting the length of time a junior spent washing client's hair. As noted above, it was an accepted fact that some people would be so severely affected by these problems that they would have to leave the profession.

### **Implementing control measures**

Communicating control measures to avoid dermatitis and back pain was generally not part of a formalised process within the SME. There was a heavy reliance upon the training colleges to inform students about general health and safety issues. SMEs did carry out some form of induction training in the company- usually informal discussions between the owner and new staff member.

It was also apparent from the case studies that the control measures identified were not enforced by the owner-manager of the SME upon staff. For example, all SMEs provided gloves for staff, but only 10% (4/41) of SMEs required staff to wear them during colouring treatments. Barrier creams were provided for staff to use, but it was usually left to the staff to decide whether and how to use these measures.

Control measures relating to general salon-centred issues however, were enforced by management. This particularly related to sweeping up hair from the floor regularly and clearing up any water spillages in order to avoid slipping hazards.

### **Evaluation?**

Evaluation should be part of the process. In practice however, it is difficult to justify the inclusion of evaluation in the process. An integral part of risk assessment involves reviewing and monitoring in order to ensure appropriate controls are in place and are adequate to minimise the potential effects of hazards. Only 25% (10/41) SMEs were found to review their risk assessments regularly and the motivator for these reviews was intervention by the local authority or local college. All but one of the SMEs that reviewed their risk assessments were located within local authority areas undertaking "Inspections with follow-up activity" and/or received at least 2 visits from the local college each year. The motivation for evaluation and review was in effect the first part of this process – recognising the 'gap' between the way things are the way they ought to be. Generally the SMEs had to be told to review and evaluate.

It is perplexing that where businesses have taken the time to carry out a risk assessment, they do not automatically review it from time to time. This is indicative of the assessment not being a 'living document' or the assessment not being perceived as being of value. It is also evidence for the conception of compliance described in Section 7.3. Where the risk

assessment was produced and some of the physical or structural requirements carried out at that time, then compliance in the mind of the SME is achieved and maintained until an external agent informs them that they are again non-compliant.

## **7.5 FACTORS AFFECTING THE SME COMPLIANCE DECISION PROCESS: MOTIVATORS, BARRIERS AND SME ATTITUDES**

Certain factors have been shown to affect business attitudes towards compliance. This section examines the motivations that SMEs have in complying (or trying to comply with) health and safety requirements, the barriers preventing SME compliance, and the effects that these have upon business behaviour.

### **The factors motivating SMEs**

Previous theoretical work indicates that a range of issues may affect compliance within SMEs. The factors believed to motivate SMEs generally to want to comply are:

Moral reasons (Petts, 2000);

Duty to comply (Wright, 1998); and

Business reasons, i.e. a fear of loss of credibility/adverse publicity (Wright, 1998).

This research generally supports the latter two motivators, although these broad reasons appeared to involve a more complex range of factors. Few SMEs stated that they complied with occupational health and safety legislation because they wanted to avoid harming clients or staff in terms of moral duty. Those that wanted to avoid accidents or incidents were more concerned about liability and reputational issues.

The key motivating factor was the legal duty felt by SMEs. This supports the work of Hutchinson and Hutchinson (1995) in the environmental protection field; and Yapp and Fairman (2004a) in the food safety field. Within occupational health and safety, SMEs indicated that they had a legal duty to undertake health and safety activities within their business. This “duty to comply” stemmed from a generalised fear of the consequences of non-compliance. This study has had the opportunity to investigate this duty in more depth than many studies and the influence of the training colleges in producing compliance is very interesting.

Section 7.3 and 7.4 explains why face-to face intervention works. It is one of the only ways of getting SMEs to recognise that what they are doing in their businesses is not what external rules, norms and practices would expect them to do. It makes them recognise the ‘gap’. These face-to-face interventions also work however because the recommendations and requirements are coming from those with positions of power over the SME. From the interviews with SMEs it was clear that:

- They believed local authorities could take formal enforcement action from non-compliance (apart from those in the local authority where no interventions had ever taken place),
- SMEs generally perceived the level of formal enforcement activity within the local authority to be low or were not aware of the activities undertaken,
- The perceived implication of non-compliance with the hairdressing college was severe- the removal of trainees,
- SMEs believed they complied.

It was perceived that non-compliance with the recommendations of the inspector or college representative had negative repercussions. So the duty to comply is more about the duty to do what you are told than the duty to comply with the law. The college representatives are laying down acceptable standards for their trainees to work in. Whilst health and safety law will also underline many of these it can be seen that the duty to comply with these is not a legal one.

There was a difference in the understanding of “formal enforcement action” between SMEs and professional bodies (i.e. local authorities and academics). SMEs tended to discuss formal enforcement activity in terms of prosecutions and business closures, rather than statutory notices. None of the SMEs interviewed had ever received a notice from the local authority. Those that had received letters outlining requirements tended to view the contents as mandatory and had taken steps to implement them.

Many SMEs were motivated to comply for business reasons. By complying with health and safety requirements, SMEs thought this would protect their business and therefore their reputation. The publicity associated with private legal actions or the local authority prosecuting or closing a business down reminded businesses of the need to comply with requirements. This factor emerged strongly in relation to dealing with client safety, but did not appear to be a factor considered in relation to staff issues. This research showed that many SMEs employ staff with dermatitis (50%) and back pain issues (69%). However, the general consensus was that it was an integral part of the job and that it was down to the staff to take responsibility for trying to prevent problems from occurring. In contrast, SMEs took extreme care to protect clients from chemicals because of their perception that it was highly likely that they could be sued in the event that something went wrong.

These findings have important implications for local authorities seeking to improve compliance in SMEs. Firstly, SMEs have a generalised fear of formal enforcement activity and this belief is irrespective of the actual activity within the district. Within the local authorities used in the case studies, general formal enforcement activity was low (see Table 4). If the aim of the local authority is to use formal enforcement activity as a deterrent strategy, SMEs need to be aware that local authority enforcement officers are actively carrying out formal enforcement, understand the reasons for these actions and relate these to their own business.

Morality issues were not focussed within the minds of SMEs who believed that they already complied with the legislation and therefore were unlikely to cause harm to clients. Instead, SMEs were motivated by commercial issues, i.e. protecting their business and their reputation from the effects of causing harm and consequent private actions taken by clients as a result. SMEs tended not to consider health problems related to their staff when considering liability issues. The benefits of undertaking particular health and safety requirements in terms of protecting their business should be emphasised by enforcement officers, not just against client actions, but also in terms of staff actions that might result from dermatitis and back pain issues.

### **The barriers preventing SME compliance**

Studies have identified a number of reasons that may prevent SMEs from complying with regulations:

- Poor knowledge and awareness of regulations (Hutchinson and Chaston, 1995; Yapp and Fairman, 2004a);
- The willingness of SMEs to comply because it is not seen as a core business function (Gerstenfeld and Roberts, 2000; Health and Safety Laboratory, 2000);
- Lack of trust in the legislation (Wright, 1998; Taylor, 2001);
- Lack of trust in the enforcement officer (Environment Agency, 2000b; Food Standards Agency, 2001; Taylor, 2001; Yapp and Fairman, 2004a); and
- The inability of the SME to comply due to inadequate resources (time, money, management)(Environment Agency, 2000b; Health and Safety Laboratory, 2000; Yapp and Fairman, 2004a)

Within the SMEs interviewed, it was overwhelmingly found that non-compliance with health and safety legislation was due to a lack of knowledge and awareness about health and safety requirements. This is discussed in 7.4.

A caution should be added to 'lack of awareness' as being identified as a barrier to compliance. As discussed in section 7.4, SMEs state that they are unaware of requirements. However they are aware of civil liability, particularly for clients, and most take trade magazines and many are members of trade bodies. Requirements for SMEs to carry out COSHH and risk assessment have existed for 15 and 12 years respectively.

Awareness should not be linked to lack of written information. It is implausible that all those saying they are unaware have not come across literature, articles, training courses, discussions with trainees etc that highlight that these laws exist. What these SMEs have failed to do is recognise that these laws and their requirements mean something in the running of their business. The danger of identifying awareness as a barrier is that an easy response is the provision of more written information – leaflets, internet sites. These may actually contribute to the problem in that information overload often forces SMEs to filter information, disregard it totally or make them feel that as the subject is so complex (their view) it obviously cannot be aimed at them.

