



PhD thesis

Regulation as an opportunity for learning and small business development: The case of Environmental Health inspections and good learning behaviours

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Regulation as an opportunity for learning and small business development: The case of Environmental Health inspections and good learning behaviours

A thesis submitted to Middlesex University in partial fulfilment of the requirements for the
degree of Doctor of Philosophy

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ABSTRACT

Regulation as an opportunity for learning and small business development: The case of Environmental Health inspections and good learning behaviours

The impact of regulation on small business has been subject to much debate and contestation by industry, government, and academics. Small businesses pose particular challenges in meeting legislative obligations, often due to lack of awareness and misinterpretations. The role of Environmental Health inspectors has historically been focussed on assessing compliance to protect public health. This research investigates the role of inspectors as educators, adding a new dimension to existing knowledge and theory bringing together the literature about regulatory compliance and learning and explores the interactions between actors to determine the outcomes of this interface and the potential for learning.

A focus group of inspectors identified a set of good learning behaviours (GLB's) which were used in this qualitative study of 6 case studies each made up of an inspector and a small business operator. Observations of visits were carried out to identify evidence of GLB's, followed by semi-structured interviews with both parties to identify evidence of learning, responses between individuals and exploration of the supportive and prohibitive factors for learning.

The key finding is that learning often does take place during regulatory interactions, this can be a two-way process, and certain conditions are particularly supportive of learning. Timing of the visit and the first introductory phase are critical, and two-way dialogue which includes a number of factors, is key to effective learning. These findings enabled the construction of a conceptual framework and development of a model that can be applied to Environmental Health regulatory activities to promote better learning outcomes in small businesses.

These findings are of significance to small business operators and Local Authority Environmental Health departments and their overarching bodies who have the ability to influence how regulatory interventions are carried out in the future. There is a particular gap in inspector training, with a need to focus more on understanding small businesses and how they operate, to better meet their needs.

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GLOSSARY

BCC	British Chambers of Commerce
BEIS	Department for Business Energy and Industrial Strategy
BERR	Department for Business Enterprise and Regulatory Reform
BIS	Department for Business Innovation and Skills
BRE	Better Regulation Executive
CIEH	Chartered Institute of Environmental Health
DWP	Department for Work and Pensions
EA	Environment Agency
EC	European Community
EHO	Environmental Health Officer
EHP	Environmental Health Practitioner
EU	European Union
FBO	Food Business Operator
FHRS	Food Hygiene Rating Scheme
FSA	Food Standards Agency
FSB	Federation of Small Businesses
GFT	Goal Framing Theory
GLB	Good Learning Behaviours
HACCP	Hazard Analysis and Critical Control Points
HSE	Health and Safety Executive
IOSH	Institution of Occupational Safety and Health
IPC	Integrated Pollution Control
LA	Local Authority
LAC	Local Authority Circular
LGA	Local Government Association
OECD	Organisation for Economic Co-operation and Development
OHS	Occupational Health and Safety
PPE	Personal Protective Equipment
SME	Small and Medium sized Enterprise
UK	United Kingdom
UKAS	United Kingdom Accreditation Service
UKHSA	United Kingdom Health Security Agency
US	United States
WHO	World Health Organisation

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1 INTRODUCTION

1.1 Rationale for research

This study examines the impact of Environmental Health regulation on small businesses, with a focus on the interactions between regulators and enterprises as an arena for mutual learning in the UK context.

1.1.1 Regulation and small enterprise

Regulation is a term that is difficult to define as it can have different meanings in different contexts (Levi-Faur, 2010). To some, it may mean the law, the regulations themselves, whilst for others it may mean the policy and monitoring that surrounds it and enables the enforcement of set standards that lead to either constraints on social control or public benefits (ibid). It can therefore be interpreted differently depending on the lens it is seen through and the implications for the individual or organisation affected.

In the context of this research, regulation is interpreted as being the whole activity of setting legislation and monitoring compliance with legal instruments by the body designated to enforce the legislation. It refers to all parts of that activity including informing, supporting, advising, inspecting, monitoring and enforcing legal requirements set by Governments and the bodies that Governments delegate enforcement powers to.

Good regulation aims to provide a 'level playing field' for all businesses by preventing unfair market advantages associated with non-compliance and the perceived cost savings of that (Vickers *et al.*, 2005; Baldock *et al.*, 2006; BRE, 2010), but also it is about public health protection. For example, reducing incidence of food poisoning and safety related deaths (WHO, 2006); protection of workers from occupational illnesses, e.g. the introduction of smoke-free legislation to protect workers from the health risks associated with second-hand smoke; control of infectious diseases and most recently the temporary introduction of Coronavirus Regulations that were put in place to prevent the spread of COVID-19, which was an emergency public health response to an international pandemic (Griffith, 2020; TSO, 2020). Recent evidence also suggests that the concept of 'regulatory gift' where regulation and regulatory reform can reduce or redirect the way regulators operate in line with industry market objectives. This concept can have a positive impact on business, but the importance of positive public perception is emphasised as well as that of industry (Browne, 2020).

The impact of regulation in general on business has been subject to much debate and contestation. Arguments in favour of deregulation have been countered by contributions which contend that proposals to cut or reduce regulation have been overly influenced by 'red tape discourse' and support that regulation has the potential to benefit business if it is delivered in the right way, as well as fulfilling public policy objectives such as protecting consumers, employee health and the environment (Baldock *et al.*, 2006; Kitching, 2006; Vickers, 2008; Russell, 2012; Tombs and Whyte, 2012; Croucher *et al.*, 2013; Kitching *et al.*, 2013). It has been argued that not enough emphasis has been put on this up to now.

Ways that good regulation can support business growth in areas such as occupational health and safety (OHS) include cost savings associated with reduced accidents and work related illness such as loss of production, prosecution and civil claims (Mossink, 2002; Centre for Strategy and Evaluation Services, 2009). Regulation has also been linked to positive business opportunities which have the potential to lead to market advantages and innovation (Porter and Van Der Linde, 1995; Vickers and Cordey-Hayes, 1999; Alvarez and Barney, 2007, 2010; de Azevedo and Pereira, 2010; Vaghely and Julien, 2010; Perunović and Vidić-Perunović, 2012). However, many small firms lack awareness of such benefits and of the costs of non-compliance (Vickers *et al.*, 2005; Barrett *et al.*, 2013; Croucher *et al.*, 2013; Jacquemin and Jansenn, 2015).

It is often argued that whilst regulation is important and necessary, it can have a negative impact on businesses. Some sources suggest that too much regulation has the potential to be a burden on business and that it can hinder economic growth (OECD, 2002; Sala-i-Martin, 2011; Freiberg *et al.*, 2022, Gibson *et al.*, 2023). This has been identified as a concern in many countries including India (Broughton, 2005), Sweden, Canada (Walters *et al.*, 2011) and the UK (Hampton, 2005; Berg, 2008; Richard, 2008; Arculus, 2009; Young, 2010; Löfstedt, 2011; Sala-i-Martin, 2011; Monk, 2012; BEIS, 2020).

This research is focussed on small firms. Small and medium sized enterprises (SME's) make up 99.9% of UK and European businesses (FSB, 2022; Hutton and Ward, 2021; Muller *et al.*, 2021). These businesses made up between 66% of employment share in Europe in 2020/21 (Muller *et al.*, 2021). In a UK and European context SME's are defined as businesses with less than 250 employees. Within this SME's are further categorised by the number of employees they have into micro (1-9), small (10-49) and medium (50-250) (Hutton and Ward, 2021). This research study is focused on those in the micro and small category specifically.

Small businesses pose particular challenges for regulators, given their sheer numbers and regulators' limited resources. With regard to Environmental Health, there is evidence showing that smaller enterprises present higher risks compared to large firms due to a range of factors, including their more limited resources and often lower profiles (Fairman and Yapp, 2004; Baldock *et al.*, 2006; Hutter, 2011; Barrett *et al.*, 2013; Croucher *et al.*, 2013). With respect to food safety and health and safety, for instance, their needs are very different to larger businesses, and even within the small firms category there is huge variation in terms of capability, operational context and attitudes and behaviour towards regulation (Vickers *et al.*, 2003, 2005; Baldock *et al.*, 2006). Small firms generally tend to take a reactive approach to regulation (Fairman and Yapp, 2004; Vickers *et al.*, 2005; Baldock *et al.*, 2006; Hasle *et al.*, 2012; Barrett *et al.*, 2013; Croucher *et al.*, 2013). They require more help to comply due to their more limited regulatory capacity in terms of awareness, knowledge and resources (Hutter and Amodu, 2008; Hutter, 2011). The heterogeneity of the small firms sector means that a 'one size fits all' approach is not appropriate for smaller firms. The main factors influencing this variation are size, presence/absence of external pressures, training, experience, attitudes, market position and financial health (Hutter, 1997; Vickers *et al.*, 2005). These variable factors are the reason why this study aims to explore the space between the small firm and the regulator and their responses to each other.

It has been well evidenced that there is a general lack of awareness within smaller firms about what they are required to do to comply and often misinterpretation of the law (Hutter, 1997; Ball and Ball-King, 2011; Löfstedt, 2011) and that this can lead to lack of compliance as well as 'over-compliance' (Anderson, 2008, 2009; Arculus, 2009; BCC, 2010; Taylor, 2010; Löfstedt, 2011). Small firms often find it difficult to self-regulate and require more help with regulatory compliance than better-resourced large businesses (Hutter, 1997; Hutter and Amodu, 2008; Hutter, 2011). The evidence of previous studies therefore suggests that a learning opportunity exists during interactions between inspectors and small firms and this is what this research aims to further explore.

In the UK context, regulation has specifically been criticised and identified as a barrier to business success by SME's in a number of surveys (BERR, 2009; BCC, 2011; BEIS, 2022, 2021_b). Regulation was one of the most frequently reported obstacles for success cited by 59% of participants in a small business survey carried out by BERR (2009, p.14-15). Some later reports found similar perceptions in terms of regulation being burdensome and a hindrance to economic growth (BCC, 2011; DWP, 2011; Gibson *et al.*, 2023). There has been criticism of some of these types of business surveys in that they often do not adequately define what is meant by 'regulation', nor do they seek to understand or explain the reasons for

business owners answers (Kitching, 2006; 2013) because the quantitative methods used are not the best way to adequately investigate the meanings and interpretations of business owners views on regulation and how it impacts small firms. Many influential reports (Hampton, 2005; Young, 2010; Löfstedt, 2011) have led to the overall recommendation that regulatory 'burdens' are reduced. This does appear to have had a positive effect in that a business survey carried out in 2020 revealed that 37% of participants agreed that regulation was an obstacle to success and although this was not a significant decrease from 2018 results it was clearly an improvement from 2009 (BEIS, 2020). The same survey also showed that almost half (45%) of participants did not expect the regulatory burden to increase in the next 12 months which again indicates that policy decisions and strategies that followed the earlier recommendations to reduce the burden have had some positive impact on businesses. Whilst this debate is ongoing and clearly not resolved, there has been some influence on practice, in particular government's challenging regulators to reduce the regulatory burden on business in many countries, due to the perception of regulation as 'red tape' (Walters *et al.*, 2011). As discussed by Frieberg *et al.*, (2022), there is often confusion between regulation and red tape, and how burdens are judged to be necessary or unnecessary. In the UK, the effects of the recommendations of Hampton (2005), Young, (2010) and Löfstedt, (2011) have trickled down through the direction and guidance from overarching bodies to LA's this has seen the level of Environmental Health intervention gradually reduced with the focus being moved toward more risk based and evidence-based intervention.

There has been particular emphasis on this within an Environmental Health context in particular within OHS in the UK and an emphasis on reduced interventions (Hampton, 2005; Berg, 2008; Richard, 2008; Arculus, 2009; Young, 2010; Löfstedt, 2011; Sala-i-Martin, 2011; Monk, 2012). As a result of this, enforcing bodies have seen cuts in resources and there have been cuts in the frequency of interventions (Walters *et al.*, 2011; HSE, 2013_a).

1.1.2 Approaches to the delivery of regulation

There have been a number of different approaches to regulatory activity. Command and control approaches involve setting clear and unambiguous standards to be met. Such approaches, although still in use in some countries have been historically criticised for being overly prescriptive and inflexible, because it does not support the creation of jobs and economic growth. This means that regulatory compliance costs often fall disproportionately on smaller businesses compared to larger firms (Sinclair, 1997). Their empirical study analysed whether there was a linkage between job creation and economic growth and the regulatory budget and therefore regulatory activity, in a command and control regime as in the US. The study did not show a direct link. However, more recently a study by Beard *et al.*,

(2011) did identify a link. This criticism has largely been accepted internationally (OECD, 2002) although still operated in some part for example through the Montreal Protocol and in a number of countries including United States (Pomeroy, 2010). In the UK the Robens report (1972) was critical of this model and this informed regulatory reform in both the UK and other countries arguing a need for a move towards self-regulation. The Health and Safety at Work Act 1974 shortly followed which introduced more of an 'enforced self-regulation' approach in that duty holders had to apply the reasonable practicability theory to their control systems and they were responsible for undertaking their own risk assessments to comply.

The concept of responsive regulation was introduced by Ayres and Braithwaite (1992) as an alternative approach based on the theory that in the majority of cases, an inspector would use light touch approaches to enforcement, saving the most punitive sanctions for the few that did not respond adequately to the more lenient approach. The threat of enforcement being enough to encourage compliance rather than the need to use it frequently. This model is central to this research due to its high degree of influence on regulatory practice today. The theory behind this model is that the enforcement approach can be moved up and down depending on the response of the regulated, with more punitive approaches being at the top of a pyramid and more lenient approaches at the bottom. Ayres and Braithwaite therefore contend that the threat of the 'big stick' approach is often sufficient for regulators to be able to deter non-compliance. Thus the most used approaches are those in the bigger area at the bottom of the pyramid and the least used are at the top.

Following on from this, others such as Russell (2012), Anderson and Russell (2011) and Baldwin and Black (2008) have built upon the Ayres and Braithwaite model and developed other similar alternative models such as smart and responsive regulation whereby enforcement approaches are flexibly tailored to the business depending on their responses. This model is very relevant to this study in that it is about how the response of the regulator needs to be tailored based on the response of the business, and is about the space between the regulated and the regulator. This provides the theoretical position in which this research will focus by exploring this space and the learning potential.

1.1.3 Regulation as an opportunity for learning

For the purposes of this study 'learning' can be initially defined as knowledge exchange between different individuals, such as an inspector and a business operator, that leads to positive change in behaviour leading to regulatory compliance. Knowledge exchange in this context is often understood in terms of inspectors raising awareness of regulatory requirements and how to be compliant through dialogue, explanation, and persuasion, but can

also involve inspectors learning about business needs and behaviours and the barriers that prevent them from complying. This definition is discussed in more detail in chapter 3.

