

Review of the relationship between the Health and Safety Executive and Local Authorities

Background

HSE and Local Authorities (LAs) operate in partnership to ensure the health and safety of workers and those affected by workplace activities. As part of the ongoing development of the next strategy for HSC, the role of LAs and HSE's relationship with them was identified as a strategic issue which needed to be addressed. To do this, HSE launched a strategic review of the relationship between HSE and LAs.

The first stage of exploration and consultation was a small scale market research undertaken by consultants 'Radical'. This involved them speaking to HSE personnel, LA staff and interested parties such as companies inspected by LAs. The results of this are attached with this document.

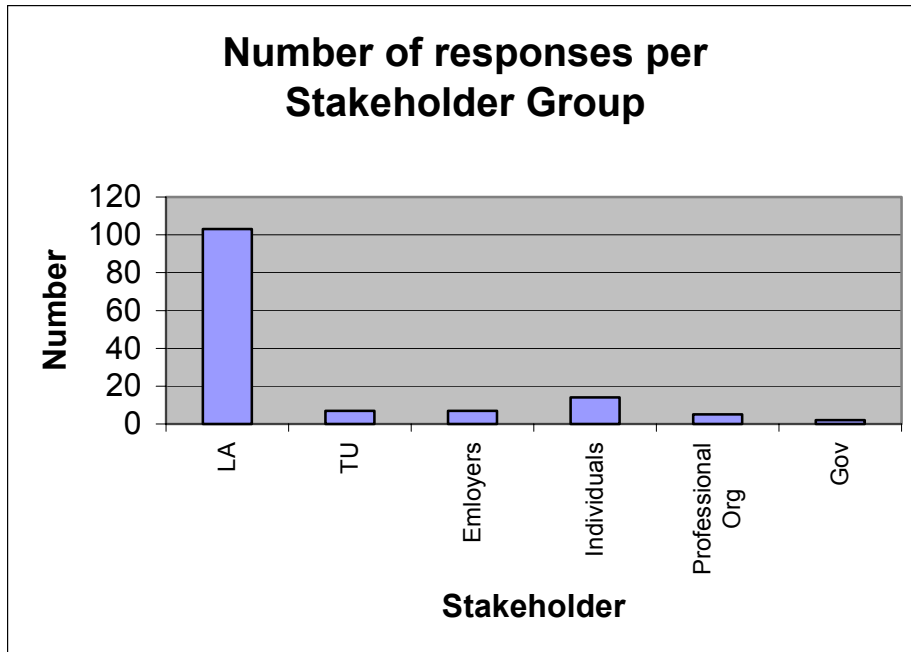
In addition to this, a working group was set up comprising HSE, LA staff, and LA bodies. This group was instrumental in establishing the key issues which needed to be addressed, and deciding upon the way forward.

A discussion document looking at these key issues was launched on 25th August for a short consultation (attached at Annex 1). It looked for views on the problems, what they thought of the proposed further directions. It also asked a series of questions to elicit their views on the relationship between HSE and LAs and what they would like to see improve.