## **7.6 THE IMPACT OF INSPECTION ON COMPLIANCE LEVELS IN SMES**

Tables 6, 7 and 8 show the levels of compliance with risk assessment, COSHH assessment and electrical safety requirements in areas where there are different levels of local authority intervention and different levels of contact with local training colleges. Before these are discussed, the same cautions outlined in the results section will be reiterated for the interpretation of this data.

Because the impact of the activity of the training colleges had not been fully recognised before the case studies were conducted, and due to limitation on the numbers of cases able to be included in the study, the numbers included in each category are small. In some instances they were so small that statistical testing was not possible. For instance the COSHH compliance had to be broken into fail, comply and partially comply due to the nature of actions taken by SMEs. Data in each category became too small to test. A further difficulty is that two main types of intervention were identified, that of the college and that of the enforcement agency. These interact and it is impossible with the number of cases included in the study to unpick the impact of these on each other.

With those cautions in mind, it is possible to state that external intervention by local authorities or by training colleges had a positive impact on compliance levels in the SMEs in this study.

In relation to the requirement to carry out risk assessments the numbers of SMEs complying is statistically significantly higher in those areas with higher levels of training college intervention. From Figure 8 it can be seen that the numbers of compliant SMEs increase in areas with higher levels of local authority intervention and inspection, although this is not statistically significant.

COSHH compliance can be seen in Figures 10 and 11 to be higher with increased inspection and intervention from colleges and enforcement agents but the numbers were too small to test statistically.

Electrical safety compliance was statistically better with increased local authority intervention. However, although again Figure 13 indicates that the numbers complying are higher with increased college intervention, this was not seen to be statistically significant.

The overall finding is that inspection does have a significant impact on compliance levels in SMEs. It would be dangerous to try to make large generalisations from such a small sample but the greater impact of local authority inspection on the more prescriptive electrical safety requirements, and lesser impact on the risk assessment requirements has been found in other studies (Fairman and Yapp, forthcoming). It is suggested that the more rule-based,

prescriptive requirements fit more closely with the SME's conception of compliance (often there is a clear relation to harm and danger) and they are easy to understand, demand less 'soft' management changes and are perceived to be easier to implement. As compliance to the SME may be doing everything they are told, local authority inspections can be effective in achieving compliance with these issues. The more self-regulatory requirements have overall lower compliance levels and are by their nature more difficult for SMEs to contend with (they require management action and motivation, may not be related to perceived harm, are on-going, may focus on health issues). Although the numbers complying with risk assessment are better with local authority intervention, the difference is not statistically significant. However college interventions significantly impact on compliance with risk assessment. This study did not look at how the college intervened and what type of inspections they performed. This would be a fruitful area for future research as this intervention clearly made a positive impact.

### **7.7 THE IMPACT OF INTERVENTION APPROACHES**

The effects of different interventions experienced by SMEs within the case studies were investigated. The impact of these interventions will be examined within the simplified model of business compliance shown in Figure 17. These interventions included:

Face-to-face inspections;

Face-to-face advisory visits;

Formal enforcement activity – use of notices and prosecutions;

Provision of general written information;

Provision of sector/business specific targeted information;

Training course and seminars;

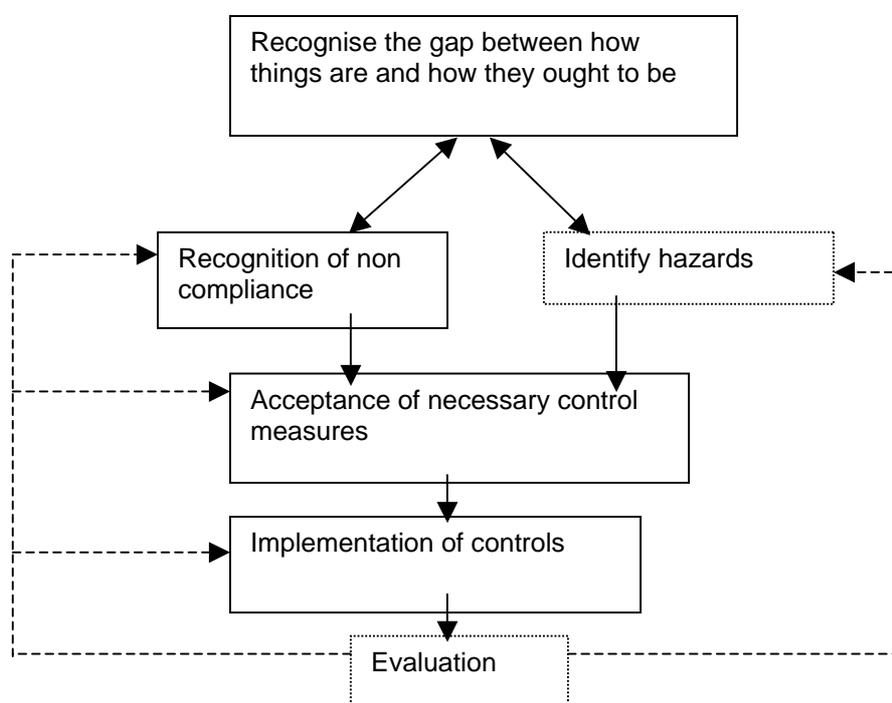
General health and safety training in vocational courses,

Health and safety consultants;

Advice from intermediaries such as Trade associations; and

Internet.

**Figure 17:** An SME compliance process model



----- Indicates limited evidence for the process occurring in the SMEs in this study

### Inspections

Inspections differed from advisory visits in that they were programmed and formal and that their purpose was to ascertain compliance with a predetermined set of criteria. Inspections carried out by local colleges checking student placements were also perceived to be official assessments of occupational health and safety within the business as these usually resulted in requirements for remedial action where necessary. Accompanied inspections with local authority enforcement officers were not undertaken within the scope of this research. However, responses from SMEs indicated that the content of inspections completed by enforcement officers varied between local authorities. For example, inspections completed within LA3 and LA4 appeared to be brief 'cursory' visits. Within these local authorities 4 SME owner-managers had not been present at the inspection and received no feedback from the local authorities about the inspection; 7 SMEs noted that the officers had simply had a quick look around the premises, left some leaflets for them and received no other feedback. SMEs in LA3 and LA4 that received little/no feedback from the local authority perceived that this was because everything was acceptable and no action needed to be taken.

In contrast, within LA5 and LA6 all SME owner-managers reported being present for the inspections, during which all reported discussing various aspects of health and safety requirements with the officer. The majority of SMEs here also received follow up letters detailing the issues discussed and highlighting remedial action required (if necessary). These letters often contained detailed information about requirements. For example, the following is an extract from a letter sent by LA5 which highlights the need for a health and safety policy:

*"The employer must provide a written Safety Policy that includes a statement of his/her intent concerning the health, safety and welfare of the employees. It must detail who is responsible for health and safety. This includes employers and*

*employees responsibilities. It must detail the arrangements to maintain health and safety. This could include:*

Who is responsible for re-stocking the first aid box and investigating/reporting accidents;  
Who is responsible for inspecting electrical appliances and keeping a log of electrical equipment.

Who is responsible for day to day cleaning. You could incorporate a cleaning schedule that specifies when items are to be cleaned, how and by whom.

Who is responsible for training and supervising new staff, especially young and inexperienced staff. Special consideration needs to be given to staff who are under 18 years to take account of their inexperience and lack of maturity. Are training records kept?

Safe working practices for use of perm and colour lotions.

Safe working practices for carrying out nose piercing.”

Inspections from officers within LA5 and LA6, as well as local college inspections in all areas provided SMEs with much information about health and safety requirements. As noted above, local authority inspections in these areas were followed up with detailed letters and information about any required remedial actions. The majority of SMEs carried out the works required.