Learning is broadly understood as being the gaining of relevant knowledge and skills and the ability to put the knowledge and skills into practice in both familiar and unfamiliar situations, although this is also influenced by personal, emotional, and social factors (Wenger, 1998; Illeris, 2003). The main aim of learning in the context of this study being to change behaviour, leading to the ability of a business operator to make the right decisions in order to comply when faced with a problem, without the intervention of an inspector, and the ability of an inspector to change the way they deliver knowledge to the business operator in order to have better effect. In terms of the way in which businesses and the individuals within them learn and how this fits into this research, it has been identified that small firms tend to learn most from experience (Bessant *et al.*, 1993; Fairman and Yapp, 2004; Gianotti and Duane, 2016). Employee participation and routines with the regulator have also been highlighted as important ways in which businesses learn (Levitt and March, 1988; Vickers and Cordey-Hayes, 1999; Walters *et al.*, 2011) hence the relevance to this research which examines the interactions between the regulator and the business operator as a vehicle for learning.

This research aims to explore the interactions between regulators and those being regulated to determine the outcomes of this interface and the potential for it to act as a medium of learning. The research contributes to academic knowledge by providing insight into the thinking behind small firms' responses to inspectors' actions and the thinking behind decisions that inspectors make, including how they choose their strategies for dealing with small firms and what influences those choices. This study therefore seeks to provide an understanding about how dialogue takes place between the two parties during regulatory interactions and how this dialogue can lead to learning. It also examines the potential for extending such dialogue and learning to achieve benefits for businesses and in turn wider public health outcomes.

1.1.4 Context of the study

This study focusses on the interactions that take place between business operators and inspectors in an Environmental Health Regulatory context in the UK. Environmental Health is a profession that aims to protect public health but is difficult to define and having been described in many different ways internationally (Couch *et al.*, 2012).

In the UK, Environmental Health is a profession that aims to protect the aspects of human health that are affected by physical, chemical, biological, social and psychosocial factors in

the environment and assess, correct and prevent those factors from having a negative effect on health (MacArthur and Bonnefoy, 1998). The work of Environmental Health is carried out by professionally qualified people (Environmental Health Officers/Environmental Health Practitioners) who work both in the private and public sector. Those working in the private sector generally advise and support businesses with their responsibilities to control risks, whereas those professionals working in the public sector have delegated powers to enforce the legal requirements in addition to an advisory and supportive role.

In the UK, Environmental Health encompasses the areas of food hygiene, OHS, pollution control, private sector housing and public health, for which legislation is in place. This study focusses on the OHS and food hygiene sectors of Environmental Health, often referred to within the profession as the 'commercial' aspect of Environmental Health. The regulations that affect these areas are designed to provide public health gain, for example reducing accidents at work or preventing food poisoning and are generally enforced by Environmental Health officers (EHO's) or other inspectors who are employed by Local Authorities (LA's) in the UK or other governing bodies in other countries. This is generally accepted by governments in developed countries where regulatory regimes are in place to ensure public health legislation is enforced. As already mentioned, the role of inspectors is to protect public health. In terms of OHS this means the employees and anyone else affected by work activities such as visitors, contractors and the general public. In terms of food hygiene, this means protecting the public from illness and injury from contaminated food. It has been identified that public health (which includes OHS and food hygiene) needs regulating in order to improve health and reduce health inequalities (WHO, 2006; OECD, 2010).

It is acknowledged that this research was started prior to the UK leaving the EU on 31 January 2020 and that this may have an impact in terms of the relevant regulations being changed or reformed in future. The regulatory field is inevitably going to be affected, but in order for the UK to trade with the EU there will still be a need for food regulation and safety standards and it is likely that Environmental Health regulations, in particular food regulations, will mirror those that are already in place in the EU. The focus of this study is on the interactions between regulators and small firms and whether learning takes place rather than regulations themselves, thus as long as there is some form of environmental regulation in place, this research is not affected, and the findings are still relevant in the current and any future Environmental Health regulatory regime.

LA inspectors have powers to enforce the respective regulations and have various strategies available to them to secure compliance. Inspectors carry out visits to premises to assess

compliance with the regulations at different frequencies depending upon their risk profile. As well as carrying out investigations of complaints, accidents and food poisoning outbreaks, they also provide advice to businesses on how they can be compliant with the regulations and adopt good practices. This presents an opportunity for dialogue in which learning may take place.

1.2 Research aim and approach

The over-arching research question of this study is ***to investigate the potential of the Environmental Health inspection process as a developmental influence on small businesses***. In order to answer this main research question, a number of sub-questions were identified:

- i. Is there a two-way process of learning that takes place during interactions between business operators and inspectors, whereby both parties can learn?
- ii. How does learning occur and what is the role of various internal and external influences affecting each party?
- iii. How does the nature of the regulatory relationship, the learning method used, and the choice of compliance tool of the inspector influence the learning process and its outcomes?
- iv. What are the conditions for effective two-way learning that leads to improved compliance and also potential business benefits?

The original contribution to academic knowledge this study makes is to understand how the learning process takes place between inspectors and small firms, to identify the capabilities an inspector needs in order to facilitate this process and to develop a model that can be replicated by inspectors that results in a two way learning process taking place.

1.2.1 Insider research

The researcher is a practicing Environmental Health Practitioner (EHP) working in a LA specialising in food hygiene and OHS. They have been working in this field for 16 years and have extensive experience of carrying out regulatory inspection visits in a wide range of

industry sectors. This has presented advantages for this research in terms of access to both inspectors and business operators to participate in the research, availability of the researcher to take up field work opportunities, the ability to go back to participants for clarification if necessary and the professional knowledge and insight of the topic area from both an academic and practical perspective. However, it is also acknowledged that there are risks involved with insider research such as biases and subjectivity. Prior to their career in Environmental Health they worked in the hospitality industry at management level and so also has a good knowledge and understanding about the impact of regulation from a business operators perspective, thus providing some balance in terms of their position and the lens they look through. The research has been designed to ensure that only factual and balanced data is presented and that potential biases are minimised which is discussed and addressed in detail in Chapter 4, sections 4.2 and 4.5.

1.2.2 Methodology

The study adopts a qualitative approach in order to explore the interactions between small firms and inspectors. It is based on 6 case studies each involving a small firm and an inspector from a Local Authority (LA). The case studies followed a regulatory intervention from beginning to end, using observations and interviews to explore the interaction that took place and how learning occurred, and the outcomes of any such learning. The observations and interviews aimed to find out how both parties were thinking, behaving and interpreting the interactions they were experiencing and, in particular, how they responded to each other.

A focus group was initially undertaken with 9 inspectors to draw out their perceptions and understanding of the nature and potential of learning in a regulatory context. The findings of the focus group were used to derive a list of 'good learning behaviours' (GLBs) which were used to identify and assess the nature of learning. This would assist the researcher to identify examples of GLB's during the observations.

The cases were chosen by using a purposive sampling approach. This was in part due to restrictions on LA health and safety regulation making randomised sampling impossible in this area. Observations were carried out of the visits undertaken during a whole intervention between individuals within businesses and an inspector. These included programmed inspections and follow up visits that were made until the intervention was complete. The researcher made field notes during the observations and also recorded which of the GLB's were evident and to what extent. Following the observation, both the business operator and the inspector were interviewed separately. The interviews were semi-structured in nature with

some of the questions specifically developed to follow up on the experience of the observations.

The qualitative data was managed and analysed using the NVivo software package. The data was coded using a process suggested by Creswell (2013) for multiple case studies. Further details, including the method selection and justification, can be found in chapter 4.

1.3 Summary and structure of the thesis

This introduction chapter has set the context for the study, outlined the research questions, aims and objectives, given a brief description of the methodology used. The structure of the thesis is as follows.

1.3.1 Chapter 2: Regulation and its effects on small firms

Chapter 2 is the first of the two literature review chapters and focuses on the effects of regulation on micro and small enterprises – those who have more challenges and need more support. It highlights how regulation can be good for businesses as well as a challenge, how it prevents unfair market advantages, presents positive business opportunities, and protects public health but also how regulation can have a negative impact on businesses in terms of being burdensome and hindering economic growth. The chapter looks at different approaches to regulation, how businesses and the individuals within them respond to regulation and how inspectors respond to businesses. It looks at regulation as an opportunity for learning and how inspectors have the potential to act as vehicles for learning.

1.3.2 Chapter 3: Developing the theory on regulation and learning

Chapter 3 develops the theory on regulation and learning further, looking at regulation, learning and innovation, and how learning rather than simply compliance, can be encouraged by understanding how people and businesses learn. The literature around individual and organisational learning, learning methods, mental models and risk perception is explored. This chapter presents a conceptual theory based on the findings of the literature review chapters which shows what is known so far about how individuals in businesses and inspectors interact with each other during regulatory interventions and the factors that influence this. The chapter concludes by proposing the research questions that were developed from the literature review.

1.3.3 Chapter 4: Methodology

This chapter explains the rationale behind the methodology used and the different stages of the research process. It presents the research questions and the methods that are required to answer those questions, discussing the philosophical assumptions and theory development that the methodology was based upon, before explaining the methodological approaches used to collect the data. Sampling methods and techniques are explained and justified, as are the data analysis techniques and procedures that were followed. The chapter acknowledges and discusses the challenges and benefits of insider research and the steps that were put in place to ensure reliability and validity of the data. Ethical issues are also discussed in this chapter and considered carefully, explaining how these were addressed.

1.3.4 Chapter 5: Observation of cases: Within and cross case analysis

Chapter 5 is the first of three results chapters, reporting on the findings of the observations of the case studies. The chapter describes each case study by giving a brief background of both the business operator and the inspector, followed by a narrative of the observation visit(s) the researcher witnessed. The key observations were described in detail. The case studies are then compared by using a cross-case analysis to present the evidence of GLB's across all cases indicating the strength of evidence observed. This enabled the researcher to present the significance of learning observed within each case and across all cases.

1.3.5 Chapter 6: Interviews: Businesses

Chapter 6 presents the findings of the semi-structured interviews with the business operators. The chapter talks about the themes that were identified by the participants in all areas that were discussed including their experiences of previous and recent visits, barriers to learning, factors that support learning, how business operators recognise learning and their ideas about how learning can be better encouraged during Environmental Health regulatory visits. The chapter is written as narrative from the researcher, supported with quotes from the interview transcripts with reference to the coding scheme that was formed during the data analysis.

1.3.6 Chapter 7: Interviews: Inspectors

Chapter 7 mirrors, chapter 6 in that it presents the findings of the semi-structured interviews with the inspectors. The chapter talks about the themes that were identified by the participants in all areas that were discussed including their experiences of previous and recent visits, barriers to learning, factors that support learning, tactics inspectors use to encourage learning, how they recognise learning and their ideas about how learning can be better encouraged during Environmental Health regulatory visits. The chapter is again written as narrative from

the researcher, supported with quotes from the interview transcripts with reference to the coding scheme that was formed during the data analysis.

1.3.7 Chapter 8: Discussion on findings

Chapter 8 brings the results chapters together by discussing the key findings from the observations and the interviews to identify the key similarities and differences across the cases and within the business operator and inspector cohorts. The chapter identifies the main themes that are used to develop a theory about how learning can be encouraged during Environmental Health regulatory interactions. The conceptual framework that was presented at the beginning of the thesis and further developed by the literature review chapters is further developed again, to present a final conceptual model which is explained. This conceptual framework is the basis for the Environmental Health regulatory model presented at the end of this chapter, proposing a new way of practice that will encourage better learning outcomes in small businesses. The findings are discussed with reference to the literature, to demonstrate how this research builds on existing knowledge and explains the contribution to both academic knowledge and practice that this research brings.

1.3.8 Chapter 9: Conclusions

Chapter 9 closes the thesis by reviewing the aims of the research and explaining how the findings achieved the aims and answered the research questions set out at the beginning of the research. The original contribution to academic knowledge is clearly highlighted and also recommendations for future practice.

2 REGULATION AND ITS EFFECTS ON SMALL FIRMS

This chapter focuses on regulation by providing an overview of different regulatory approaches internationally and in the UK, how regulation affects smaller businesses, how they respond, and how they access information and advice about regulatory matters. It later focuses more closely on the Environmental Health context looking at how Environmental Health regulation is delivered, how it specifically affects small businesses and what influences the way inspectors respond to them.

2.1 Reasons for regulation and approaches to its delivery

Regulation is an important part of day to day society, aiming to protect both businesses and the public and ensure the safe delivery of public goods and services. However, it is acknowledged that the delivery of regulation can present inconsistencies; regulations can become ineffective or even redundant over time and can have unintended consequences (OECD, 2011) for businesses and the public. There is a considerable body of literature exploring regulatory approaches, in particular those involving 'street-level bureaucrats' as defined by Lipsky (2010) as those individuals in public services such as LA Environmental Health departments who have the discretionary powers to apply both benefits and public sanctions. This research has looked at a variety of issues including the impact on the regulated, approaches adopted by the regulator and the regulated, and the efficacy of interventions.

Guidance from the WHO (2006) aims to advise and steer policy makers internationally on how Public Health legislation should be enforced through the use of recommended approaches. However, different countries interpretations and the degree to which they accept such guidance influences how much of this they take on board and implement in practice, meaning that there is not a completely consistent approach everywhere. They explain how there are two main approaches to law enforcement which are either deterrent or persuasive and that the best approach involves a mixture of both. This type of strategy has become more widely recognised as a 'responsive regulation' model which will be explained further shortly.

Deterrent approaches to regulation include 'command and control', whereby a standard is set and it is clear what is acceptable and what is illegal, and it is likely that non-compliances will be detected and severe punishment received quickly (Ibid). There is no grey area. As outlined in Chapter 1, there has been historic critique of command and control regulation (Sinclair, 1997) which was largely accepted by policy makers (OECD, 2002). In the UK, the Health and

Safety at Work etc. Act 1974 was introduced as a result of the Robens report (Robens, 1972) which was also critical of the command and control model, arguing the need for a move towards creating conditions for more effective self-regulation (Walters *et al.*, 2011). This report also informed regulatory reform in some other countries such as Canada, but many countries still operate more prescriptive approaches e.g. US, Sweden, and arguably provide certainty. Robens (1972) position of argument was that those responsible for safety should also be responsible for delivering the solutions and the resulting legislation put the onus on the employer to risk assess and to put in place measures which are in most cases reasonably practicable, rather than there being a categorical standard that must be met. It is for the employer to determine what the risk is, and how to reduce the risk in the most practicable way. This leading to ownership and responsibility for safety rather than simply compliance with a standard to avoid a punitive enforcement outcome. Similar approaches have been adopted in other areas of Environmental Health legislation for example, in contaminated land, it is the polluters responsibility to carry out and pay for remediation of land.