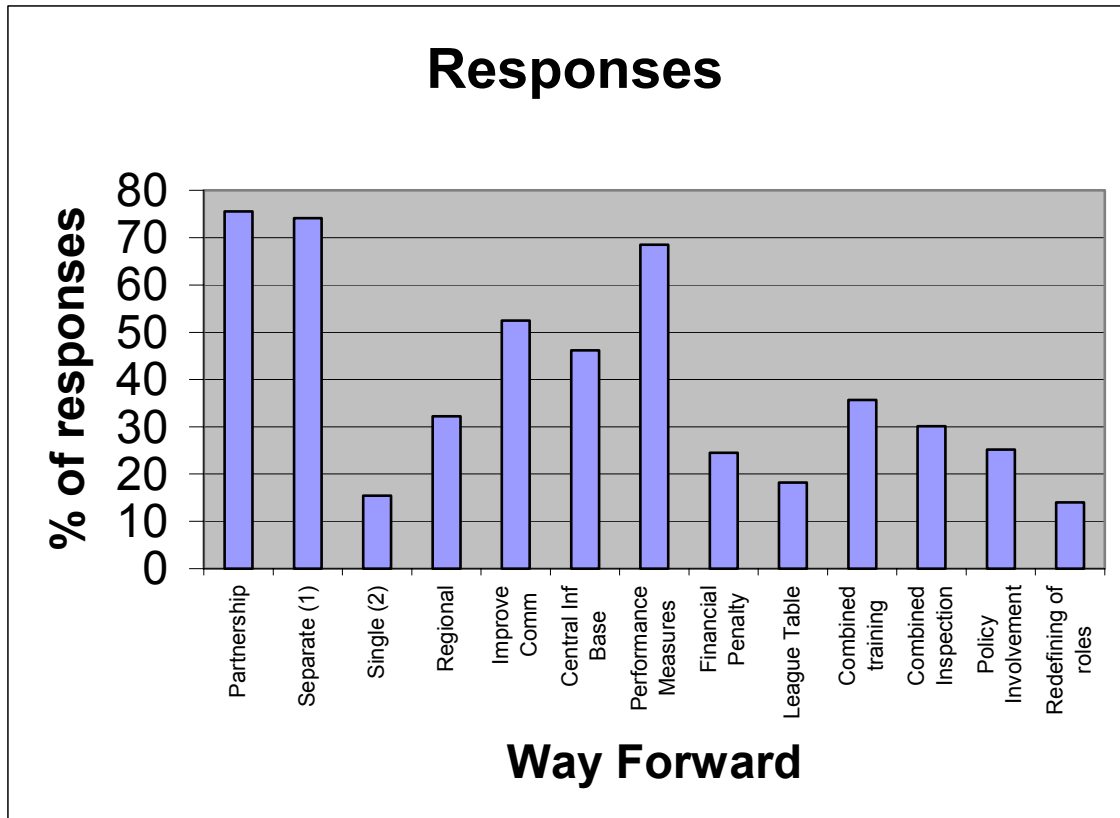
Breakdown of responses

Responses to the questions in the discussion document

There were 143 responses within the timeframe, of which a vast majority came from LAs, however, there were also responses from employers and employers' organisations, Trade Unions, Individuals, other Government Departments and Professional Organisations.



The discussion document asked a number of questions and offered six ways forward. The most fundamental question asked was whether there should still be a partnership between HSE and LAs, or whether a single authority would provide a better way of managing health and safety in GB. The overwhelming response to this was that partnership working, albeit it with major adjustments and refinements, was the best way to ensure the health and safety of workers.



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“..the two provide a similar service but not the same service and that is a strength of the current system.”

“I believe a partnership approach between HSE and LAs should continue but this should be an equal partnership with LAs having a more effective voice in determining policy”

“Needs to be an equal partnership and recognised as such within HSE.”

“The best outcomes could be achieved through effective partnership between local authorities and the HSE”

“If however a dual system is maintained this must be on a level playing field with clearer defined areas of enforcement”

“The ... believes that all enforcement of health and safety should be the responsibility of a dedicated Inspectorate”

¹ 1) Separate means that the respondent expressed a preference for separate bodies have health and safety functions

2) Single means that the respondent expressed a preference for only one body to have health and safety functions

“In what other model are there two entirely discrete organisations attempting to implement the same legislation”

The discussion document then went on to the question of performance and its measurement. Just over two-thirds of the respondents commented specifically on performance measurement. Many of the respondents felt that, whilst performance measurement was a good idea, it was important that the right performance measures were put in place and perhaps more importantly that HSE field operations were also subject to the same measurement structure. There was some support for any performance measure to be part of comprehensive performance assessment or Best Value.

“performance indicators must be devised which measure the effectiveness of actions as well as the number of visits to premises”

“health and safety enforcement functions should be more strictly controlled – this could be achieved by introducing performance indicators”

“HSE needs to be subject to the same level of self audit and scrutiny as LA’s”

“The HSC should be more robust in their enforcement of satisfactory standards, both on HSE and LAs”

Following on from performance measurement, the question was asked “What should be the consequences for poorly performing authorities?”

Of those who commented on the performance question, a small number of alternatives made up the majority. These included the possibility of a financial penalty, or that the Commission use the powers it already has (i.e. to withdraw enforcement rights from failing authorities). However, there was a significant minority who felt that league tables or naming and shaming had a greater impact on local councillors. A number of respondents felt that a mentoring system between authorities would be more effective in bringing performance to an acceptable level.

“Poor performing authorities should be given assistance by other similar local authorities to help them improve”

“Most elected members do not like to see their local authority being portrayed in a negative light”

“What really gets action and more resources in a Council is the publication of name and shame reports”

“The HSC should remove their enforcement authority role and fine them the equivalent of the average of the other local authorities’ spending per head of population per year”

“Secondments from the HSE to help develop local authorities who are under performing might be helpful”

“ It would be a major step forward for the HSC to air it’s specific concerns about individual authorities and exercise the default powers available to it”

For many respondents the questions on building capacity, communication, prioritisation and integration had similar answers. Almost half felt that a central database or information point was desirable and this, along with joint working plans and joint training, would ensure that the communication between the organisations would improve. An improvement in communication was felt to be a pre-requisite to improved partnership.

“...increased access to HSE training for example could be developed.”

“Maybe it would be possible for HSE and LAs to jointly agree to an inspection plan”

“HSE can play a key role in providing training and specialist technical advice to local authority inspectors”

“The full range of training given to HSE inspectors should also be available to LA officers”

“Sharing of databases would improve the situation”

“Why is there no national database which all LAs and HSE have access to, after all we are in the 21st century and the technology is available for this!”

“Best practice should be shared between LAs and between LAs and HSE, e.g. via LAU closed website”

“Communications could be improved by a shared GIS linked database”

The last question asked was how Local Authorities felt they could be more involved in the development of policy. Only a quarter responded on this specific issue.