As discussed in Section 7.3 and 7.4, the role of the enforcer or training college cannot be overstated in compliance processes in SMEs. The whole conception of compliance of SMEs is based upon not being non-compliant. SMEs become non-compliant after they have been inspected and the non-compliance is highlighted for them. Face-to-face intervention by external enforcers or representatives of the college is highly effective in making the SME recognise that what they are doing in practice is not the standard and practice required by the law, and other external rules or norms. This is because the enforcer/ college filters all the requirements and interprets what they mean to the business. They then assesses compliance, specifies the necessary action and defines how it is done.

Local authority inspections were ineffective in communicating requirements to staff, as they are unlikely to be involved in the actual health and safety inspection and therefore do not receive information about requirements directly from the enforcement officer. However, inspections from the local colleges not only met with the owner-manager of the SME, but also with the students training at the salon. They were therefore seen to be very important in communicating health and safety messages to those staff members.

### **Face to face advisory visits**

Advisory visits (by the local authority and the local college) were carried out at the request of the SME in following up issues identified during an inspection. Visits from both local authority enforcement officers and local college representatives were highly effective in providing information and advice throughout the compliance process. The visits improved awareness and knowledge of health and safety requirements and principles and therefore improved understanding. This was most notably seen with regard to risk assessment issues where advisory visits assisted SMEs in understanding the requirements and methods necessary for compliance. Advisory visits allowed a rapport to be built with SMEs and in the long term may improve trust between enforcement officer and SME.

In terms of the compliance model, advisory visits take place after an SME has recognised that an issue is problematic. This may be as a result of recognising non-compliance or identifying a hazard, and the purpose of the advisory visit is to help the SME develop ways of complying with the law, and rules.

### **Formal enforcement activity**

Once aware of non-compliance within the SME, the potential use of formal enforcement action can act as a motivator on the individual business threatened with enforcement action. SMEs had a fear of formal enforcement activity (prosecution). Many believed that they could

be closed down for non-compliance (not correct) and they believed that enforcers could have a catastrophic effect upon their business. They were unaware of notices and many perceived formal written warnings as in some way 'legal'.

They were unaware of any action taken by the enforcer against other businesses. SMEs were generally unaware of the level of formal enforcement activity within the local authority but assumed that formal enforcement activity would be taken if non-compliance was not remedied. However, as SMEs believed that their business complied with health and safety requirements, they did not believe that formal enforcement activity would be taken against their business.

Formal enforcement activity motivated businesses to actually take action to implement required policies and practices, but only once they were aware of the requirements. Whilst the majority of SMEs had a vague awareness of the formal enforcement options available to local authority enforcement officers when faced with non-compliance, they did not recognise non-compliance within their business. Therefore the generalised fear of formal enforcement activity does not motivate businesses to proactively identify relevant regulations or improve their understanding of what the regulations were requiring them to do. This confirms other studies of SMEs and compliance (Fairman and Yapp, forthcoming).

Within our compliance-based enforcement system prosecution and formal enforcement is used as a last resort in an attempt to force compliance in an individual business. There is a degree of confusion in some enforcement agencies about the role of prosecution and formal enforcement. In the UK a predominately compliance-based approach to business regulation exists and deterrence-based strategies are not thought suitable for the sector for the reasons discussed in section 3.1 and 3.2. This confusion is evident in some enforcement policies where the potential to influence other business is often stated as a factor in taking the decisions to prosecute. Within a compliance-based system, prosecution is a last resort option to remedy specific non-compliance within a company. None of the SMEs in this study were aware of enforcement action in other companies. Even if they had have been they would not have related the reasons for that prosecution with conditions within their own premises. Prosecution and formal enforcement has a great potential for getting SMEs to accept the need and means of control measures and for ensuring they are implemented - within the SME under investigation. It will have little to no impact on other SMEs who believe they comply (according to their own definition of compliance).

#### **Provision of written information**

Leaflets were widely used by local authorities to provide information about health and safety legislation and methods of implementation but were ineffective. SMEs did not always read them, either because they were 'too complicated', too long or because they did not appear to be relevant. Secondly, where they were read, they were often misunderstood and misinterpreted.

For SMEs to recognise that there are issues in their businesses that need addressing they have to know what the standards should be and be able to apply these principles to their own businesses. Written information does not allow this. In the face of too much information or complexity, business owners filter the information they have. They neglect large parts of it, especially any areas not familiar or understandable. In the face of increasing complexity, more information gets neglected. The SMEs concentrate on the parts that appear familiar and relevant to their own businesses. Therefore if they have limited knowledge in the first place, written information will be largely ignored as they will filter out the complex and unfamiliar and concentrate on the areas that seem simple and manageable and those within their existing knowledge boundaries.

This was seen in SMEs that had received general leaflets about risk assessment requirements and implementation methods, but had been dismissed as being irrelevant to their own business. Leaflets talking about 'risk' presented the business with an opportunity to

ignore the information as for many this was such an alien concept that could not apply to the businesses they operated.

Even if leaflets were read and understood, they generally did not improve knowledge or motivation in businesses. They were not specific or detailed enough to provide information about implementation of different issues within SMEs. Written information received by SMEs from their trade association was seen to be useful in identifying and interpreting legislation and highlighting new innovations in the field. SMEs responded to these information sources because they were targeted to the particular sector and were detailed enough to describe exactly how the businesses could meet requirements.

### **Training courses and seminars**

Whilst local authorities, local colleges and other training providers do offer general basic health and safety courses, none of those interviewed had ever attended such a course as they were not seen to be relevant or necessary.

In the hairdressing sector, staff who have been through training courses have had a health and safety component included within their vocational training. SME owners relied heavily on their staff who had been through this route to provide the relevant information about health and safety in practice. However, such courses did not appear to provide SMEs with information about the actual regulatory requirements. Many SMEs did not understand the regulatory requirements, particularly relating to self-regulatory issues.

SMEs relied on vocational courses to train their staff health and safety matters. The precise content of these courses was not investigated. Further work could assess the effectiveness of vocational courses in providing health and safety information.

Both sector-specific (hairdressers) and subject-specific (risk assessments) seminars were run by local authorities. These were highly effective in giving SMEs knowledge about the requirements, methods of compliance, implementation, review and monitoring. However, motivating SMEs to want to attend these courses was seen to be difficult, although SMEs in local authorities classed as having "Inspections with follow-up activity" were slightly more motivated to attend. Enforcement officers in these areas tended to 'drop in' to the SME to advise them of the course details and reminded them of their legal obligations (LA5 and LA6).

### **Intermediaries: Written information**

In terms of the particular sector studied here, trade associations were a useful source of information about relevant occupational health and safety requirements. Such associations were seen to provide regular, relevant and specific information about a whole range of regulatory requirements that affected the business. Information was also received about different methods of implementing requirements into businesses, and innovations in the field. However, this information was obtained reactively, none of the SMEs contacted the trade body in order to discuss particular issues.

### **Consultants**

Health and safety consultants were used by few SMEs. However, where they were used, SMEs transferred all health and safety functions and responsibilities onto the consultant, for example in carrying out and reviewing risk assessments.

### **Internet**

Whilst policy-makers often perceive the Internet as an effective means of communicating occupational health and safety information to SMEs, there was little evidence that this was a commonly used tool. Only two SMEs reported accessing the Internet for information about health and safety legislation.

## **7.8 THE EFFECTIVENESS OF INTERVENTIONS UPON THE COMPLIANCE PROCESS MODEL**

The above discussion about interventions has shown that different interventions target different areas of the compliance process, for example, in forcing the SME to recognise there is a 'gap' or problem; agreeing specific methods of compliance; or acting as a reminder of general occupational health and safety obligations and the existence of an enforcement system.

Table Fourteen is a summary of the potential impact of each type of intervention on each part of the compliance process described in Figure Eight.

It is clear that those interventions based upon face-to face personal contact are the most effective at all stages of the process. Face-to-face interventions develop relationships; allows the disparity between how things are and how they ought to be to be highlighted; provide detailed, relevant and targeted information; build up knowledge and understanding in the business; and provides a 'task list' of control measures for the SME owner to follow. Thus direct contact can be seen to have effects throughout the process. The face-to-face intervention has to be backed up with power- for instance both the enforcer and the training college had power over the SME owner.