By 1992, the debate around de-regulation had already been going on for some time. In the UK, "Thatcherism" brought about the then governments' ideology of deregulation with regulation seen as a hindrance to the business economy. This saw the adoption of a "laissez-faire" approach to regulation and an increase in privatisation of public services . Similar attitudes were also developing in other countries, such as Canada and Sweden and in poorer countries like India the threat allegedly posed to the wider economy further relegated safety regulation as a low priority (Broughton, 2005; Walters *et al.*, 2011).

An important approach that was presented, partially in response to such debate, was the concept of responsive regulation (Ayres and Braithwaite, 1992) which is central to this research as it has had a high degree of influence on regulatory practice today. This theory is presented as a middle-ground approach of enforced self-regulation whereby the most punitive sanctions sit at the top of the pyramid and are seldom used but the fact that they are there drives compliance down through the lower levels of the pyramid and motivates businesses to take responsibility for their own compliance (Figure 2.1). This alternative model aimed to put a new spin on things by offering a balanced and flexible approach that could be acceptable to those of both the strong regulation and de-regulation points of view.

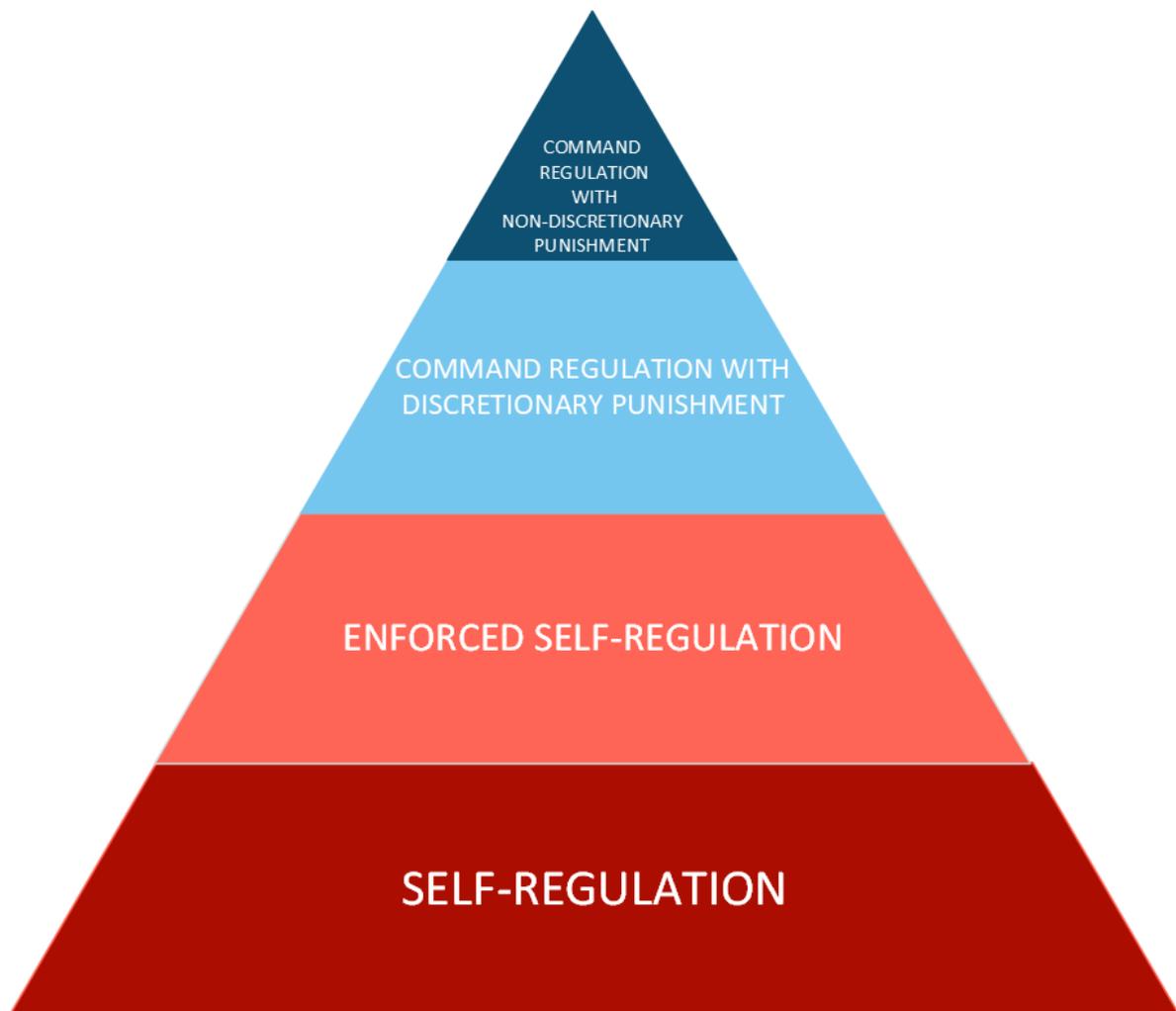


Figure 2.1: Ayres and Braithwaite's enforcement pyramid

(Source: Ayres and Braithwaite, 1992)

This approach also sees a role for trade bodies as a key influence in pushing firms towards compliance via self-regulation in order to gain memberships or approvals of their trade bodies. The theory behind this model is that the enforcement approach can be moved up and down the pyramid dependent on the response of the regulated, with more forceful approaches being at the top of the pyramid and more lenient approaches at the bottom. The assumption is that as long as the regulator has the 'big stick' approach available to them for use, the less likely they will be to need to use it as the threat of this is often enough to deter, but it is available to use when required. Thus the most used approaches are those in the bigger area at the bottom of the pyramid and the least used are at the top. However, if the top of the pyramid was taken away, there would be less motivation for compliance.

There has been criticism of responsive regulation and other 'light touch' approaches (Hutter, 1997; 2009; Black, 2002; Hillyard *et al.* 2004; Walters *et al.* 2011; Tombs and Whyte, 2012; Croucher *et al.* 2013) in that this type of 'pyramid system' does not deter non-compliance nor is there evidence that it reduces accidents and ill-health in relation to health and safety. Professor Hugh Pennington (2009) also criticised lighter-touch approaches in his report following the public inquiry into the death of a child from *E.coli* 0157 food poisoning. It is argued that such strategies only detect good businesses who are already motivated to comply and fail to identify non-compliant businesses. They are also open to discretionary issues in that they have the potential to both expose and obscure key socio-political and socioeconomic choices depending on the regulator's toleration of non-compliance.

Whilst alternative strategies have to be considered in this time of change and pressure from political and industrial corners, Hutter (2011) stresses that any strategies developed must both encourage greater business responsibility but also allow for more serious enforcement action to be taken when necessary without delay. Educative approaches should lead to greater business responsibility, but enforcement powers must remain in place and be used when required in order to protect people. This accords with Brathwaite's (1985) view that any compliance system would be stronger when backed up with a criminal punishment. However, the punishment needs to be sufficient to act as a deterrent particularly in climates of economic austerity. This perspective has also been supported by Hutter (1997, 2009) who identified an issue with the level of sanction for non-compliances being too low compared to the financial gain of committing the offence leaving the reputational damage as the main deterrent; and Tombs and Whyte (2012) who argue that corporate crime is not taken seriously and that sanctions are not a deterrent. Walters *et al.* (2011) agree with Tombs and Whyte's (2012) analogy, finding that whilst regulators took an educative approach to help them achieve their primary objective of gaining compliance without the need to prosecute, sociologists considered this a cause of inequality within the justice system, and it was argued that this approach leads to the acceptability of illegality.

2.2 Context of the study: Environmental Health regulation in the UK

Following on from approaches to regulation in general, this section will look more closely at how Environmental Health regulation is delivered internationally but more specifically in the UK. As with regulation in general, policy and delivery of Public Health (including Environmental Health) legislation, should be steered by the guidance of the WHO (2006). However, as mentioned earlier, how much regard individual countries have to such guidance does vary. The delivery of Environmental Health regulation can be explored in a socio-legal

context. Each country has its own legislation and legal framework to work to. However, the way in which the laws are regulated and enforced, are dependent upon the influence of the cultural, economic, political and social landscape of the country, the institution and the individuals involved. The majority of available international literature related to Environmental Health regulation, in particular OHS comes from higher income developed countries such as Australia, Canada, the US, Sweden and the United Kingdom. The literature available indicates that there are differences in regulatory systems globally (Walters *et al.*, 2011; Lampe and Willenbockel, 2014; WHO, 2018).

The way in which regulation is delivered is often influenced by individual countries policy and the different political landscapes in those countries impact on policy development and how much regard they have to the aforementioned guidelines of the WHO. This gives effect to how Environmental Health regulatory services are delivered. Looking at the political appetite for regulation in some higher income countries and the general desire to reduce business burdens, policies steer towards supporting businesses, although this is not always the case as in the US (OECD, 1999; US Chamber of Commerce Foundation, 2017). With this in mind policies could be seen as tools that can be used to address deficiencies in the level of motivation, opportunity in skills among entrepreneurs within a society or economy (Stevenson and Lundström, 2007) which supports a theory that policies have the potential to drive learning.

It has been identified that there is a gap in knowledge about the perceived effect and real effect of policies and regulations and that more research is needed at the micro level (Ibid). This research will aim to contribute towards this. Another important point to make is that inspector's interventions are largely the product of policy which is driven by regulation rather than the regulation itself and can be explained by saying that regulation is the law itself and policies are the supportive instruments made around the specific law in question (Ibid). Whilst the actual regulations have been cited to have a negative effect on performance (Edwards *et al.* 2004), it is these supportive instruments that offer a potential opportunity to be used as vehicles for learning. It has been suggested that there are two policy options which are either supporting or constraining for businesses and that within policy there are either high or low levels of regulation and support and that in the US and the UK the most adopted policy option is one of low regulation and low support but that in times of crisis this changes to low regulation but high support (Dennis, 2011). This poses the question as to whether a policy option of low regulation and high support should be adopted all the time, particularly when considering small firms in order to facilitate better learning outcomes.

There are similarities and differences in legislation among different countries. In the main, there appears to be a preventative objective but there is a mixture of levels of duty in different countries. For example, in the UK there is generally a requirement to prevent harm 'as far as is reasonably practicable', whereas in Sweden there is an absolute requirement to 'take all the precautions necessary'. A common arrangement for OHS legislation internationally is to have an overarching piece of legislation placing a general duty to manage health and safety on employers with more specific technical requirements given in provisions made under the overarching legislation (Walters *et al.* 2011). In contrast food legislation tends to be based more specific regulations that set out the requirements that food and food premises must meet, with separate regulations then used for setting out the enforcement, offences and penalties of non-compliance. For example, all countries in the EU are required to implement the requirements of Regulation (EC) No. 178/2002, Regulations (EC) No. 852/2004 and Regulation (EC) No. 853/2004 but then separate regulations are set by each country to set out how they will be enforced, which in England is by way of the Food Safety and Hygiene (England) Regulations 2013.

The UK is quite different from most other countries in a number of ways. Environmental Health legislation is delegated by central government to overarching bodies such as the Health and Safety Executive (HSE), Food Standards Agency (FSA), Environment Agency (EA) and the UK Health Security Agency (UKHSA) and to LA's to enforce. Government departments such as the Department for Business Energy and Industrial Strategy (BEIS) and Office for Product Safety and Standards (OPSS) have the role of ensuring that the delivery of regulation is applied fairly to businesses without being burdensome and offer support and guidance to both regulators and businesses in achieving compliance with legal obligations and public protection requirements (OPSS, 2022). A large proportion of the responsibility for enforcement of Environmental Health legislation sits with LA's who employ Environmental Health Practitioners (inspectors) to undertake their statutory duties which include inspections, investigations and advice. Environmental Health Practitioners can be Environmental Health Officers, Technical Officers, Regulatory Support Officers and for ease of reference will be referred to as 'inspectors' in this thesis.

Environmental Health and all of the encompassing disciplines are treated as a profession as a whole in the UK (CIEH, 2018), but regulatory delivery is undertaken by individual LA's, often as part of a wider regulatory services department. Regulatory Services within LA's are tasked to enforce legislation that is delegated to them by Central Government. However, Environmental Health involves more than just enforcing legislation and encompasses many aspects and a wider remit and variety of approaches to encouraging compliance and reduce

public health risks than in the case of other regulatory services where enforcement is the main priority (Plume *et al.*, 2018). EHP's have a variety of skills and tools available to them to encourage compliance as already discussed in chapter 1. LA's in the UK can either be part of what is known as a two-tier system encompassing a County Council (upper tier) and District or Borough Council (lower tier) where different functions sit within different Council levels. For example, services such as Planning, Highways, Trading Standards and Public Health sit within the County Council, and services such as Environmental Health, Licensing and Environmental Enforcement sit within the District/Borough Council. Some LA's, including all London Boroughs, operate as a unitary or single-tier system whereby all services sit within one single authority. The LA in this research was a Unitary Authority whereby the Regulatory Services department encompassed Environmental Health alongside Licensing, Environmental Enforcement, Trading Standards and other services such as Housing Needs.

In recent years, in particular since 2010 following the financial crisis of 2008, LA's have seen cuts to Central Government funding which have significantly impacted their budgets. It is predicted that local services will have a funding gap of £7.8 billion by 2025 (Local Government Association, 2018), which impacts directly on LA regulatory services. According to UNISON (2019), Environmental Health has seen a decrease in budgets of 53% per head of population in the decade 2009-2019. These levels of cuts have forced Regulatory Service departments to look at the way services are delivered in order to make 'efficiency' savings. For instance, some LA's have responded by combining and sharing services between authorities, thus reaping economies of scale. The LA in this research operated a shared regulatory service encompassing Environmental Health, Licensing and Trading Standards. Other ways LA's have responded to budgetary challenges is to focus more on their statutory duties and enforcement and spend less resource on some of the more proactive, preventative activities.

Although centralised governing bodies set out how Environmental Health regulation should be delivered, the way LA's operate mean that funding, priorities, resources and structures of teams are decided at a very localised level. Whilst there may be teams within LA's that specialise in certain disciplines, it is very much a holistic profession whereby inspectors will often have responsibility of food hygiene, OHS, infectious disease and possibly pollution control and/or housing enforcement. To complicate matters further, OHS enforcement is shared between the HSE and LA's. The split is arranged by industry type and is set out in the Health and Safety (Enforcing Authority) Regulations 1998 and the HSE directs the LA's work priorities by issuing guidance for regulatory activity (HSE, 2022). There is also some sharing of enforcement responsibilities between the FSA and LA's whereby the FSA are responsible for enforcement in meat cutting plants and slaughterhouses for example.