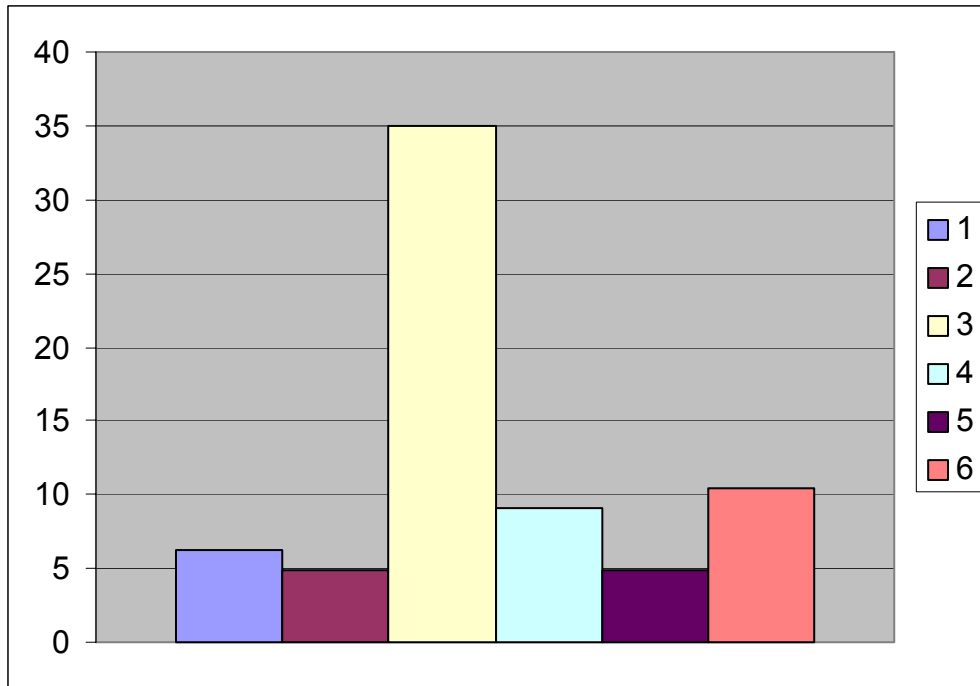
“Regional groups should be consulted with, but also key members in LAs”

“LAs have regional health and safety liaison groups which ELOs currently have some input to. These could and should be made Statutory Consultees with regard to proposed policy leading to fresh ideas and widespread consultation amongst the relevant inspectors”

“Better consultation through chief officer groups or centre CIEH Health and Safety groups”

Views on the approaches suggested in the discussion document

Of the six possible approaches put forward by far the one with most support was approach three although this was often combined with approach five or six. However, it is notable that some groups deviated from this. Trade Unions, were they expressed a preference of approach, chose either approach 2 and approach 3, and employers tended to favour approach 6.



Approach One

“Approach one where Local Authorities would take on the enforcement of the majority of premises would be a good way forward. However, specific high risk national industries and strategic direction should be controlled at a national level”

“A model which combines elements of approaches 1 and 3 is favoured somewhat akin to the regulatory split within the Canadian system”

Approach Two

“Reluctantly, taking a dispassionate, nationwide view of the overall picture, I have to say that this is the approach which makes the most sense”

“Of the two radical proposals this is more logical and could improve enforcement and compliance as it would produce one inspectorate with a

clear understanding of hazard and risk and the ability to differentiate properly between different business/industry sectors and the risks they present.”

Approach Three

“Approach three would see to be the most realistic and achievable way forward”

“This appears to have the most potential of all the proposals, but there would need to be considerable discussion between HSC/HSE and local authorities in order to ‘firm up’ the proposal”

“If dual enforcement is to remain and pragmatics may demand this, it was the opinion of the group that any approach must be backed up with rigorous performance indicators that will be imposed and strictly adhered to by all”

Approach Four

“Our favoured partnership (approach four) would, if operated as envisaged, give local authorities access to HSE’s scientific, technical and other specialist resources”

“It certainly would lead to a large amount of confusion as businesses grow or shrink regularly and enforcement allocation would alter accordingly”

Approach Five

“We have moved away from trying to undertake HSW along side food safety. Food safety dominates and we took the view that it is too much for a small business to cope with in one visit”

“This would be integrated with approach 3. It already is common practice in LA’s”

Approach Six

“This approach should be integrated within approach 3”

“We would prefer the approach six view and more resources given to the working relationships between large companies and the Lead Partnership scheme”

Conclusion

The strongest message to come out of consultation is that LAs want to see partnership continue, and they did not favour moving to a single enforcement authority. But this partnership would have to be fundamentally different to the present, rather one-sided, one. A point made by a wide range of respondents was the need for a change in the culture and attitudes in which HSE and LAs currently work together. The partnership must be genuine, working to the same ends, and made equal under the Commission. Many respondees called for practical changes which we can work towards now, such as joint training, and joint visits.

But the first chart shows that the vast majority of replies came from LAs and account must be taken of differing views expressed by other smaller groups of respondees. For instance there were responses from a number of trade unions, and half of them wished to see health and safety functions transferred to one single body.

The strategic review of the relationship between HSE and LAs is now entering a new phase. The discussion document, whilst only out for a short time, provoked a substantial level of response and comment. We are now beginning to look at how we create a more productive and efficient relationship between HSE and LAs, moving forward in an inclusive and transparent process.