Written information from enforcement agencies is much less effective. General leaflets are ineffective, rarely read and if read not providing enough information to be useful. Written information does not bridge the recognition 'gap'. It is unable to make real the areas of non-compliance within businesses. Business owners even if they read the information are unable to interpret what it means to their own business operations. Written information from intermediaries such as the Trade Associations or local colleges comes from a more trusted source and is much more targeted and relevant to small business operation. They may be useful in providing SMEs with knowledge that may enable them to identify hazards. They are unlikely to enable the SMEs to identify specific non-compliance in their own businesses.

Training course and seminars are effective if targeted and sector specific. In these cases they act on all parts of the compliance process. Allowing discussion and deliberation on safety issues within training courses is especially helpful as common experiences, understanding, control measures can be discussed.

In contrast, more general information sources, such as general training courses, may only affect particular stages of the process, for example in providing signposting information to SMEs of the existence of legal duties in relation to particular issues, or in highlighting hazards that may be encountered in relation to particular products or activities. These information sources may be more limited in actually assisting SMEs to implement new policies and procedures.

Formal enforcement is highly effective at instructing SMEs who have had enforcement activity taken against them how to comply and in motivating them to implement the control measures. It's impact is only seen in the individual business due to the overwhelming belief of other SMEs that they comply. Even if they were aware of enforcement action in other businesses (which they are not), it is questionable whether they would not relate the conditions that lead to a prosecution in another business with the conditions in their own premises.

Table 14 summarises this information by listing the stages of the compliance decision process and the potential for each type of intervention to affect the process steps.

**Table 14:** Summary of the level of impact of different interventions upon SME compliance

<i>Process</i>	<i>Advisory visit (by local authority or college)</i>	<i>Inspection (by local authority or college)</i>	<i>Internet</i>	<i>Specific training seminars</i>	<i>General vocational training</i>	<i>Formal Enforcement activity</i>	<i>Intermediaries leaflets</i>	<i>Enforcement leaflets etc.</i>
Identify the 'gap' or problem								
Recognition of non-compliance	High	High	Low	Medium	Low	Low	Low	Low
Identifying hazards	High	High	Low	Medium	Medium	Low	Medium	Low
Agreeing compliance method	Medium	High	Low	High	Low	High	Medium	Low
Implementation	Medium	High	Low	Medium	Low	High	Low	Low
Evaluation	Low*	Low*	Low	Medium	Low	Low*	Low	Low

\* Unless specifically requiring evaluation

## 8.0 CONCLUSIONS

### 8.1 There are significant differences in the provision of health and safety services between local authorities in the UK

The level of service provision was shown to vary hugely between local authorities across the UK. In particular, numerous authorities undertake minimal levels of health and safety activity, often only limited to responding to accident reports. Those that offer a range of educational and promotional services are, in contrast, relatively few. In this research it was particularly difficult to identify local authorities that had undertaken any educational initiatives that had been attended by the business sector being investigated.

**Implications:** *Differences in service provision across the UK indicates that SMEs receive different interventions from local authorities.*

### 8.2 The meaning of compliance differed between SMEs and enforcement agencies

All of the SMEs in this study believed they complied. What they meant by compliance differed from the definition of the enforcer. SMEs tended to believe that their business complied with health and safety legislation until told otherwise. The SMEs in this study tended to view compliance as the outcome of an external intervention – they were inspected and told that they did not comply, carried out the necessary work and achieved compliance again. They did not view compliance as an on-going process requiring regular internal review. SMEs linked non-compliance with harm. Health and safety professionals, including local authority enforcement officers, gatekeeper groups and academics, view the compliance process as one involving an understanding of the legislation as well as the principles behind the requirements. They also saw compliance as a proactive process that needed to be undertaken primarily by the SME.

**Implications:** *This view of compliance underlies the whole approach of SMEs to regulatory compliance. It does not mean however that SMEs do not perceive safety to be an issue, all were aware of general duties in relation to safety liability particularly for customers. They felt however if they were doing anything dangerous, someone would tell them. This conception of compliance underlines the perception that safety is an issue for the salon but compliance is an issue for outside agencies. SMEs view compliance as a process they are involved in, but not primarily responsible for, thereby placing huge weight onto the actions of external actors. This gap between SME and enforcer perception needs to be addressed. Compliance with enforced self-regulatory issues will prove very challenging with the current SME perception of compliance.*

### 8.3 SMEs in this study viewed safety as a client issue

SMEs perceived safety issues as ones that affected their clients not their staff. This is indicative of the links made by SMEs in this study between safety and clients using civil liability actions in the event of accidents or damage. They identified a clear reputational/business case for concerns about client safety. Occupational health problems were present in at least 54% of salons (dermatitis), but this did not affect the perception of safety as a client related issue. This is common to all the 'caring professions'.

**Implications:** *This perception of risk is well understood and documented but limits the ability of the SMEs in this study to perform adequate risk assessments or recognise their own non-compliance.*

#### **8.4 SMEs in this study were reactive organisations**

The original compliance process model outlined many steps in how a business might approach compliance. This could not be supported by the empirical data gathered in this study and a much more simple process described in Figure Eight was developed. This more simple model was based upon sense-making rather than decision-making theory. The compliance process in SMEs in this study was a reactive one, reliant on external interventions from either college representatives or local authority enforcement officers.

**Implications:** *External intervention will be important in ensuring compliance.*

#### **8.5 Compliance was not a decision**

It was difficult to find any empirical evidence of the SMEs actually making decisions to comply. This would mean that they identified their options, weighed up the options e.g. by examining the costs and benefits or utility, and made a choice. Instead 93% attempted to implement recommendations that had been made to them. They may not have done it properly or well, but the overriding belief was that compliance was the norm, not a choice.

**Implications:** *Some interventions assume that compliance is a decision for SMEs. Promotional material might be based upon trying to convince businesses of the moral arguments or cost-benefits arguments of compliance. Attempting to use cost or business arguments to persuade SMEs to take a particular decision to comply is likely to be a misplaced effort. Compliance is not seen as a decision, and cost may be an issue in how quickly something is implemented, but was not identified as a factor in whether to comply in this study.*

#### **8.6 SMEs were motivated to comply with health and safety requirements for business and legal reasons**

SMEs were found to be predominantly motivated to implement requirements made by external actors because of a perceived 'duty to comply'. This was reinforced by a perception that by complying, they protected their business and their reputation (from the damaging effects of publicity arising from an accident or formal enforcement action being taken against them). However, SMEs only considered liability issues arising from incidents affecting their clients, they did not link the incidence of staff-related health issues to potential liability issues. SMEs were not motivated purely because they felt a moral duty to maintain standards in order to prevent accidents from occurring.

**Implications:** *Enforcers and regulators should be aware that SMEs are motivated to comply with requirements made by the enforcement officers because of business and legal reasons. The general negative impacts of non-compliance on business operations could be used as potential motivator for SMEs.*

#### **8.7 The fundamental issue in SME compliance is the lack of recognition of non-compliance**

The overriding barrier in SMEs complying with the law is their lack of recognition that their businesses can cause any hazards, and lack of recognition there are specific legal duties that they should be complying with. Related to this is a lack of motivation to implement requirements. This could mistakenly be labelled a lack of awareness. It is important to distinguish this and lack of awareness. The remedy to lack of awareness is more information. More written and impersonal information will not make the SMEs in this study any more aware of their non-compliance because they will filter it, not perceive the conditions in their businesses as having anything to do with the legal requirements, and ultimately ignore it. To increase recognition targeted specific information relating to conditions in their own premises is required. Once recognised, businesses have to be motivated to want to comply. In this

study their was an overriding belief in a duty to comply, but motivation only occurred in response to external intervention.

**Implications:** *In order to improve compliance with health and safety legislation, fundamental barriers need to be addressed. The study of different local authority intervention approaches will assist this process, in particular tailored advice given by external actors was found to improve compliance within SMEs significantly.*

### **8.8 Non-compliance in SMEs is due to “organisational incompetence”**

Non-compliance in the SMEs in this research was primarily due to failures of management, knowledge and systems. In particular, SME owners/managers relied upon staff to implement control measures that affected their own health and safety. They did not consider that they could be held liable for ill-health affecting the staff. SMEs did not calculate whether non-compliance would be profitable.