Whilst some areas of Environmental Health have seen a reduction in proactive inspection led workstreams in the UK, food safety has seen a slightly different approach. The approach taken by the Food Standards Agency who dictate how LA's must deliver food safety interventions through the implementation of the Food Law Code of Practice (England), (FSA, 2021_a) and Practice Guidance (FSA, 2021_b) has been to give inspectors more range of the type of visit that can be carried out in terms of official controls rather than reducing the number of interventions commensurate with the risk rating of the business. For example, in businesses where there is a good history of compliance a sampling visit or a partial inspection can be carried out rather than a full audit/inspection visit. There has also been a change in banding of the lower risk category D premises meaning more businesses fall into the category D group and can be subject to fewer and less intensive inspections. It must be acknowledged that it is more difficult to reduce the proactive inspection aspect of food safety enforcement due to the national food hygiene rating scheme (FHRS) in the UK which is a system that allows the general public to have access to the rating of food businesses to aide in their choices of where they eat and shop. The FHRS was introduced in 2010 as a way of enabling the public to make more informed choices about where to buy and eat food. The scheme was gradually adopted by all UK Local Authorities and has become a recognised scheme whereby businesses receive a rating between 0-5, 0 being the lowest standards and 5 being the highest. The rating is published on the national FHRS website and businesses also receive a recognisable green and black sticker to display their rating on their door, although it is only mandatory to display the sticker in Wales and Northern Ireland at the time of writing. The rating is made up of three scores which inspectors give to businesses as part of their post inspection risk rating. The three scores used are based on compliance with food hygiene standards, structural requirements and confidence in management control systems (FSA, 2021_c)

In the UK, resourcing has been a particular issue since the coalition Government's spending review in 2010 which saw cuts to local government funding of 28% forcing local LAs to re-examine service delivery. This presented an opportunity to look at how Environmental Health regulation can be delivered differently with a focus being put on the needs of business and supporting growth. The availability of resources to inspectorates clearly has an impact on the time inspectors are able to spend with businesses and therefore any opportunity for learning. HSE guidance (HSE, 2013_a) has resulted in many businesses deemed as 'low-risk' no longer being subject to any form of proactive intervention and subsequent enforcement at all. Similarly, a Food Standards Agency (FSA) review of the Food Law Code of Practice (England) in 2014 (FSA, 2014) saw a reduction in the frequency of intervention for some 'medium-risk' operations thus reducing the opportunity for proactive intervention to prevent harm to the

public. These reforms, and the introduction of the Regulator's Code (BIS, 2014_a) have been called for by many government commissioned reports which have argued that regulation is a burden on businesses and hinders business growth (Hampton, 2005; Berg, 2008; Richard, 2008; Arculus, 2009; Young, 2010; Löfstedt, 2011; BIS, 2014_b). This recent government strategy to reduce regulation tends to reinforce the popular perception of regulation as burdensome 'red tape' and that the desire to remove or reduce it suggests there is a benefit for having less regulation. This influence along with the way the media often portray regulation in a negative light (Almond, 2009; Kasperson *et al.*, 1996) all contribute towards and reaffirm the perception people have of regulation being a burden, and the creation of regulatory myths due to misinterpretations (Dunlop, 2014). The role of the media influence on the perception of regulatory risk will be further discussed in Chapter 3.

Even in richer countries many small firms are less exposed to enforcement (less subject to, less known about, less likely to have safety representatives) and so are less likely to be visited (Lamm, 2001; Walters, 2001; Legg *et al.* 2009; Walters *et al.*, 2011) leaving consumers and workers more vulnerable. With the stance that regulation is a burden on business it is easy for workers' rights and consumer protection to be weakened so it is also very important to recognise that the main objective of Environmental Health regulation is to protect health (WHO, 2006; OECD, 2010), and that regulation is necessary in order to ensure that the wider population are protected from harm. The role of inspectors to act as a vehicle for learning and the scope for extending dialogue in order to improve compliance levels is therefore growing more important.

2.3 Small firm responses to regulation

Having discussed the reasons and approaches for regulation and how Environmental Health regulation is delivered, it is important to consider how this impacts on small firms which this study is focussed on. SME's make up 99.9% of UK and European businesses (BEIS, 2021_a Hutton and Ward, 2021; Muller *et al.*, 2021; FSB, 2022;) and made up 66% of employment share in Europe in 2020/21 (Muller *et al.*, 2021). In a UK and European context SMEs are defined as businesses with less than 250 employees. Within this SME's are further categorised by the number of employees they have into micro (1-9), small (10-49) and medium (50-250) as defined by BIS (2015). This study focuses on those within the micro and small categories.

An important factor to be understood about small firms is their heterogeneity. Their needs in terms of regulation are very different from those of larger businesses (Hutter, 1997) and even

within the small firm category there is huge variation between them not only in terms of size but also in relation to other dimensions such as operational context, management capabilities and cultural aspects that can shape attitudes and behaviour towards regulation (Vickers *et al.*, 2003, 2005; Baldock *et al.*, 2006). Small firms decision making processes and behaviours are complex (Meidinger, 1987) with multiple internal and external factors influencing the choices made, and with further research needed in order to better understand the complex impacts and dynamics of regulatory interventions (Barrett *et al.*, 2012).

Those involved directly with business support, including regulators, need to recognise this heterogeneity and understand that small firms will also have different support needs at different times and points in their development. For example, Rigby (2016) highlights that UK retailers take £24 billion over Christmas compared to £114 billion in a full year. With pressure to maximise sales during this period compliance priorities may slip. Similar issues will apply in other holidays such as Ramadan and when other regulatory priorities such as VAT returns impact. It is important that regulators give thought to these issues when developing and reflecting on best practice and support mechanisms (Borley and Page, 2016).

It is also important that small firm characteristics, diverse needs and contexts are better understood in order for learning to be effective (Barret *et al.*, 2013) which is where the heterogeneity of small firms becomes more of an issue. For example, as well as size, the sector and activity of the business has an important bearing (Vickers *et al.* (2005, 2003), with some sectors presenting higher levels of Environmental Health risk than others. For example, an office presents lower risk than a tattoo parlour or a care home. The individual owner/managers perception of risk has also been identified to be an influential factor on what action a business may take (Barrett *et al.*, 2013). These issues need to be identified and inspectors responses adaptable to the issues and needs of the business they are interacting with in order to be effective. It is clearly very difficult to evidence and understand how businesses learn effectively when such individual factors can apply.

Evidence underscores that most small firms tend to take a reactive approach to dealing with regulation (Fairman and Yapp, 2004; Vickers *et al.*, 2005; Baldock *et al.*, 2006; Hasle *et al.*, 2012; Barrett *et al.*, 2013; Croucher *et al.*, 2013). This means they will wait until something has already gone wrong or they have been required to take action by the regulator before they take action to comply, rather than proactively seeking to take action to prevent the need to react later. However, it cannot be assumed that this is the case for all small firms due to their varied characteristics – e.g. number of employees, turnover and training, and contextual sensitivities such as experience of inspections, external advice, membership of trade bodies,

which influence compliance-related improvements (Barrett and Rainnie, 2002; Edwards *et al.*, 2004; Baldock *et al.*, 2006). It has been shown that union presence in the workplace has a positive influence on OHS outcomes (Morantz, 2013) and this also forms part of the regulatory systems in Australia, Sweden and Quebec (Walters *et al.* 2011). With reduced regulation and the subsequent reduced contact small firms have with inspectors, trade unions have the opportunity to play more of a role in ensuring health and safety compliance and having dialogue with small firm operators. However, the reduction of unionisation and the fact that there is no union presence within many smaller firms means that it is becoming less effective even in higher income countries (Benach *et al.* 2007; Walters *et al.* 2011) leaving workers particularly in smaller firms more vulnerable.

As previously mentioned in 2.1, there is a body of evidence that shows small firms find it difficult to self-regulate and that they require more help than larger businesses (Henson and Heasman, 1998; Better Regulation Task Force, 1999; Hutter and Amodu, 2008; Hutter, 2011) because they have more limited regulatory capacity compared to larger businesses in terms of awareness, knowledge and resources. Awareness of regulatory requirements in particular has been identified in several studies to be lower in smaller firms (Gunningham, 2002; Blackburn and Hart, 2003; Fairman and Yapp, 2004; Vickers *et al.*, 2005; Hutter and Jones, 2007). Smaller firms are also less likely to employ specialists to support them with regulation specific areas such as Health and Safety (Hutter, 1997; Pilkington *et al.*, 2002). Similarly, Vickers *et al.* (2005) build on findings from a mixed-method study to suggest a framework that categorises small firms depending on their stance towards regulation and contextual characteristics. The framework suggests that small firms fit into three main categories: avoiders/outsidiers; reactors (either minimalists or positive responders); or proactive learners. In line with responsive regulation theory, this further suggests how the approaches adopted by inspectors need to be tailored according to their best knowledge and understanding of which of these categories small businesses appear to fall into.

The evidence that many small firms adopt a reactive stance towards regulation (Fairman and Yapp, 2004; Vickers *et al.*, 2005; Baldock *et al.* 2006; Hasle *et al.*, 2012; Barrett *et al.*, 2013; Croucher *et al.*, 2013) and that there may be a significant proportion of 'Avoiders' and 'Reactors' (Vickers *et al.*, 2003) means it is appropriate to explore what is needed in terms of interaction between inspectors and businesses to shift them more towards being 'Positive Responders' and 'Proactive Learners' in Vickers *et al.* (2003) model and how much of a challenge this is likely to be. Proactive Learners are businesses that have a sound awareness of regulation supported by workplace policy and practice but this and other studies (Hanson *et al.*, 1998; Wright, 1998) are clear that this is likely to be a minority, particularly micro

businesses, where resources, knowledge and capabilities may be limited. This research seeks to explore what needs to happen during regulatory interactions to move more business operators towards becoming Positive Responders and even Proactive Learners rather than Avoiders and Reactors.

In terms of health and safety and food safety and the context of this study, it is important to understand the main drivers and factors that shape the compliance behaviours of small firms. This is an area that has been examined and some authors have identified drivers such as enforcement activity and external assistance, along with shaping factors such as size and growth performance, management training and experience, and membership of trade/industry bodies (Fairman and Yapp, 2004; Baldock *et al.*, 2006; Levine *et al.*, 2012; Borley and Page, 2016). In addition to these, Hutter (1997) identified two main drivers of compliance as being self-interest in terms of reputation, and moral reasons. The fear of legal action as a driver is also clear in terms of a desire to avoid both prosecution by the regulator (Baldock *et al.*, 2006) and civil action (Bardach and Kagan - cited in Hutter, 1997). This is linked to reputation due to the bad publicity it can lead to for example, the impact of a poor food hygiene rating can be very damaging for a business' reputation. Clearly, it is more than just financial position that shapes and influences compliance behaviour but moral and reputational issues too. The business survey carried out by BEIS (2020) supported the argument that reputation is a driver for compliance with regulation as this was cited by 94% of participants and was equally as important as being legally compliant for them.

The evidence suggests that regulatory visits are an important incentive for business compliance and the reduction of them has the potential to lead to a reduction in compliance levels over time. This could potentially lead to the unintended effect of increased risks to public safety. What is less clear from the existing evidence is the impact of regulatory visits on learning as opposed to compliance alone as learning and compliance are not the same thing. The former being more of a long term ability to manage risk with little intervention and the latter more likely to be short-term action to avoid enforcement action.

2.4 Effect of Environmental Health regulation on business

Having examined the evidence in relation to small firms, why they are different from larger firms in terms of how they respond to regulation in general and the complex factors and characteristics that shape their compliance behaviour, this section looks more closely at how Environmental Health regulation specifically impacts on small firms in terms of benefits and burdens and how this informs current practice.

The perception that regulation is a burden on business has been debated at length. Regulation has been reduced in general but there has been a particular reduction in the regulatory activities carried out in the OHS sector in many developed countries such as Canada, Sweden and the UK (Walters *et al.*, 2011). In the UK specifically, there has been a focus on Environmental Health regulation and a strong argument for its reduction (Hampton, 2005; Berg, 2008; Richard, 2008; Arculus, 2009; Young, 2010; Löfstedt, 2011; Sala-i-Martin, 2011; Monk, 2012), although Löfstedt (2011) did recognise that the issue is not so much with the regulations themselves but more with their interpretation as did Taylor (2010). In recent years, the level of Environmental Health intervention has gradually reduced with the focus being moved toward more risk based and evidence based intervention rather than inspection for inspections sake. This is not unique to the UK and has also been the case in other countries.

The Hampton report (Hampton, 2005) made a significant change in the way regulators, including Environmental Health operated and suddenly made inspectorates answerable for the actions they took, in that interventions had to be justified and no inspection being carried out without reason. This put emphasis on the risk-based approach and was the start of 'reducing the burden' on business. The recommendations of the report effected change to guidelines issues to enforcement authorities for example the HSE LAC (67/2) (rev 11 and previous revisions) (HSE, 2022) came about which limits the scope of proactive inspections for LA inspectors and the FSA Food Law Code of Practice (FSA, 2021_a) which sets out the scope, frequency and type of intervention that should be carried out in food premises by inspectors. This guidance has reduced the frequency of inspections for some categories of food business, introduced a wider choice of other interventions rather than full inspections for some businesses in recent years. However, the FHRS which is a national scheme aimed at informing the public of standards in food businesses to enable them to make informed choices does rely on inspections being carried out for its credibility so there is a limit to how much inspection can be reduced in food safety.

Whilst the reduction in regulatory intervention was intended to be helpful for businesses, evidence presented by James *et al.* (2004) showed that reducing the frequency of enforcement visits was not helpful. Their later review (James *et al.*, 2013) backed this up further concluding that reducing regulation can be counterproductive. O'Neill (2013_a, 2013_b) made the valid and concerning point that >50% of recent fatalities occurred in premises no longer subject to inspection. More recently in 2021/22, although there appeared to be a similar number of work-related deaths recorded compared to pre-COVID-19, at least 34% of those were in industries less likely to receive a proactive health and safety inspection under current

UK guidelines (HSE, 2022). In addition IOSH (2010) estimate that 5000 lives have been saved since the introduction of the Health and Safety at Work etc. Act 1974 demonstrating that there is a place for such regulation.

In terms of the industry perspective, the main concern from business is the economic effect of too much regulation. A survey of UK businesses undertaken by BERR (2009) found that businesses feel health and safety regulation is a barrier to their success and the DWP (2011) say that obstacles put in the way of entrepreneurs and investors will have a negative impact on the UK economy supporting the evidence of Sala-i-Martin (2011). The BCC (2011) claimed that over half of businesses find health and safety regulation a burden but contradicted themselves in 2010 with the 'Burdens Barometer' which showed that health and safety only accounted for 4% of the regulatory cost to business, although this does not account for the fact that small firms find it more difficult to absorb this cost than large businesses (Anderson, 2008).

It is not just rich developed countries that perceive regulation to be a burden. Countries such as India also see regulation as a barrier to business growth. When talking about health and safety since the Bhopal disaster Broughton (2005) states that not much has changed in India since then. The laws they have in place are said to be inadequate to protect workers health and safety and that they are not enforced. This is because the emphasis there is on industry growth because this has an economic benefit to the country as a whole and that legal requirements are even being reduced to allow economic growth at the cost of health and safety (Ibid). It seems that the problem here is inadequacy of the regulations themselves unlike more developed countries where it is more the way regulation is enforced that is the problem.

Some of the reasoning behind the perception that Environmental Health regulation is bad for business could lie in the choices of some of the methodologies used. Kitching (2006) argues that many existing studies do not conceptualise regulation adequately and that some of the issues with methodologies include the failure to investigate the causal mechanisms which contribute to business performance outcomes. This could lead to confusion between 'regulation' and 'regulatory visits', with the activities of Environmental Health officers being considered as regulation rather than regulatory activities. He also claims that some studies actually present superficial and misleading results (Ibid). This would appear to corroborate with Tombs and Whyte's (2008) argument that reporting methodologies often mask the truth. This can be related to recent changes to the reporting of accidents and illnesses under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 which has seen a change in the requirement to report accidents leading to 3 day absences move to 7

days. Clearly, this change has the potential to result in misleading data in that the number of reported incidents is likely to decline from 2013 which may falsely indicate that workplace accidents have reduced since the reduction of regulatory inspections. Coglianese (2012) claims that public health improvement is a measure of regulatory success but distorted statistics such as this are likely to give a misleading measure of success.

Contrary to arguments that regulation hinders business growth there is also robust evidence that shows good regulation can support business and its growth if it is delivered in the right way (Vickers *et al.* 2005; Baldock *et al.* 2006; Kitching, 2006; Russell, 2012; Croucher *et al.* 2013; Kitching *et al.* 2013; Browne, 2020). Vickers (2008) argues that reduced regulation proposals have been overly influenced by red tape discourse and that not enough emphasis has been placed on the benefits of regulation for business.

In relation to economic growth specifically, recent evidence from the US has indicated that there is not a negative relationship between increased regulation or inspection and economic growth or job losses (Levine *et al.* 2012; Sinclair and Vesey, 2012) and a business survey undertaken by Croucher *et al.* (2013) presented evidence of a link between compliance and positive business outcomes but acknowledges that more robust evidence of this link is needed as does Vickers *et al.* (2013). This evidence shows that regulation does have the potential to have a positive impact on business growth and can actually help improve it.

There is good evidence that suggests health and safety regulation lowers accident rates thus reduces the cost of accidents to businesses (Frick *et al.*, 2000; Hilage *et al.*, 2001; Legg *et al.*, 2009; Takala and Hämäläinen, 2009; Walters *et al.*, 2011) but as shown by Croucher *et al.* (2013) in their review of the evidence, there is a lack of awareness among small firms of the cost implications of accidents/ill-health so businesses are not necessarily able to see the benefits of regulation to their economic prosperity. These potential costs are significant with the cost of occupational injuries and illnesses estimated to be >£3 billion (Pathak, 2008). Mossink (2002) and the Centre for Strategy and Evaluation Services (2009) agree that reduced illnesses and injuries positively influence business growth.

There is strong evidence internationally that demonstrates the negative impact on productivity in businesses from occupational injuries and illnesses (Dorman, 2000; Mayer, 2001; Kessler and Stang, 2006; Ridge *et al.* 2008; Shalini, 2009) which is clearly a cost to business of non-compliance not only in terms of lost productivity but also sick pay and potential civil claims, but there is mixed evidence around the relationship between good OHS and productivity. There is some evidence that shows how good OHS not only maintains but actually improves

productivity in New Zealand and that a healthy and safe work environment has the potential to increase productivity and other economic benefits (Massey *et al.* 2006). However, it is not as simple as purely having good OHS systems. There is also a need for a good level of co-operation between management and employees in order to ensure the success of OSH interventions and related increases in productivity (Croucher *et al.* 2013) which links back to employee involvement and worker participation as discussed earlier.

Other evidence has been inconclusive in being able to show a relationship between increased OHS and productivity gains (Sheikh *et al.* 2006; Kessler and Stang, 2008) or has suggested that there are potential negative outcomes of efforts to increase productivity through OHS (Goetzel *et al.* 2003; James 2006) which is not helpful in terms of businesses recognising and acknowledging any links between OHS and economic benefits to implementing OHS measures.

Working days lost is often used as a measure to quantify financial impact on business of implementing good OHS but is not necessarily an accurate measure due to factors that can skew statistics such as long hours worked and sickness presenteeism which has become more of an issue due to job insecurities (Chatterji and Tilley, 2002; Goetzel *et al.* 2004; Johns, 2011). A similar argument could be made in terms of the financial impact of food poisoning cases, and poor food hygiene ratings. The direct and indirect costs to society of food borne illness are estimated to be in excess of £9 billion in the UK (Daniel *et al.*, 2020). There is little research available on the impact of a lower than average food hygiene rating, however a consumer survey carried out by the FSA (2020) showed that 82% of participants would not consider purchasing from a food premises that was below their acceptable level. Most participants said that a rating below 3 would be unacceptable. In addition to working days lost and productivity losses, legal action and associated penalties is another cost to business resulting from non-compliance. However, there are valid concerns about the lack of penalty for non-compliance of Environmental Health regulations. Tombs and Whyte (2008) analysis of HSE trends concluded that safety crimes are not treated as 'real crime' and thus are not punished appropriately.

Awareness of benefits is clearly an issue, and this theory is reinforced by the findings of a study undertaken by Vickers *et al.* (2005) where 60% of businesses surveyed agreed that investment and improvement in health and safety will have financial benefits to business although inspectors said many small firms did not see health and safety related investment as value for money. There is clearly an issue in terms of small firms being unable to see the financial benefits of regulation and their views being taken on face value rather than proper

evidential analysis being used to back up the argument that regulation is bad for business. Barrett *et al.* (2013) also associated non-compliance with poor awareness of opportunities/benefits of regulatory change in Australia showing that this is an international issue.

Whilst the perception among some businesses may be that regulation is restrictive, it should theoretically provide for a fair playing field for all businesses. One of the purposes of health and safety regulation is to ensure a level playing field and that there is no unfair marketing advantage for businesses that do not comply (Baldock *et al.*, 2006). The survey conducted by Vickers *et al.* (2005) revealed that businesses felt there was an unfair competitive advantage available to non-compliant businesses and that a stricter and more consistent enforcement approach was required to mitigate this. They challenge the view that there is conflict between business regulation and the wider economy arguing that well designed and implemented regulation can provide protection and yield economic benefits. A case study analysis by Russell (2012) also supports this argument by showing how good regulation can be good for business, through an initiative run by Westminster Council that involved a 'Chinese Masterchef' competition for London's Chinatown, that linked high food standards to culinary excellence. The result of this saw a significant improvement in food hygiene standards and a reduction in customer complaints.

In order to address issues around competitive advantages, BRE (2010) said that enforcers should focus their efforts on businesses who deliberately fail to comply in order to gain advantages over their competitors. This is more difficult in the UK under current HSE guidelines. In fact schemes such as Fee for Intervention (HSE, 2013_b) which was introduced in HSE enforced premises in 2012 exacerbate this issue because where a HSE inspector identifies a material breach of health and safety legislation, they recover the costs of intervention work from the business. With so called 'low-risk' businesses not receiving inspections anymore, they are unlikely to be caught out if they are in breach of health and safety requirements and thus will not be charged. This simply adds to their financial advantage over businesses that do receive inspections. This is also an issue in many lower income countries where the informal sector is prominent as discussed previously. There has been an indication in the UK since 2009 that the overall perception of regulation being an obstacle has improved and that businesses feel regulation does help to ensure a level playing field (BEIS, 2020).

As mentioned earlier, one of the challenges in particular with small firms is that they do not appreciate the costs of non-compliance (Vickers, 2005). Therefore, reduced regulation in the

name of reducing the burden to business and supporting economic growth has the potential to lead to other indirect business costs. With food safety, competitive advantages are easier to see and understand. For example, due to the FHRs and some online food ordering platforms having policies in place that exclude businesses with lower ratings (Whitworth, 2021). This presents more incentive for businesses to comply and creates a fairer market playing field for those that do compared with those that do not comply.

Lodge (2011) presents an argument supported by students of regulation that when a 'public service' is withdrawn so to speak, it is likely to lead to unintended consequences such as generating even more rules, reduced discretion and issues around local efficiency. For example, how efficient would it be for a private company to meet the specific local needs of businesses given that they are likely to be tied into a contract to provide a service for a fixed price? Is it realistic for them to be able to provide local solutions without the financial support of a LA? Simply 'not doing it anymore' is surely not the answer to improving health and wellbeing and is also not the answer in terms of reducing costs to businesses. O'Neill (2013_b) explains how reduced regulation will not lead to a cost saving at all but simply a cost shift from business to the public purse.

2.5 Sources of information and advice for small firms

Having looked at regulation in general, more specifically Environmental Health regulation and its delivery, how small firms respond to regulation, and how regulatory interventions have largely been reduced, providing less opportunity for them to obtain guidance from inspectors, It is relevant to look at how smaller firms access information and advice about regulation to help them understand what they need to do to comply.

Most countries do offer some type of publicly funded advice services for new businesses but there is not necessarily a link between uptake of such services and long-term business performance (Kösters and Obschenka, 2011). The challenge appears to be in business awareness, access and uptake of information and advice. The evidence available suggests that there is a low proportion of small firms using sources of Environmental Health advice and that the smaller the businesses are, the less knowledge they are likely to have about where to find reliable advice and as such they have more reliance on inspectors to provide it. Several studies have identified a link between business size and likelihood to engage with external sources of advice (Hutter, 1997; Vickers *et al.*, 2003; Baldock *et al.*, 2006; Anderson, 2008, 2009). This indicates that awareness is incremental to business size, a point reinforced by

Hutter and Amodu (2008) in relation to small businesses need for extra support with regulatory compliance.

Lack of awareness of what is required and where to turn for advice has been highlighted as a key barrier to compliance (James *et al.*, 2004; Baldock *et al.*, 2006; Borley and Page, 2016) with the specific link between exposure to inspection and accessing advice being identified by Vickers *et al.* (2003). The survey of small firms in the UK reported by James *et al.* (2004) found that 10% of participants did not know where to find health and safety advice for example. This was supported by Borley and Page (2016) who found that participants in a smaller study did not know where to go to get free advice and most were unaware that LA's enforced health and safety legislation or provided advice about it. Anderson's (2008) research found that only 20% of participants had paid for advice for employment or health and safety regulatory matters. This demonstrates that there may be gaps in terms of small firms' awareness of how to access advice which could be influencing uptake rates.

The gap in knowledge and awareness is underscored by evidence that shows uptake of publicly funded advice is relatively low. It has been found to be below 50% in both German and UK studies (Anderson, 2008; Kösters and Obschenka, 2011). It is not clear why this is but in Sweden inspectors have been criticised for giving free advice to good businesses and not enforcing in the worst ones (Lundberg, 1982; RRV, 1990) indicating that advice is not offered fairly to all businesses in some countries. The UK study (Anderson, 2008) aforementioned also found that businesses were willing to pay for advice but it is important that any advice is specifically tailored for a small firms' needs.

Anderson's (Ibid) research proves to be a little contradictory in that the businesses interviewed and involved in focus groups did not perceive any barriers to accessing advice and that awareness was generally good. This could be because the participants in that study were those of a more proactive nature (hence being willing to take part), or it could be because that study was not specific to Environmental Health regulatory areas alone and did encompass other areas such as employment and financial law.

For those businesses that are accessing advice, it is worthwhile looking at the different sources they are using. Online advice is one source that is used. It should be acknowledged that over the last decade or two the provision of information online has grown dramatically in most developed countries. A US study of small business owners identified that over two thirds of businesses used either social media or online mechanisms to access peer advice (Kuhn *et al.*, 2016). Whilst internet usage is higher in developed countries it is also increasing in poorer

countries (Murphy and Roser, 2016). Despite this, a study of small businesses in the UK found that many businesses preferred to access advice and information face-to-face because they were overwhelmed by what they found on the internet and were not sure which sources were reliable online (Borley and Page, 2016). Other sources have also identified businesses reluctance to use the internet to access advice (McGrath *et al.*, 2003; Fischer and Reuber, 2011) with some business viewing the internet as more of a marketing tool than anything else.

A number of studies have found that UK LA inspectors were a significant source of advice for businesses (Hutter, 1997; Vickers *et al.*, 2003; James *et al.*, 2004; Fairman and Yapp, 2005; Anderson, 2008; Hutter and Amodu, 2008; Borley and Page, 2016) with some sources identifying that they are the most common or preferred source for businesses (Vickers *et al.*, 2003; James *et al.*, 2004; Anderson, 2008). This indicates that many businesses are not actively seeking advice independently and are waiting for the inspector to give them advice. Advice from an inspector during a statutory inspection visit is likely to be free of charge in most cases.

It has been shown that some businesses not only look to inspectors for advice but actually rely on them (Hutter and Amodu, 2008). This is particularly the case for small firms whose regulatory capacity has been found to be an important factor in terms of regulatory knowledge and laws and demonstrates how a business with more resources and knowledge is likely to have higher compliance levels. There is clearly an opportunity here for inspectors to act as advisors during their interactions with business, but this opportunity may not always be realised by inspectors as Anderson (2008) found during a study speaking to business operators who said that in their experience the focus of inspectors was not always on providing advice but more on enforcement. Whether the advice comes from the inspector or another source it has been demonstrated that specialist advice plays an important role in the understanding of complex regulatory matters (Sloan and Chittenden, 2006). This is significant to this research because it shows that knowledge transfer contributes to understanding of regulatory matters and improves compliance levels. What this research aims to build on is whether that knowledge transfer leads to learning, better compliance behaviour and, potentially, other benefits to both the business and the regulator.

Although inspectors are clearly one source of advice and information, James *et al.* (2004) question the reasoning behind why inspectors are seen as the main source of advice and suggests that this could be due to lack of awareness of other sources rather than a choice. Their research found that there was an increase in likelihood of accessing external advice in businesses who had been subject to an inspection although the research findings did not show

whether the advice had been sought before or after the intervention which would be useful to know in order to understand whether the inspection triggered the business to seek the advice from this source or not. The inspection could have been what triggered awareness in these cases.

Whilst the strength of evidence points towards inspectors being a common source of advice in the UK, Australia and Sweden another source used is third party advice for example from consultants, insurers, manufacturers and service providers. Third party advice was found to be used by 9.9% of participants in the study of James *et al.* (2004) compared to 27.4% who used the regulating bodies to access advice. However, in a smaller study of UK SME's by Anderson (2009) third party paid advice was found to be the main source utilised which is surprising given that this same study found that inspectors were the most known about source of advice with 81% of businesses being aware of this source. It would be beneficial to understand more about the reasons why businesses chose to pay for 3rd party advice rather than using free advice from a source they are aware of. Some of the reason could be due to the businesses fear that they will be punished if the advisor is also the inspector as identified in the research carried out by Vickers *et al.* (2003).