**Implications:** *Enforcement responses to “organisational incompetence” tend to provide advice and information rather than resorting to formal enforcement measures.*

### **8.9 Inspection activity undertaken by the local authority and the local college significantly affected compliance levels within SMEs**

The case studies showed that significantly more SMEs complied with health and safety requirements where inspection visits were received. All the SMEs displayed a reactive approach towards health and safety compliance, irrespective of the local authority area in which they were situated. However, compliance levels in SMEs receiving regular inspection visits from the local authority were significantly better for electrical safety requirements and those receiving local college inspections implemented the risk assessment requirements significantly better than those that did not. Overall the numbers of SMEs complying with requirements were higher in those authorities with inspections and follow-up and with college intervention.

**Implications:** *Health and safety compliance is improved within SMEs that receive higher levels of personal intervention from either the local authority and/or local colleges. The improvement in the prescriptive requirements of local authority inspection is expected but the improvement in compliance with risk assessment by college interventions needs further examination and research as this area has not been examined before.*

### **8.10 Inspection worked relative to other approaches by identifying a ‘gap’ between existing conditions within the SME and what those conditions should be**

Inspection was the most effective intervention in this study as it enabled the disparity between what the SME did and what they should be doing according to external norms and rules to be highlighted. This was through face-to-face intervention where an external agent examined the practices, structure and procedures of the SME and highlighted non-compliance for them. In this study an important finding is that the inspection does not have to relate to enforcement activity. Inspection backed by power to impact on business operations is what was important (either through enforcement activity or the power to remove trainees). The intervention that impacted most on risk assessment was that of training college staff checking to ensure that conditions were suitable for their trainees (and so fulfilling their own safety duties).

**Implications:** *Relative to other approaches, inspection worked for SMEs in this study. Enforcement inspection is resource intensive and the large numbers of SMEs mean it may be difficult intervention to operationalise. The role of others carrying out inspections (the colleges) needs further investigation. This could influence any future inspection rating schemes.*

### **8.11 Face-to-face interventions, discussions and negotiation allow SMEs to internalise the rules**

The discussion, negotiation, and personalisation of regulatory requirements during a face-to-face inspection is an effective way of getting the SME to accept and internalise the requirements into the way that the business operates. This can improve knowledge, understanding and recognition of issues and acceptance for the need for action.

**Implications:** *Personalised, targeted intervention is crucial. With the resource challenge posed by over one million SMEs, further work is needed on developing initiatives that recognise the need to find intervention that close the gap between how the SME operates and how they ought to, and internalise rules. Once developed these interventions need to be evaluated to measure changes in health and safety outcome.*

### **8.12 Enforcement inspections were effective in improving compliance with prescriptive requirements whilst college placement officer inspections improved compliance with risk assessment**

This finding is very interesting and is one that this research cannot fully explain. This study focussed on SMEs response to the intervention of the local authority and through case files it is possible to understand the nature of those interventions. The exact nature of the college placement officer visit/inspection is not known. From the SME interviews it is clear that they are perceived in a similar way to local authority inspections but why they are more effective at improving compliance with risk assessment is not known. This area deserves further research.

**Implications:** *The nature of interventions by college placement officers needs further investigation.*

### **8.13 Different educational interventions were more effective in improving health and safety compliance than others**

Seminars that were either sector- or subject- specific were well-received by SMEs who found the information enabled them to implement relevant occupational health and safety requirements. Information provided by trade bodies was also seen to be useful as it was perceived to be directly relevant and specific to the SME.

More general information, such as leaflets were not effective. SMEs receiving these more general approaches tended to misinterpret or misunderstand the information contained within them. Vocational courses were seen to be useful in providing staff with information about basic health and safety principles.

Other sources of information were not widely used, but offered effective intervention at various stages of the process. For example, 2 SMEs had accessed the Internet to find out more about particular issues, and 3 SMEs had employed health and safety consultants to assist them in formulating risk assessments within the business. However, SMEs had a reactive attitude and had only accessed these sources of information because circumstances had required them to.

**Implications:** *Other forms of intervention can be effective. Their role in achieving compliance and their limitations must be recognised and they need to be used appropriately. An intervention strategy using different methods to achieve different objectives but contribute to the overall goals of improving compliance should be attempted but with recognition of the limitations of written information for SMEs.*

#### **8.14 SMEs were afraid of the repercussions of non-compliance**

SMEs were afraid of both the formal enforcement actions that could be taken by the local authority, as well as the threat of local colleges removing salons from the training placement schemes. SMEs tended to view local authority 'formal enforcement activity' in terms of prosecution and business closures only. They were unaware of both the actual levels of local authority's formal enforcement activity and the likelihood of college sanctions against non-compliant salons. SMEs tended to believe that their own business complied with occupational health and safety requirements if they had undertaken work specified by either the local authority or the local college. Therefore SMEs did not believe that sanctions would ever be taken by these bodies within their own business.

**Implications:** *Formal enforcement activity and other sanctions will not act as a deterrent within SMEs because they believe that their business complies with health and safety requirements.*

#### **8.15 Formal enforcement activity is an important tool**

The existence and use of formal enforcement tools is a vital part of occupational health and safety regulation and enforcement. Compliance can only be carried out by the SME. And the existence of formal enforcement was seen to be necessary in forcing individual SMEs to take that action. There was a general belief that formal enforcement action could and would be taken if non-compliance was not remedied, and meant that SMEs (with the exception of 1) all decided to comply with requirements made.

**Implications:** *Formal enforcement powers are important in terms of remedying individual non-compliance. Their use is important in a compliance strategy as they are a vital last resort for the enforcer.*

## 9.0 REFERENCES

- Aalders M and Wilthagen T, 1997, "Moving beyond command and control: reflexivity in the regulation of occupational safety and health", *Law and Policy*, Vol.19, No.4, pp.415-443.
- ABI, 2003, Initiative for the Assessment of Trade Association Health and Safety Schemes, ABI, London.
- Advisory Committee on the Safety of Nuclear Installations, 1993, Organizing for Safety, HMSO, London.
- Ayres I and Braithwaite J, 1992, Responsive Regulation, Oxford University Press, Oxford.
- Bacon J, 1994, Risk-based regulation: Setting goals for health and safety, Presentation given to PSAM-II Conference, San Diego, California, 20-25 March 1994.
- Baldwin R, 1995, Rules and Government, Clarendon Press, Oxford.
- Baldwin R and Cave M, 1999, Understanding Regulation, Oxford University Press, Oxford.
- Baldwin, R. (2004). 'The New Punitive Regulation'. *Modern Law Review*, 67, 3, 351-383
- Beck U, 1992, Risk Society, Sage, London
- Bluff L, 2003, Systematic Management of Occupational Health and Safety, National Research Centre for OHS Regulation, Australia.
- Bolton J, 1971, Small Firms: Report of the Committee of Inquiry on Small Firms, HMSO, London.
- Bowles C, 1971, Promises to Keep, Harper & Row, New York.
- Braithwaite J, 1982, "Enforced Self-Regulation: A new strategy for corporate crime control", *Michigan Law Review*, Vol.80, pp.1466-507.
- Braithwaite J and Drahos P, 1999, Zero tolerance, naming and shaming: Is there a case for it with crimes of the powerful, Paper to Australian and New Zealand Society of Criminology, 30 Sep 1999, Perth
- Buultjens J, 1994, Labour market deregulation: Does small business care? *International Journal of Employment Studies* 2, 1, 132-157
- BRTF, 2000, The Better Regulation Guide and Regulatory Impact Assessment, The Cabinet Office, London.
- BRTF, 2003, Imaginative Thinking for Better Regulation, The Cabinet Office, London.
- Cabinet Office, 1998, Review of Licensing Legislation, Cabinet Office, London.
- Cabinet Office, 1999a, White paper on Modernising Government, Cabinet Office, London.
- Cabinet Office, 1999b, Review of Enforcement, Cabinet Office, London.
- Cabinet Office, 1999c, Enforcement, Better Regulation Task Force, London.
- Cabinet Office, 2000, Tackling the Impact of Increasing Regulation - A Case Study of Hotels and Restaurants, Cabinet Office, London.

Cabinet Office, 2001, *Small shops: A Progress Report on the Regulation of Small Firms*, Cabinet Office, London.

Champoux D, and Brun J.P, 2003, Occupational health and safety management in small size enterprises: an overview of the situation and avenues for intervention research, *Safety Science*, 41, 301-318

Commission of the European Communities, 2002, *Adapting to change in work and society: A new community strategy in health and safety at work 2002-2006*, Commission of the European Communities, Brussels.

Confederation of British Industry, 1996, *Generating Growth: An SME Policy Checklist and Agenda*, CBI, London.

Dawson S, Willman P, Bamford M and Clinton A, 1988, *Safety at Work - The Limits of Self-Regulation*, Cambridge University Press, Cambridge.

Department of the Environment, Transport and the Regions, 2000, *Revitalising Health and Safety: Strategy Statement*, June 2000, HMSO, London.

Department of Trade and Industry's Small Business Service, 2003, *Small and Medium-sized Enterprise (SME) statistics for the UK 2002*, DTI, London

Edelman L, 2004, Rivers of law and contested terrain: A law and society approach to economic rationality, *Law and Society Review*, 38 (2): 181-198

Environment Agency, 1998, *Enforcement and Prosecution Policy*, Environment Agency, Bristol.

Environment Agency, 2000a, *Business decision-making and the environment*, R7D technical report E98 Environment Agency, Bristol.

Environment Agency, 2000b, *Environmental protection regulatory achievements*, R&D Technical Report P392, Environment Agency, Bristol.

European Agency for Safety and Health at Work, 2001, *The State of Occupational Safety and Health in the EFTA Countries*, European Agency for Safety and Health at Work, Luxembourg.

Fairman R, 1999, A commentary on 'The evolution of environmental health risk management: A US perspective', *Journal of Risk Research*, Vol.2, No.2, pp.101-115.

Fairman R and Yapp C, 2004, "Compliance with food safety legislation in small and micro-businesses: enforcement as an external motivator", *Journal of Environmental Health Research*, Vol 3 Issue 2, pp.44-52.

Fairman R and Yapp C, forthcoming, "Enforced self regulation, prescription and conceptions of compliance within small businesses: The impact of enforcement", Accepted for publication in *Law and Policy*.

Fanshawe T, 2000, "The interrelationship between environmental regulators, small and medium sized enterprises and environmental help organisations", In Hillary R (Ed) *Small and Medium Sized Enterprises and the Environment*, Greenleaf Publishing, Sheffield.

Franklin S and Goodwin J, 1983, Problems of small businesses and sources of assistance, *Journal of Small Business Management*, 21, 5-12

Food Standards Agency, 2001, *Task Force on the burdens of food regulations on small food businesses*, Food Standards Agency, London.

Foster P, 2002, London Borough of Croydon, personal communication.

French M and Neighbors D, 1991, "A Model of Firm Costs of Compliance with Food Labeling Regulations", In Caswell J (Ed) Economics of Food Safety, Elsevier, New York.

Genn H, 1993, "Business responses to the regulation of health and safety in England", Law and Policy, Vol.3, No.15, pp.219

Gerstenfeld A and Roberts H, 2000, "Size matters: barriers and prospects for environmental management in small and medium sized enterprises", In Hillary R, (Ed) Small and Medium Sized Enterprises and the Environment, Greenleaf Publishing, Sheffield.

Gunningham N, Grabosky P, Sinclair D, 1998, Smart Regulation, Oxford University Press, Oxford.

Gunningham N and Johnstone R, 1999, Regulating Workplace Safety: Systems and Sanctions, Oxford University Press, Oxford.

Hawkins K, 1984, Environment and Enforcement, Oxford University Press, Oxford.

HELA, 2002, National Picture 2002, Health and Safety Executive, Norwich.

HELA, 2003, Auditing Framework for Local Authorities' Management of Health and Safety Enforcement, Health and Safety Executive, Norwich.

Henson S and Heasman M, 1998, "Food safety regulation and the firm: understanding the compliance process", Food Policy, Vol.23, No.1, pp.9-23.

Hillary R, 1995, Small firms and the Environment: A Groundwork status report, The Groundwork Foundation, Birmingham.

Hillary R, 2000, Small and Medium Sized Enterprises and the Environment, Greenleaf Publishing, Sheffield.

Health and Safety Commission, 2001a, Section 18: HSC Guidance to Local Authorities, Health and Safety Executive, Norwich.

Health and Safety Commission, 2001b, Health and Safety in Local Authority Enforced Sectors: HELA Strategic Plan 2001-2004, Health and Safety Executive, Norwich.

Health and Safety Commission, 2001c, Levels and trends in workplace injury: Rates of injury within small and large manufacturing workplaces, Strategy and Analytical Support Directorate, Bootle

Health and Safety Commission, 2003, Health and Safety Statistical Highlights 2002/03, Health and Safety Executive, Norwich.

Health and Safety Commission, 2004, Health and Safety Statistics Highlights 2003/4, Health and Safety Executive, Norwich.

Health and Safety Executive, 2002, HELA: National Picture 2002, Health and Safety Executive, Norwich.

Health and Safety Executive, 2003, Occupational Health Statistics Bulletin 2002/03, Health and Safety Executive, Norwich.

Health and Safety Laboratory, 2000, Risk assessment in SMEs: examples of good practice, Health and Safety Laboratory, Sheffield.

Holmes N, Triggs T, Gifford S, Dawkins A, 1997, Occupational injury in a blue collar business, small business industry: implications for prevention, *Safety Science*, 25,1, 67-78

Hood C, Rothstein H, and Baldwin R, 2001, *The government of risk*, Oxford University Press, Oxford

Howard M and Galbraith A, 2004, Factors influencing local authority interventions and enforcement activity, Health and Safety Executive, Norwich

Humphreys T, 2004, Association of British Insurers, personal communication.

Hunt J, 2000, "*Environment, information and networks: how does information reach small and medium sized enterprises?*", In Hillary R, (Ed) *Small and Medium Sized Enterprises and the Environment*, Greenleaf Publishing, Sheffield.

Hutchinson A and Chaston I, 1995, Environmental perceptions, policies and practices in the SME sector: A case study, paper presented at Business Strategy and the Environment conference, Bradford, 23-24 September 1994.

Hutchinson A and Hutchinson C, 1995, "Sustainable regeneration of UK's small and medium sized enterprise sector: Some implications of SME response to BS 7750", *Greener Management International*, Vol.9, pp.74-84.

Hutter B, 1988, *The Reasonable Arm of the Law? The law enforcement procedures of environmental health officers*, Clarendon Press, Oxford.

Hutter B, 1999, *A Reader in Environmental Law*, Oxford University Press, Oxford.

ICAEW, 2000, *Smaller Businesses and Regulation: research report*, ICAEW, Milton Keynes.

ICAEW, 2001, *Developing the Enterprise Economy*, ICAEW, London.

Industry Commission, 1995, *Work, Health and Safety: Inquiry into occupational health and safety*", Volume I, Report No.47, Commonwealth of Australia, Canberra.

International Labour Organisation, 2003, *International Labour Organisation Standards-Related Activities in the Area of Occupational Safety and Health*, Report VI, International Labour Conference, 91<sup>st</sup> Session 2003, Geneva.

Johnstone R, 2003, "From fact to fiction – rethinking OHS enforcement", in *Proceedings of Australian OHS regulation for the 21<sup>st</sup> century*, at Ana Hotel and Conference Centre, Gold Coast, 21-22 July 2003.

Kagan R and Scholz J, 1984, "The 'criminology of the corporation' and regulatory enforcement strategies", In Hawkins J and Thomas J (Eds), *Enforcing Regulation*, Kluwer-Nijhoff, London.

Lancaster R, Maher C, Alder A, 2001, *Second Evaluation of the Manual Handling Operations Regulations (1992) and Guidance*, Contract Research Report 346/2001, Health and Safety Executive, Norwich.

Lancaster R, Ward R, Talbot P, Brazier A, 2003, *Costs of compliance with health and safety regulations in SMEs*, Research Report 174, Health and Safety Executive, Norwich.

Lamm F, 1995, *Occupational health and safety regulations in small businesses in New Zealand and Queensland small businesses*. In *Understanding of the Working Environment* Ed K Frick, Swedish Institute for Work Life Research, Sweden.