Given that there is an indication that some small firms do spend money on advice (Anderson, 2009; Hutter, 2009) and it has been suggested by Hale *et al.* (2011) that businesses should be given the freedom to devise their own risk management rules because they have better knowledge of their own processes than outsider regulators. That said, in the UK Environmental Health legislation already puts the onus on the business to assess their own risks and put in place suitable controls. It is for the business to demonstrate that they have controlled the risk. Therefore, it could be argued that businesses are already given this freedom within the UK regulatory system.

Whether or not small firms prefer to receive advice on regulation from inspectors or a third party is debated. Some sources indicate that inspectors are seen by small firms as a source for getting advice and information about regulatory matters and that they sometimes rely on the inspector for this advice. Although in some cases inspectors are not seen as helpful and are too focussed on enforcement rather than providing advice. In larger studies of small firms in both health and safety and food hygiene contexts, some businesses say they prefer external advice where there is no enforcement role from the person giving the advice (Vickers *et al.*, 2003; Fairman and Yapp, 2005). However, in a smaller localised study most businesses said they preferred to receive advice from the inspector as they were concerned about how trustworthy some third-party advice would be (Borley and Page, 2016).

2.6 Influences on inspector responses to businesses

With inspectors having been identified as a source of advice for small businesses, this section will examine the strategies used by inspectors, their role as enforcers, how inspectors act as sources of information and advice and the role of inspectors as a vehicle for business learning.

There is an array of compliance and enforcement strategies available to inspectors. These include provision of information and advice, incentive schemes, training, coaching, verbal warnings, written warnings, enforcement notices and prosecution. In an Australian study of health and safety inspectors Walters *et al.* (2011) inspectors were said to value the fact that they had such a wide repertoire of tools available but did not have adequate training to utilise them all and this meant they tended to stick with the ones they were most familiar with. That said, it has been found in both Australia and the UK that a wide variety of methods to achieve compliance are used and that a less formal and more persuasive approach tends to be used most of the time (Hutter, 1997; Walters *et al.* 2011). This approach is in line with models presented by Ayres and Braithwaite (1992) and Hutter (1997) where the sanctions at the base of the pyramid and most commonly used are the less serious and the sanctions at the top of the pyramid (See Figure 2.1) are used sparingly but are more serious for example, prosecution. Observations in the Australian study did highlight that there was sometimes a split pyramid approach whereby inspectors jump straight to prosecution in response to a serious issue such as a fatality but respond to most other issues with administrative sanctions or informal measures (Walters *et al.*, 2011).

An enforcement strategy available to Australian inspectors which is not available in other countries including the UK is an infringement notice. This involves a fine being paid by the business. Australian inspectors were very positive about this tool and claimed it is the only way some businesses understand (Walters *et al.*, 2011) which begs the question whether those inspectors are trying to facilitate learning or simply achieve compliance. Fixed penalty notices which are a similar concept in the UK used to deal with some environmental offences such as fly-tipping, littering and more recently in Environmental Health through the Coronavirus restriction regulations are not currently used in most other Environmental Health disciplines although a 'Fee for Intervention' scheme operates within the Health and Safety Executive whereby material breaches incur cost recovery. A major innovation in health and safety enforcement in Australia is an enforcement tool known as an 'enforceable undertaking' whereby the business offers a contractual commitment to do something in order to comply and if they do not meet this, they can be prosecuted for not complying with the agreed undertaking. Inspectors in Queensland have made extensive use of this tool (Johnstone and

King, 2008; Johnstone and Parker, 2010). It is suggested that the reason for this is that they result in more resources being allocated to health and safety as a result and that the value of these is said to be worth 6 times more than the maximum possible penalty for a successful prosecution of the same breach (Ibid). It is not clear how this figure has been determined.

In the UK, enforcement strategies are very much dictated by responsible bodies such as the FSA, EA and HSE who dictate in many ways what strategies must be adopted by inspectors through Codes of Practice and guidance. This is largely a risk-based approach. However, the focus of these strategies is often aimed at gaining compliance in the short term rather than facilitating learning and empowering businesses to gain control of managing risks for themselves in the long term. Learning is more than just compliance. To achieve an outcome where a business is able to self-regulate to some degree, learning needs to take place to ensure a deeper level of understanding not just compliance by doing what they have been told to do without having the accompanying knowledge and understanding of why they are doing it. It would be difficult for an inspector to have confidence that a business is able to self-regulate or at least operate safely in between regulatory visits, if they have not learned.

In this context it is important to understand that businesses are said to go through 'enforcement careers' and that regulators use a number of different strategies and tactics to encourage businesses to move through their enforcement career (Hutter, 1997). Hutter's findings showed that regulatory decisions are not always straight forward, and they are the outcome of complex and interpretive judgements. Compliance is a process which is negotiated, reflexive, serial and incremental and that it is based on the relationship between the inspector and the business. This is relevant for this research which aims to explore in detail the mechanics of that relationship and how it can be developed and utilised to support businesses to facilitate their own compliance and improve economic prosperity.

It has already been mentioned how resources are an influencing factor in small firms' ability to comply. Similarly, reductions in resources for regulators have also presented challenges in terms of inspectors having the capacity to provide advice. The economic position and related policy decisions of a country have been shown to impact upon the resources made available to regulatory organisations in those countries. Fluctuations in the resources accorded to regulatory bodies by central government have been seen in countries such as Australia, Sweden and the UK (Walters *et al.*, 2011). This may have an impact on the regulators' ability to meet the needs of smaller firms. In the UK, this coupled with the direction of current guidance from central government via the FSA and HSE towards reduced interventions makes

it more difficult to justify the need for resources and the resulting effect of this is reduced interactions between inspectors and smaller firms.

The last 15 years have seen a situation of austerity and cost cutting and the pressures this has led to on resources have resulted in a shift to the detriment of advice and education (Hutter and Amoudu, 2008; Vickers, 2008) and whilst resources are not being used to carry out as many 'inspections' equivalent resources are not available to transfer towards advisory and educational interventions because the resources have been taken away in many instances. With advice and education not being a statutory duty in LA's but part of business support, it is becoming more difficult for councils to justify increasing or even retaining those levels of resource when they are under pressure to reduce spending significantly. This could be a problem because it has long been established that reduced resources result in less frequent interaction between inspectors and businesses (Hutter, 1989) which means less opportunity for knowledge transfer to take place even though increasing contact time between inspectors and workers has been said to be critical (Walters *et al.*, 2011).

Fairman and Yapp (2005) acknowledge that it is a challenge for LA's to provide separate advice visits in addition to inspections due to resource pressures which have only become smaller since then. The argument behind 'better regulation' was that there was a need to rebalance advice and inspection so that more advice is given. This being on the basis that good advice leads to better compliance and that small businesses don't necessarily need more inspection but more advice. However, Vickers *et al.* (2005) argue that increased advice should not be at the expense of inspection. This is not just a UK issue. In a study of inspectors in Australia, inspectors themselves said they did not feel able to spend enough time on visits and that they now had more complaints to deal with (perhaps a result of reduced proactive inspection) which demonstrates how these pressures are being felt in the field internationally (Walters *et al.*, 2011).

Another influence on inspectors is their own capabilities and behaviour. It is important to recognise that inspectors are individuals and as such they do not all learn and operate in the same way. There are some common factors that influence inspector behaviours, which include both internal influences (e.g., understanding of small firms' needs, ability to adapt, technical knowledge, willingness, relationship with the business operator) and external influences (e.g., direction from external bodies, agency's enforcement style, resources, frequency of intervention, integration within the locality). Internal factors are likely to be influenced by the individuals' personality. Personal factors can be significant in terms of the way an interaction between a business operator and inspector unfolds. An Australian study

highlighted differences in the ways inspectors conducted inspections in that the business operator response dictated how in depth the inspection was and also the trade background of the inspector also influenced this (Walters *et al.*, 2011). This demonstrates how personal factors can influence the outcome.

With inspectors being a source of advice that is well evidenced in the UK and other national contexts, the relationship between the inspector and the business operator was identified as being of significance by Hutter (1997) and Black (1980) in that the relationship influenced the way in which inspectors and business operators react. This ethnographical research found that where a close relationship was developed between parties that a more informal approach was taken, and higher levels of compliance were achieved but that regular contact had to be maintained to improve compliance so a one-off intervention would not be enough to make a difference. This research will aim to build upon this by looking at how the relationship between the inspector and the individuals within businesses influence learning rather than purely compliance. Individual inspectors and business operators' ability to develop good relationships will clearly vary and so how this influences learning is likely to be changeable on a case-by-case basis.

The issue around relationship and familiarity between inspectors and business operators is a point that can be related to Black's (1980) "relational distance" hypothesis which says that the greater the relational distance between parties, the more likely it is that law will be used to settle dispute. An example of this might be where the same inspector often visits the same business and there is no change in ownership so the relationship and rapport builds over a period of time, the less likely it is that the inspector will use formal enforcement powers to deal with non-compliance. There is a gap in the current literature as it is not known whether this is due to the business operator being more compliant or whether it is because the inspector feels too close and overly sympathetic with the business operator and is no longer comfortable in taking formal enforcement action.

In addition to relationships, it is also known that the decentralised view of regulation (Black, 2002) presents the possibility for inspectors to be inconsistent. Whilst this could be perceived as a negative point, Hancher and Moran (1989) were of the view that taking such a decentred approach is more effective and leads to better regulation and better policy outcomes. In practice, there is evidence that uneven inputs are applied among LA's and as a result outputs are also uneven leading to inconsistency issues county and nationwide. For example, the number of notices served, the number of prosecutions taken, the number of zero-rated food businesses (FSA, 2016; HSE, 2016).

The degree to which inspectors are integrated into the locality they work in, is also an important factor identified in a study by Hancher and Moran (1989) and has been found to affect inspectors' personal inclination to adopt either informal or formal techniques. Another factor involved the assumptions they made about the population they control. The study also found that those working in areas which were perceived to be of a small, close-knit community made the assumption that their businesses were run by good, respectable people who needed more education and advice. However, those working in areas that they perceived to be of a larger, more urban nature were more suspicious, had no fear of potential negative consequences of legal action they may take and were more likely to adopt a cynical less charitable view.

The frequency that inspectors interact with businesses is also a significant factor in relation to enforcement methods used in that the more frequent the interaction, the less inclination there is to resort to legal methods (Sholz, 1984; Hutter, 1989). This could be more to do with emotions and loyalties rather than a choice about providing advice and education and acting as a vehicle for learning. This poses questions such as whether business operators learn more effectively when there is a closer relationship with the inspector, or whether they think they can get away with more because of the close relationship, or do they simply feel more of an obligation to comply because of loyalty? Is this more about obligation rather than learning?

Another influencing factor identified by Coslovsky *et al.* (2010) is the phenomenon of sub-politics whereby regulatory enforcement is influenced by businesses perceptions and compliance decisions are changeable and are influenced by their interactions with regulators. Their research involved the analysis of 2 case studies in Brazil which demonstrated this concept and led to the conclusion that businesses comply because they agree with the overall political aspects rather than the fundamentals of what they are actually required to do. Whilst presenting a slightly different perspective, this theory reinforces how interaction between business operators and regulators is key.

2.7 Provision of advice as a regulatory approach

Inspectors have been identified as a source of advice and the way inspectors respond to business operators by choosing strategies they use to encourage compliance have been discussed. This section now looks at how provision of information and advice can be built into the regulatory approaches framework.

It has been suggested that alternative strategies for compliance should include self-regulation, co-regulation, information/education and that command and control regulation should be the

last resort (Arculus, 2009; BRE, 2010; Hale *et al.*, 2011) and there has already been an increased involvement of non-state actors in regulatory regimes across Europe (Hood *et al.*, 2001; Hutter, 2006). Figure 2.2 shows how Ayres and Braithwaite's model can be further adapted to encompass these additional suggestions.

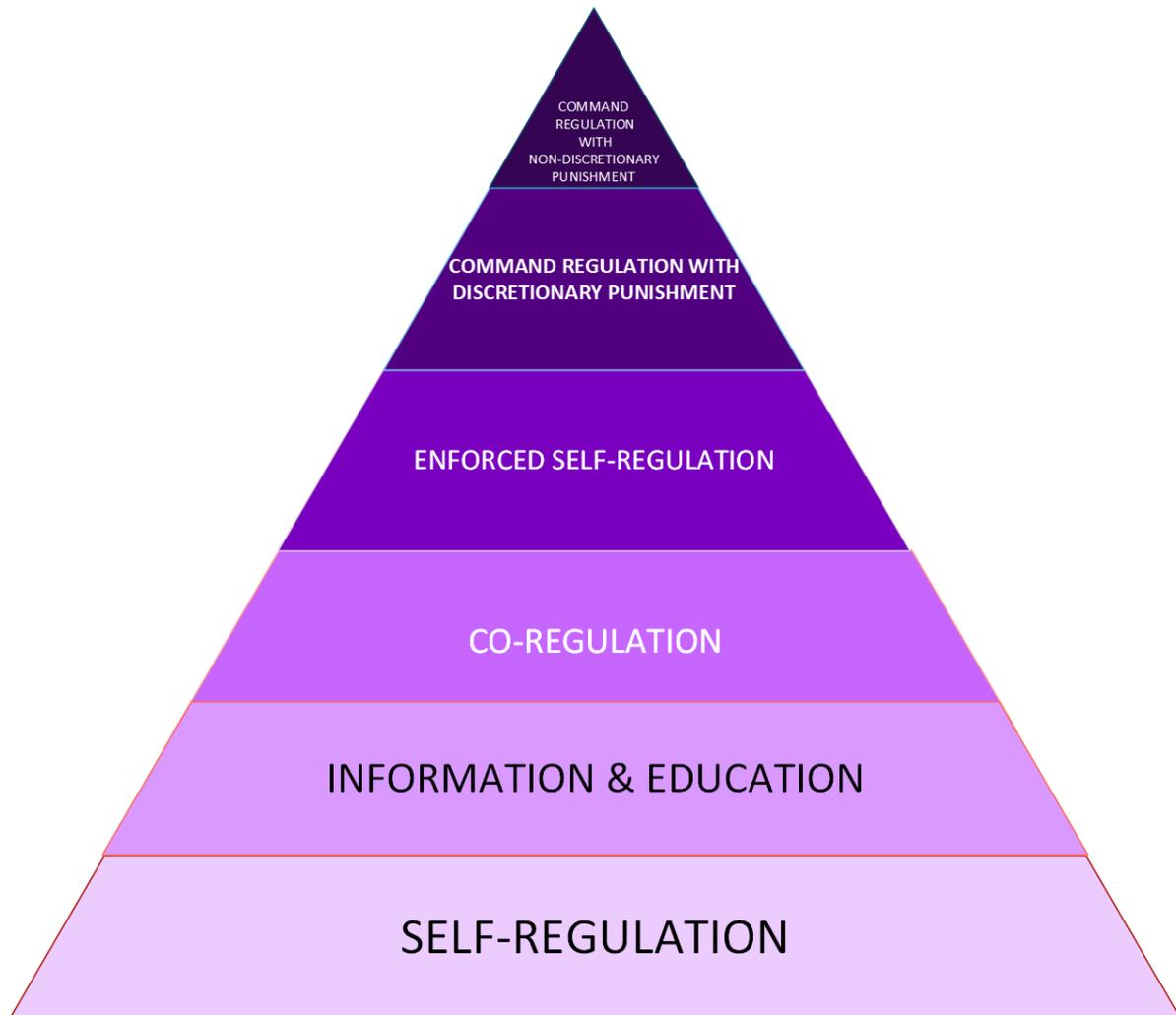


Figure 2.2: Adaptation of Ayres and Braithwaite's example of an enforcement pyramid

(Adapted from Ayres and Braithwaite, 1992)

A potential problem with these strategies is that they may not be suitable for all. Evidence has been presented based on studies involving businesses to show that small firms are unable to self-regulate (Fairman and Yapp, 2005; Hutter and Amodu 2008; Hutter 2009; Wilson *et al.* 2012) leading to a speculation that there is a need to support such businesses in a different way. This research aims to investigate what is needed to change this and develop a model that may enable that change in the future.