Lamm F, 1997, *Small businesses and OH and S advisors*, *Safety Science*, 25, 1-3, 153-161.

- Leavitt H, 1975, Beyond the analytical manager. *California Management Review*, 17, 3, 5-12.
- Leigh J, 1989, Firm size and occupational injury and illness rates in manufacturing industries, *Journal of Community Health*, 14, 44-52.
- Lindblom, C. (1959) 'The science of muddling through.' *Public Administration Review*, 19, 2, 79-88.
- Loader R and Hobbs J, 1999, Strategic responses to food safety legislation, *Food Policy*, Vol. 24, pp.685-706.
- March J, 1978, Bounded rationality, ambiguity, and the engineering of choice, *Bell Journal of Economics* 9, 587-608.
- March J. and Simon H, 1958, *Organizations*, New York, Wiley.
- May P, 2004, Compliance motivations: Affirmative and negative bases, *Law and Society Review*, 38,1,41-68.
- McQuaid J, 2004, Health and safety in the UK, talk at Tolerability of Risk conference, Senate House, 25<sup>th</sup> March 2004.
- Michaelis C, Smith K, Richard S, 2001, Regular survey of small business' opinions, August 2001, Databuild Ltd., Birmingham.
- Morrison G, 2004, Health and Safety Executive statistics unit, personal communication, November 2004.
- O'Dea A and Flinn R, 2003, The role of managerial leadership in determining workplace safety outcomes, Contract Research Report 044/2003, Health and Safety Executive, Norwich.
- Occupational Safety and Health Agency, 2003, OSHA 2003-2008, Strategic Management Plan, OSHA.
- Ogus A, 1994, *Regulation: Legal form and economic theory*, Clarendon Press, Oxford.
- Ogus A, and Abbot C, 2002, "Sanctions for Pollution: Do we have the right regime?", *Journal of Environmental Law*, Vol.14, No.3, pp.283-298.
- Oleinick A, Gluck J and Guire K, 1995, Establishment size and risk of occupational injury, *American Journal of Industrial Medicine*, 28, 1, 1-21
- Organisation for Economic Co-operation and Development, 2000, Reducing the risk of policy failure: Challenges for regulatory compliance, OECD, Brussels.
- Packham, N, 2004, Small Business Champion at the Inland Revenue, Personal communication.
- Perrow, C,1999, *Normal Accidents*. New Jersey, Princeton University Press.
- Purcell J and Gray A, 1986, Corporate personnel departments and the management of industrial relations, *Journal of Management Studies*, 23, 2, 205-223
- Petts J, 2000, "Small and medium sized enterprises and environmental compliance", In Hillary R, (Ed) *Small and Medium Sized Enterprises and the Environment*, Greenleaf Publishing, Sheffield.
- Plom A, 2004, Health and Safety Executive Local Authority Unit, personal communication.
- Power M, 2004, *The risk management of everything*, Demos, London

Royal Commission on Environmental Pollution, 1998, Setting Environmental Standards, 21st Report, The Stationery Office, London.

Rakel H, Gerrard S, Langford I and Shaw K, 1999, Evaluating the impact of contact techniques, HSE Contract Research Report 212, HSE, Norwich

Reiss A, 1984, "Selecting strategies of social control over organisational life", In Hawkins J and Thomas J (Ed), Enforcing Regulation, Kluwer-Nijhoff, London.

Richardson G, Ogus A, and Burrows P, 1982, Policing pollution: A study of regulation and enforcement, Clarendon Press, Oxford.

Robens (Committee on Safety and Health at Work), 1972, Safety and Health at Work, London, HMSO.

Salminen S, The effect of company size on serious occupational accidents, In Neilsen V and Jorgensen K (Ed) Advances in Industrial Ergonomics and Safety, Taylor and Francis, London

Scholz, J, 1997, Enforcement policy and corporate misconduct: The changing perspective of deterrence theory. Law and Contemporary Problems 60, 3, 253-268.

Scholz, J. and Gray, W., 1990, OSHA enforcement and workplace injuries: A behavioural approach to risk assessment Journal of Law and Uncertainty 3, 283

Scott M, Robert I, Holroyd G and Sawbridge D, 1989, Management and industrial relations in small firms, Research Paper No 70, Department of Employment, London

Taylor E, 2001, "HACCP in small companies: benefit or burden?", Food Control, Vol.12, pp.217-222.

Vogel D (1986) National Styles of Regulation: Environmental Policy in Great Britain and the United States, New York: Cornell University Press.

Weick K, 1995, Sensemaking in organisations, California, Sage

Weick K, 2001, Making Sense of the Organisation, London, Blackwell.

WHO, 2002, The World Health Report 2002, Reducing Risks, Promoting Healthy Life, WHO, Geneva.

Wright M, 1998, Factors Motivating Proactive Health and Safety Management, Contract Research Report 179/1998, Health and Safety Executive, Norwich.

Wright M, Marsden S, Antonelli A, 2004, Building an evidence base for the Health and Safety Commission Strategy to 2010 and beyond: A literature review of interventions to improve health and safety compliance, Research Report 198, Health and Safety Executive, Norwich.

Yapp C and Fairman R, 2003, Performance assessment in local authority food safety services, Journal of Environmental Health Research, Vol.2, Issue 1, pp.2-9.

Yapp C and Fairman R, 2004a, The Evaluation of Effective Enforcement Approaches for Food Safety in SMEs, Food Standards Agency, London

Yapp C and Fairman R, 2004b, Literature review and development of a compliance decision model, unpublished report submitted to the Health and Safety Executive.

Yapp C and Fairman R, 2004c, Health and safety service plans: assessing the adequacy of service provision in local authorities, unpublished report submitted to the Health and Safety Executive.

Yapp C and Fairman R, forthcoming, Factors affecting food safety compliance within small and medium-sized enterprises: Implications for regulatory and enforcement strategies, *Journal of Food Control*, forthcoming.

Yapp C and Fairman R b, forthcoming, Assessing food safety compliance in small businesses, *British Food Journal*

York Consulting, 2000, Mapping of enforcement allocation against risk and hazard, York Consulting, Leeds.

## 10.0 APPENDICES

### APPENDIX 10.1 COPY OF THE LETTER SENT TO SMES WITHIN THE CASE STUDIES

The Owner/Manager

Date 2004

Dear Sir/Madam,

Re: Health and Safety Executive Research: small and medium-sized businesses and local authority approaches

Kings College London is carrying out work to evaluate the different approaches used by local authorities to improve health and safety in small and medium- sized businesses. This work is funded by the Health and Safety Executive and will help them to develop their policies in ensuring that small and medium sized businesses are able to meet the requirements of health and safety legislation.

Your business has been randomly selected from within the \_\_\_\_\_ Council area. I would like to arrange an interview with you at your premises to discuss your views and experiences of health and safety enforcement – both within your own business and within the local district. Even if you have never received a visit from the local authority we would still like to speak to you to find out how you do access health and safety information.

Whilst \_\_\_\_\_ Council is aware that we are carrying out this research within their district, the interview will be completely confidential. Any comments you make will be treated anonymously within our report to the Health and Safety Executive. Your involvement in this work is extremely important as you will be contributing to the development of future health and safety policies in the UK.

I would be very grateful if you could contact me on 0207 848 2941 to arrange a suitable time and date for me to visit you. The interview will take around 30 minutes to complete and can be conducted at any time to suit you.

I look forward to hearing from you.

Yours faithfully,

Charlotte Yapp  
Research Associate.

## APPENDIX 10.2 BUSINESS INTERVIEW PROTOCOL

Clarify the purpose of the interview

Clarify interview structure:

To discuss experiences of health and safety law and how these have been dealt with

To identify different LA approaches and your views of these

Confirm that:

Answers are confidential

LA aware work is being done but have no access to individual responses.

Premises file checked so that relevant questions can be asked

If interviewees is agreeable, the interview will be tape-recorded

General Questions:

1. Are you the owner/manager?

2. How long have you been in business here? What qualifications do you and the staff have?

3. Are you responsible for health and safety? If not who is?

4. How many staff do you employ? FT/PT

5. Do you belong to a Trade Association?

Yes: Which one

No: Why not

Finding out about health and safety laws:

6. How do you find out about health and safety laws?

Council – leaflets, courses, advice

Trade Associations

Other – What?