Other alternative models have been developed such as smart regulation and responsive regulation which provide for more flexibility and interventions can be tailored to the business depending on their responses and to the community in which it operates (Ayres and Braithwaite, 1992; Baldwin and Black, 2008; Anderson and Russell, 2011; Russell, 2012).

A number of different approaches to regulation have been adopted and critiqued. Some approaches were very direct and could be considered as being heavy handed whereas others are considered as more of a light-touch approach. All approaches have the ultimate aim of gaining compliance, but some have been identified as being more effective than others. A key observation made by Walters *et al.* (2011) is that business dynamics have changed significantly since legislation has been introduced internationally and enforcement models have not adapted to accommodate this. For example, there are many more examples of sub-contracting, franchising, agency workers, home-based businesses and mobile businesses complicating situations and responsibilities which presents logistical difficulties for regulators.

In the context of this study which is focused on Environmental Health regulation, in particular OHS and food safety, it is important to recognise that regulation plays an important part in influencing activity in businesses (see systematic review by Croucher *et al.* 2013) and that it is not the presence of law as such but the way it is enforced that is critical to this. For example, in the US a study undertaken by Levine *et al.* (2012) demonstrated that randomised inspections had the effect of reducing workplace injuries. This is significant in terms of demonstrating a direct positive impact of regulatory inspection. This strengthens the link that has already been shown many years ago between inspections and compliance levels and improvements (Pearce and Tombs, 1990; Baldock *et al.*, 2006) particularly where an educational approach is taken within the inspection rather than a strict enforcement approach (Fairman and Yapp, 2004). Tomer (1992) showed this link to be driven by regulatory incentives, a concept which could be related to schemes such as the FHRS whereby high compliance levels are rewarded with a good rating and potentially positive publicity, again this can be linked into business reputation. In Quebec targeted campaigns have been used as a persuasive tool to gain compliance and results were generally positive (Mesa, 1996) again demonstrating the value in utilising such schemes as a lever for compliance. In contrast, a Canadian review found that prosecution was more effective than inspection (Tompa *et al.*, 2007) in gaining compliance, although effective in terms of gaining compliance does not necessarily mean effective learning took place and whether compliance was maintained in the long term is not clear.

Given that an approach that may be adopted during an inspection may involve provision of advice and education, it is also relevant to note that a number of studies have identified a link between advice and compliance levels (Hutter, 1989, 1997; Mesa, 1996; Fairman and Yapp, 2004, 2005; Vickers *et al.*, 2005; Walters *et al.*, 2011). Fairman and Yapp (2004, 2005) found in their research on food hygiene compliance that the more advice businesses received, the higher levels of compliance were. They identified that an educational approach was most effective in terms of getting sustained levels of compliance and the most effective interventions were those that increased knowledge. However, the method used to measure this has the potential for inconsistencies. This is relevant to this research because it shows that interactions between inspectors and business operators can contribute towards their ability to comply and in turn to grow and develop. What is less clear from the existing literature is whether improved compliance levels are sustained in the longer term and whether this improvement is a result of learning or simply doing what they have been advised to do in the short term. This research aims to fill that gap and look at whether learning takes place that can lead to improvements and safer businesses.

With this in mind, it is important to acknowledge that there is a fine line between advice that is helpful and advice that can lead to over-compliance which is not helpful for growth and development. Anderson's (2009) final report explained how third-party advice can sometimes lead to over-caution. The danger being that businesses then spend more money and resources on 'over-complying' which can be damaging to their growth and may contribute towards misconceptions of burdensome regulation. This is an issue that was raised by Hampton (2005) who said that there was a fear from businesses that led to over-compliance and 'regulatory creep'. However, this has not stemmed from the regulatory visit but the absence of a visit leading to a fear of what was needed. This has also been contributed to by private consultants who may exaggerate regulatory requirements in order to make their own commercial gains (Vickers *et al.*, 2003).

Another approach for consideration that has the potential to aid learning and complement existing inspection and enforcement approaches, is the role of third-party auditors. Walker (2014) undertook qualitative research in the area of trucking in Australia, which identified that third party auditors are well positioned to act as vehicles for learning for businesses because they are independent from the regulator, can act as a mediator between the business and the regulator, can have a more in-depth understanding and interaction with the business where there is closer engagement and a higher level of trust than the inspectors can when inspecting the trucks on the roadside. Walker recommends that regulators engage with auditors in order to better aid learning and improve compliance levels. This is an approach that may have

value in those businesses that are subject to third part audit, however, many of the micro business sector are often not in receipt of such audits, this is something that tends to be more common in larger SME's. EHO's are often acting as the auditor and the inspector when they are interacting with the smaller business sector.

Whilst advice and education can be an effective tool for improving compliance levels there are times when this approach is not appropriate such as where there is a blatant disregard of legal requirements or where a serious risk to public health is evident (WHO, 2006). It has been suggested that redirecting resources away from inspection towards education is not necessarily the right answer because inspection is an important tool for advice to be given and sources of information and advice to be prompted to businesses and that the threat of potential proportionate sanctions is critical in ensuring uptake and use of these sources (Vickers *et al.*, 2008). This is backed up by Baldock *et al.*, (2006) who found that businesses that have experienced an inspection visit were more likely to make compliance related improvements. This research aims to examine why this may be the case and look at how advice and education may be incorporated alongside inspection rather than separate resources being needed to provide it.

Another important point to make here is that the effectiveness of advice can be influenced by the point in time at which the advice is given. Hutter (1997) identified the significance of the enforcement career (first established by Rock, 1973) which could be relevant in terms of when in the lifecycle of the business, the inspector provides advice. In Hutter's research, it was evident that inspectors spent a lot more time with businesses at their early stages and less later on. It therefore may be that businesses need more advice later on in their lifecycles in order to help them develop.

2.8 Summary

Overall, the evidence shows how relationships between inspectors and individuals within businesses, political will of the regulating organisation and frequency of interaction all influence the enforcement approach and the likelihood and effectiveness of knowledge transfer and learning. This chapter has examined the literature in relation to the broad picture of regulation and regulatory approaches including command and control and responsive regulation and established that approaches need to be flexible but that educative approaches need to be complimented by punitive approaches and that the penalty of non-compliance needs to be high enough to deter. Punitive approaches are resource intensive for both parties and does not support businesses and the people within them to learn or grow. It has looked

briefly at the needs of small firms and their responses to regulation and identified that whilst regulation can sometimes be perceived as being burdensome, if delivered in the right way can also be beneficial to business and can support growth. The literature on sources small firms use for information, the strategies used by inspectors and the factors that influence their choices has been examined and identified that small firms have different needs to larger businesses and need more support and advice, for which inspectors already act as a source and are relied upon by some small firms. Provision of advice could be better integrated into regulatory approaches. The next chapter will focus on learning and the role of the inspector as a vehicle for learning in an Environmental Health regulatory context.

3 DEVELOPING THE THEORY ON REGULATION AND LEARNING

This chapter focusses on how regulation has the potential to aid learning through interactions between inspectors and individuals within businesses such as business operators, how both people and organisations learn, and the potential for learning in a regulatory context and related benefits to businesses and society. This chapter further explores the phenomenon of regulatory learning by focussing on the role of context. It also looks more closely at learning methods, regulation and learning within small firms and how inspectors as regulatory representatives can act as a vehicle for learning.

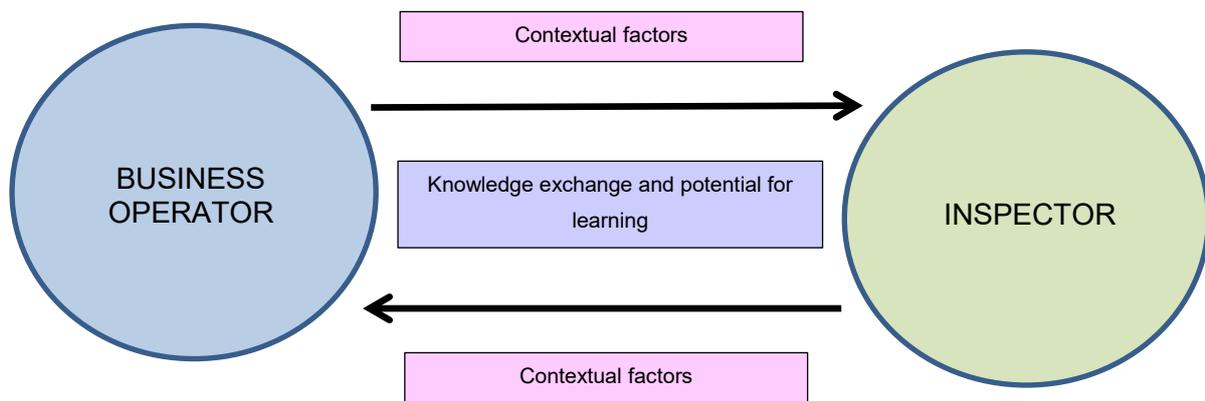


Figure 3.1: Diagram showing initial conceptual framework of study

Figure 3.1 shows the initial conceptual framework of this study. It shows the business operator and the inspector as two individuals that interact with each other and how that interaction involves an exchange of knowledge which could have the potential for learning to take place depending on characteristics of individuals and organisations on both sides as well as contexts in which they operate. The chapter examines more closely what those contextual factors might be in order to develop the framework further by examining the available literature in more specific context around the regulator, small firms, and how they source new knowledge and learn.

3.1 Regulation as an opportunity to learn and innovate

Chapter 2 discussed the arguments both for the benefits of regulation and also how it can be perceived as being a burden on business and here this is further explored. There is a body of literature that has focused on evaluation of the negative impact of regulation on businesses in particular the costs incurred by businesses themselves (Djankov *et al*, 2002; Botero *et al*, 2004; Grilo and Thurik, 2005_a, 2005_b; Borkowski and Kulzick, 2006). Costs of compliance

have been perceived as bad for business in terms of carrying out repairs and maintenance, time spent on compliance and form filling for example, but the costs of non-compliance are not perceived in the same way.

Much of the research in the area of regulation and business has focused on the link between enforcement and compliance levels, but as Kitching *et al.* (2013) found, many previous studies have failed to emphasise the full range of regulatory tools available that can be used to aid business compliance and identifies that regulatory activities can be both enabling as well as constraining in that they can enable market opportunities but constrain actions. Regulation has also been shown to have the potential to impact positively on business innovation (Porter and Van Der Linde, 1995; Vickers and Cordey-Hayes, 1999; de Azevedo and Pereira, 2010; Perunović and Vidić-Perunović, 2012). The influential work of Porter and Van Der Linde (1995) presented the 'Porter Hypothesis' and "the innovation effect" which says that strict regulation in an environmental context leads to the discovery and implementation of cleaner technologies and environmental improvements which result in more efficient production processes and products. The cost of implementation is outweighed by the cost savings of the efficiencies. This is extremely relevant to this study because it shows that even over 20 years ago it was recognised that regulation could have a positive impact on business and effect economic prosperity in business. It was ground-breaking research that was further built on by others.

Four years later, Vickers and Cordey-Hayes (1999) looked into the area of cleaner production and also identified that in the environmental pollution control regulatory area involving Integrated Pollution Control (IPC), regulatory requirements had led to advances in technology and firms being stimulated to apply their knowledge to solve problems which resulted in innovative technological advancements. This may not have occurred had the regulatory requirement not been the trigger. This reinforced the Porter Hypothesis. One of the cases in their study has a key influence on this research because it involved an inspector acting as a 'consultant' to the business and demonstrated the role of the inspector as a vehicle for learning which led to a positive outcome. The benefits to business are likely to have been greater than just compliance with the law but could also have the potential to have a positive impact on production rates and waste for example. In terms of small firms, a study by Konsti-Laakso *et al.* (2012) discusses how some small firms face barriers to innovation but that those who learn by networking can be successful at innovation. This is clearly an important factor as many small firms lack the resources to invest in research and design efforts, but by learning through networking, ideas can be shared and small firms can work more collaboratively. If small firms are more open to being innovative, they are more likely to use regulation in this way to benefit themselves. Two more recent studies (de Azevedo and Pereira, 2010;

Perunović and Vidić-Perunović, 2012) relating to the oil industry in Brazil and the US further supported the hypothesis by showing how regulation pushed suppliers and firms towards technological innovation in order to comply with new requirements to improve air quality. This was an industry that was not very proactive in research and design and innovation without being pushed by regulation.

Whilst regulation is said to have a deterrent effect in terms of encouraging compliance (Tomba *et al.*, 2007), this position is countered by a strong opposing argument that regulation is a positive tool with the potential to provide business development opportunities, influencing management behaviour in a beneficial way (Mallet *et al.*, 2019; Barrett *et al.* 2013; Baldock *et al.* 2006; Arrowsmith *et al.* 2003; Ram *et al.* 2003; 2001). The aim of regulation has been said to be to achieve both social and economic outcomes by changing behaviour (Barrett *et al.* 2013). However, it is necessary to establish how behaviour is changed and what input is needed to see a change in output, particularly longer term. Policies are not always successful in achieving such supportive impact (Jacquemin and Jansenn, 2015) which is why it is necessary to look more in depth at the interactions taking place between inspectors and business operators and how learning can be improved. Whilst they make the point that policy is not always supportive, they also acknowledge that regulation is not always constraining for businesses either.