7. Do you think that this is the best way of finding out what you have to do? How else could it be given?

Risk identification and control:

8. What do you think the main health and safety hazards and risks are for your staff? For your clients?

MSD

IDC

Slips/trips

Dermatitis

9. How have you dealt with these issues? What steps have you taken to reduce the risks to staff? To clients?

E.g Dermatitis in staff – have you had any problems?

How can this be avoided?

Who did you get information/ advice from?

Has it solved the problem?

10. Have you heard of RA?

11. How did you find out that you were required to assess the hazards in your business?

When did you find out?

Council visit

TA

## Courses

12. Was the information helpful? Why? Why not?

13. How else could it have been usefully given to you?

14. Have you done it?

When? If LA told you before this to do it, why didn't you do it before this?

Was the timescale given by the LA reasonable?

Why? Why not?

Did you worry that the LA would take enforcement action if you didn't do it? Why? Why not? Is that the reason that you did it?

Did you get any help with it? Who from?

15. Is it written down? Why? Why not?

16. Have you reviewed it? Why? Why not? What changes were made?

17. Are the staff aware of it? How do you tell them about it?

18. Do you think that your health and safety has been improved here because of doing the RA? Why? Why not?

D: Chemical safety:

19. Have you heard of COSHH? Who from? When? What action have you taken? Why? Why not?

20. How do you find out about chemical safety? What actions have you taken to reduce the risks for staff? For clients?

## Inspection:

21. Do you receive inspections from the LA?

22. How do you feel about the inspection visit?

Why?

Do you think it would be likely that the local authority would prosecute you if they found something wrong with your premises?

Do you think they carry out much enforcement in the district?

23. Do you have any improvements planned with respect to health and safety for your business? Why? Why not?

e.g. new equipment/ checking and doing paperwork?

Replacing anything you know that the inspector will be looking at?

What determines when this will be done?

24. Do you think that you could improve anything here?

Why haven't you done it?

25. Do you know when you had your last inspection? Do you know roughly how often you are inspected? Are you told when to expect the next visit?

Prompt: At the last inspection you were told to do X, Y, Z.

26. Have you done this?

How did you do it? Did you ask for any help?

Why did you do it? Why not?

Will you be doing them in the future?

Did you think the timescales were reasonable? Why? Why not?  
Did you do it within the timescales?  
Why didn't you do them before the inspector told you to do them?  
What would persuade you to do it?  
Do you agree with these requirements? Why? Why not?  
Do you think they will improve health and safety? Why? Why not?

Prompt: At the last inspection you were advised to do X, Y, Z

27. Firstly are you aware that they were advisory and not required?

28. Have you done this?  
Why? Why not?  
Will you be doing them in the future?  
Why didn't you do them before the inspector told you to do them?  
What would persuade you to do it?  
Do you agree with this advice? Why? Why not?  
Do you think they will improve health and safety? Why? Why not?

#### TRAINING COURSES:

29. Have you been on a health and safety course?  
When? Why? Why not?

30. What did you learn there that you didn't already know?  
E.g. up to date legislation, hazards and risks  
Did you make any changes as a result of attending the course? E.g. avoiding certain chemicals/ practices. What changes?  
No: Why not?

31. What could be done to improve the course you attended?

32. Have you sent your staff on a health and safety course?  
Why? Why not?

33. Will you or your staff be attending any further courses?  
Why? Why not?

Close interview, thank them for taking part

### APPENDIX 10.3 SUMMARY OF KEY COMPLIANCE ASSESSMENT CRITERIA FOR EACH SUBJECT AREA

Subject Area	Non-compliant	Compliant	
Risk assessment	Not heard of risk assessment Not undertaken a risk assessment. For those with more than 5 staff this means no written assessment completed	Hazards identified and controlled correctly Risk assessment completed (written if more than 5 staff, or considered and understood by those with <5 staff) Regularly reviewed (i.e. annually) and updated when changes occurred in the business. Where reviews did not take place, or infrequent still considered compliant if not apparent outstanding risks Staff aware of the assessment, for example included within induction training	
COSHH	Not heard of COSHH Not undertaken a COSHH assessment. For those with more than 5 staff this means no written assessment completed	Partially compliant Aware of the concept of COSHH COSHH base on collection of suppliers safety information sheets Majority of hazards identified and controlled correctly Inadequate COSHH assessment completed, e.g. suppliers information sheets form COSHH assessment – not tailored to business Reviews do not take place, or infrequent/ad hoc arrangements in place	Fully compliant Hazards identified and controlled correctly – evidence of good practice noted in staff COSHH assessment completed (written if more than 5 staff, or considered and understood by those with <5 staff) Regularly reviewed (i.e. annually) and updated when products changed Staff aware of the assessment, e.g. within induction training
Electrical safety	Unaware of the requirement to test appliances and installations Appliances and installations not tested Evidence of poor practice (e.g. trailing wires, broken plugs) Inadequate arrangements in place, e.g. self-testing completed with no testing ever completed by electrician, or one-off testing of premises completed when premises bought.	Evidence of appliances and installations being tested regularly, e.g. annually Evidence of good practice in place	

## APPENDIX 10.4 STATISTICAL TESTS

Chi Square Test:  $\chi^2 = \sum [(O-E)^2/E]$

Where O = observed value; E = expected value

The effect of local authority intervention upon compliance levels for risk assessment requirements:

There was no significant difference in compliance found between SMEs receiving different local authority intervention levels (reported in Figure 6):

$$\chi^2 = 4.76, df = 2, NS$$

	No local authority contact (numbers observed/ expected)	Inspection/ no follow up activity (numbers observed/ expected)	Inspection/ follow up activity (numbers observed/ expected)
SME comply	3/5.56	6/6.49	10/6.95
SME non-compliance	9/6.44	8/7.51	5/8.05

The effect of college activity upon compliance levels for risk assessment requirements

There was a significant difference in compliance found between SMEs receiving different levels of college visits/contact (reported in Figure 7):

$$\chi^2 = 8.06, df = 2, p < 0.05$$

	No college contact (numbers observed/ expected)	College visits yearly or less (numbers observed/ expected)	College visits at least twice a year (numbers observed/ expected)
SME comply	3/7.41	4/2.78	12/8.80
SME non-compliance	13/8.58	2/3.22	7/10.20

There was a significant difference in compliance found between SMEs receiving different local authority intervention levels (reported in Figure 10):

$$\chi^2 = 9.45, df = 2, p < 0.01$$

	No local authority contact (numbers observed/ expected)	Inspection/ no follow up activity (numbers observed/ expected)	Inspection/ follow up activity (numbers observed/ expected)
SME comply	3/7.32	10/8.54	12/9.15
SME non-compliance	9/4.68	4/5.46	3/5.85

The effect of college activity upon compliance levels for electrical safety requirements

There was no significant difference in compliance found between SMEs receiving different levels of college visits/contact (reported in Figure 11):

$$\chi^2 = 2.40, df = 2, NS$$

	No college contact (numbers observed/ expected)	College visits yearly or less (numbers observed/ expected)	College visits at least twice a year (numbers observed/ expected)
SME comply	8/9.76	3/3.66	14/11.59
SME non-compliance	8/6.24	3/2.34	5/7.41

## GLOSSARY

ABI	Association of British Insurers
ACSNI	Advisory Committee on the Safety of Nuclear Installations
BRTF	Better Regulation Task Force
CBI	Confederation of British Industry
COSHH	Control of Substances Hazardous to Health Regulations 2002
DTI	Department of Trade and Industry
FSA	Food Standards Agency
HACCP	Hazard Analysis Critical Control Points
HELA	Health and Safety Executive/ Local Authority Liaison Committee
ICAEW	Institute of Chartered Accountants in England and Wales
LA	Local Authority
MSD	Musculo-skeletal Disorders
NHF	National Hairdressers Federation
OECD	Organisation for Economic Co-operation and Development
OJ	Official Journal
	<b>OSHA Occupational Safety and Health Agency</b>
RIDDOR	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
SME	Small and Medium Sized Enterprise
WHO	World Health Organisation





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