Positive business opportunities can be presented both directly and indirectly (Jacquemin and Jansenn, 2015). The authors explain this in terms of where regulation is introduced primarily for the benefit of others (e.g. the public) and it introduces perceived burdens for businesses in terms of costs and resources, how some businesses recognise this as an entrepreneurial opportunity in terms of early adoption leading to a market advantage. They use the example of toy safety labelling to demonstrate this and link this with the paradigm of opportunity theory presented by Alvarez and Barney, (2007; 2010) and Vaghely and Julien (2010). Jacquemin and Jansenn's (2015) research highlights that entrepreneurs act and observe how consumers and markets respond to their actions, demonstrating that they are more driven by consumers than the regulators. It is the market opportunity that drives them to comply in the example here.

Whilst regulation can potentially present an opportunity for learning, it is worth acknowledging here that a link between learning and good practices has been shown particularly in relation to food hygiene (Cohen *et al.*, 2001; Lynch *et al.*, 2003; Roberts *et al.*, 2008; Adesokan *et al.*, 2014; Smith *et al.*, 2014; CIPD, 2020). Many of these studies have shown that training has led to learning, improved levels of knowledge and behaviour change in food handlers. There

is also evidence to show that leadership training can lead to learning that improves safety climate and prevents risky behaviours (von Thiele Schwartz *et al.*, 2016). This underpins this research in that learning that leads to good practices can in turn lead to better compliance levels and safer businesses.

The entrepreneurial opportunity that good regulation presents is also interlinked with public health benefits. Szreter's (2002) analysis presents the theory that it is not regulation itself that improves public health, but economic growth that achieves this. Thus, good regulation can lead to economic growth and if implemented and enforced in the right way, will improve public health achieving a much wider and important objective in many countries worldwide.

Regulation can be a driver for learning, particularly in terms of innovation as discussed in the previous section. Inspectors as 'informed outsiders' can present a learning opportunity for businesses by accessing and encouraging the use of existing knowledge and its application in problem solving. However, this opportunity relies upon the regulator's technical knowledge of the specific sector, their willingness to act as a consultant and to offer free advice rather than taking a strict enforcement approach and on the other side the businesses willingness to recognise and utilise the opportunity being offered (Vickers *et al.*, 2003, 2005).

3.2 Potential for inspectors to act as vehicles for learning

Inspectors as public service workers have been described as 'street-level bureaucrats' (Lipsky, 2010), i.e. the people who deliver regulatory benefits and sanctions from government to citizens (and businesses) and are in effect the people who actually affect people's lives directly in delivering government policy in relation to regulatory matters. Inspectors use their discretion in applying the benefits and sanctions and have to deal with the reactions of those they are interacting with to these discretionary decisions they make. They also have a role of social control in terms of managing the level of conflict between government and the people (Ibid).

The role of the inspector is therefore to deliver government policy, apply discretionary decision making in enforcing regulation in accordance with that policy and to manage the reactions of the regulate they are dealing with, whilst managing the expectations of the public. They are already acting as a vehicle for the delivery of government policy and regulation which clearly, puts them in a good position to be a vehicle for learning during the course of carrying out their interventions. Given that the evidence suggests inspectors can be an important source of advice for small firms, it is worth examining more closely any existing evidence that may

indicate that inspectors can act as a vehicle for learning. There are various sources that show the effective use of educative and persuasive tools to gain compliance by inspectors (Braithwaite, 1985; Hutter, 1997, 1989; Fairman and Yapp, 2004; Vickers *et al.*, 2005; Walters *et al.* 2011), demonstrating how inspectors in the UK and other countries such as Sweden are able to act as a key source of information for businesses and that they focus on advisory and educative strategies to gain compliance.

Whilst there is supportive evidence for inspector's use of educative tools, some sources suggest that this should not be a replacement for enforcement, and that these approaches should be used alongside enforcement that is used where appropriate, as outlined in Ayres and Braithwaite's (1992) model. The value of a move away from enforcement towards education has been questioned and has been interpreted as having the potential to lead to an acceptability of illegality (Vickers *et al.* 2008; Tombs and Whyte, 2008, 2012; Walters *et al.*, 2011; Tombs, 2016). This somewhat contradicts Anderson's (2008) previously mentioned view. With this in mind, traditional enforcement techniques may not be the best approach in order to encourage knowledge transfer and uptake to occur. However, the inspection visit may allow for the discussion and other conditions that have the potential to allow an exchange of ideas that could result in learning. This concept was identified by Gianotti and Duane (2016) in their study in relation to environmental regulation in California, indicating that 'inspection' visits can provide an opportunity for collaborative learning to be facilitated. However, the frequency of contact also influences the degree of knowledge transfer as identified by Jacquemin and Jansenn (2015) who evidenced in their conceptual map that the more interaction a business has with the inspector, the greater the knowledge transfer and potential entrepreneurial opportunity.

It has already been established that smaller firms are influenced by inspectors which puts them in a good position to act as vehicles for learning. Barrett *et al.* (2013) found in a study that used discourse analysis and established that smaller firms can be influenced by powerful stakeholders (such as inspectors) in the way they think and act about compliance. However, there is a need for better understanding in different contexts of the extent and direction to which this occurs. The study also identified how the understanding of diversity of needs of smaller firms is an important factor in terms of seeing regulatory benefits rather than stereotyping smaller firms as avoiders of compliance.

A number of studies have shown that inspectors' visits can contribute to a transfer of knowledge that has the potential to bring business benefits, such as improved productivity (Hutter, 1989; Vickers and Cordey-Hayes, 1999; Vickers *et al.*, 2005; Baldock *et al.*, 2006). In

an ethnographical study of EHO's looking at interactions between UK businesses and inspectors across a range of Environmental Health disciplines, Hutter (1989) found that the most utilised enforcement model used persuasion, negotiation and education as tools to secure compliance whereby compliance is the long term aim not an immediate achievement and formal legal methods are the last resort. This indicates that inspectors have been acting as a vehicle for learning or at least knowledge transfer for some time to a degree. This model is in line with the enforcement pyramid of Ayres and Braithwaite (1992) in that the threat of the highest sanctions are there but seldom used.

It has also been argued that where the inspection itself is facilitating a learning interaction a participative approach is effective in terms of achieving sustained improvement (Vickers and Cordey-Hayes, 1999) indicating that it is not simply about transfer of knowledge but understanding it and having a part in decisions and finding solutions for themselves. This is really significant in terms of the skills the inspector needs in order to fully understand smaller firms needs and how to tailor their intervention to meet those needs. They suggest that in order for the best possible regulatory outcome, that small firm learning needs to be brought to the forefront of regulatory activities and that a better understanding of smaller firms' diverse needs and contexts is paramount. This could present a challenge in terms of inspectors learning because in order for them to be more successful in contributing to business learning they themselves need to learn more about smaller firms' needs. This may not be as straight forward as training inspectors differently because in Hutter's (1989) study she found that there was a tendency of staff (inspectors) to follow whatever the enforcement style was of the agency they were working for. This suggests that in order to change the behaviour of the inspector, it would be necessary to address the beliefs and policies at organisational level. The inspectors were also shown to be influenced by other political and social influences. Clearly then, it is not as simple as targeting inspectors as individuals in order to change the way in which they interact with business operators.

Interventions that can facilitate the learning process also have the potential to contribute towards economic opportunity for those businesses. As Anyadike-Danes *et al.* (2008) found complementary policy measures may enhance firm performance in response to regulation thus if supportive instruments such as training, coaching and advisory visits can be utilised by inspectors in a way that uses learning to shift more businesses towards becoming proactive learners or more positive responders their performance could improve. So far, learning has been discussed in terms of a process that results in compliance and inspectors using tools to coerce business operators into complying with the law. However, in their study of land management practices Gianotti and Duane, (2016) focus on the potential for collaborative

dialogue in relation to land management practices and show that regulatory learning need not be a coercive process and that it is possible to achieve voluntary implementation of best practice that leads to compliance. They have produced a model which is based on 3 pathways in which landowners learn. Pathway 1 involves the direct influence on landowners regarding a regulatory issue which leads to coercion by a professional person to gain compliance. Pathway 2 is most relevant to this research because it demonstrates how a transaction between a professional (e.g., inspector) and the recipient (e.g., business operator) can lead to indirect increase in knowledge where a benefit is perceived that can sometimes result in voluntary implementation of best practice. This is an example of learning (and results) where there is trust between both parties and the exchange of ideas can take place as part of a discussion during the inspection. This discussion becomes a social learning process. Pathway 3 demonstrates how that indirect learning process can then be transferred from the landowner to other parties such as friends, family and neighbours leading to their voluntary uptake of best practice. This research could be applied in the context of food hygiene and/or health and safety regulation where the business operator would be in the position of the landowner and the transaction between the inspector and the business operator could be applied in this way. If smaller firms have adequate knowledge in systems and capacity to learn, they may be more likely to respond positively to regulation that is applied in the right way (Kitching, 2006). Knowledge can be a product of learning and inspectors are well placed to be the vehicle for this.

The evidence indicates that there are three key groups of small firms in relation to learning. One which is more likely to recognise and utilise learning opportunities proactively, one which will only seek and take them up after an event, and one that is unlikely to learn at all and will avoid learning opportunities altogether. The challenge for inspectors is to identify the latter groups so that they may engage with all, and the following section will examine the literature around how individuals and businesses learn.

3.3 How do people and organisations learn?

This section looks at the ways in which people and organisations - i.e. both businesses and regulatory bodies in the context of this study - learn, and how different understandings and perceptions of risk perception play a part in this.

The literature about learning is vast and this is a very complex area, with much of the existing literature being focussed on academic student/teacher settings or on organisational learning within organisations rather than the interaction between organisations and third parties. In

terms of defining the meaning of learning, this term is broadly understood as being the gaining of relevant knowledge and skills in a given area, and the ability put the new knowledge and skills into practice in both familiar and unfamiliar situations, although this is also influenced by a number of personal, emotional and social factors (Wenger, 1998; Illeris, 2003). In the context of this study, 'learning' is broadly interpreted by the researcher to mean knowledge exchange between an inspector and a business operator that leads to better compliance and potentially other improvements to both business and regulatory practice. Learning is understood as a two-way process in terms of the business operator learning from the inspector and, potentially, the inspector learning from the business operator. In addition to knowledge exchange, learning is also interpreted in the context of this research as meaning changing behaviour as a result of gaining new or better knowledge, and the individual in the business gaining the ability to keep using that knowledge in between regulatory visits. This knowledge transfer does not have to be a deliberate exercise or taught in any way. It can be transfer of knowledge through interaction and experiences and a more subconscious transfer of knowledge, or it can be a conscious transaction between the parties where one or both parties are aware the transfer of knowledge is taking place through a specific conversation or discussion about a topic which may include explanation or simply the provision of information.

3.3.1 Mental models

The way in which the world is interpreted by people and the way they respond to a given situation is believed to be controlled or moderated by the individual's 'mental model' (Dolfsma, 2002; Morgan *et al.*, 2002). The mental model that an individual holds is largely built upon their interpretations and perceptions about the risks, rewards and opportunities they are dealing with. The mental model of Environmental Health inspectors is particularly focussed around dealing with risk, whereas the mental models of small business operators have a different perception of risk and are also focussed more on the benefits, rewards and opportunities. The mental model of an individual has a bearing on the decisions they make and whilst this may be more about how individuals perceive the world of risk rather than businesses, it is relevant because in any business, the individuals within it and how they perceive risk is what influences how the business as an organisation perceives risk, particularly with smaller businesses.

Goal framing theory (GFT) has been used in a regulatory context to demonstrate how the goal set of an individual influence the options they appraise and the choices they make about the best option to meet their goal set and how this changes their behaviour (Etienne, 2010). The goal set is made up of predominantly those that are in the foreground but also those in the background may influence the level of movement on the choice appraisal and priority. The

goal set is not always the same and is situation dependent (Ibid). The existing mental model of the individual is therefore determined by their goals at the time and in the given situation they are in. It is likely that the dominant goals in the foreground are those with more of a short-term impact such as the cost of compliance, and those less dominant in the background more associated with longer term impacts such as the cost later down the line of non-compliance. In order to change behaviour, it is necessary to change the goal set and thus the options chosen, which could be a task inspectors have the potential to facilitate.

This study is about interactions between people within small firms and inspectors who are all human and their individual perceptions are what will affect the interaction and their responses. Mental models as a learning method is discussed further later in this chapter.

3.3.2 Risk perception

The different ways that individuals and organisations, including businesses and regulators, frame, understand and prioritise risk is crucial to this study. Risk perception can be a rather subjective and individual matter. How an individual perceives risk is influenced by various social, cultural, psychological and institutional factors (The Royal Society, 1992; Slovic, 2000). This can be true of all individuals so can be applied to both inspectors and business operators. The way each individual perceives a given risk can have the potential to lead to conflicting opinions and views which is relevant when thinking about a regulatory intervention where the inspector and the business operator may have different perceptions of the same risk. The course of action and response both ways may not match and could lead to conflicting opinions, or a lack of understanding of one another's reasons for doing or not doing something a certain way.

Personal knowledge and direct experience of hazards plays a key role in shaping attitudes and behaviours towards risk (Douglas, 1985; The Royal Society, 1992; Pidgeon, 1998; Renn, 1998; Slovic, 2000; Eiser, 2004; Cox, 2007; Ball and Ball-King, 2011). Renn (1998) discussed how an individual's like or dislike of an activity influences their inclination to attenuate or amplify their interpretation of a risk. There is long established evidence (Zajonc 1980) that suggests that people's first impressions of something being good or bad are decided very quickly in their minds without any specific reasons for this feeling being identified. Similarly, an individual's personal experience of a particular hazard where there has been no adverse effect can also lead to an under-estimation of risk (Douglas, 1985; Slovic, 2000; Cox, 2007). People tend to be able to recall negative experiences more easily than positive ones so this suggests that they are more likely to be able to remember the situations where there has been a negative impact so they will over-estimate those risks whereas the ones they can't remember

will be under-estimated. This links in with the findings of Pidgeon (1998) who found that familiarity with the risk was a factor in its perception. However, the ability to control it was also identified as a factor and whether exposure is voluntary and fair. The extent to which the potential consequences were undesirable and the likelihood of those consequences being catastrophic were other factors. Links to innovation were also identified as a factor here which ties into the earlier discussion about the potential for regulation to aid innovation. This is relevant because if inspectors can tap into this innovation opportunity, they may be able to break down barriers for learning. Where there is familiarity or the rewards of taking the risk are considered to be high, the more tolerant of the risk an individual is likely to be and therefore under-estimation is more likely (Douglas, 1985; Adams, 2010). This concept is shown in figure 3.2.

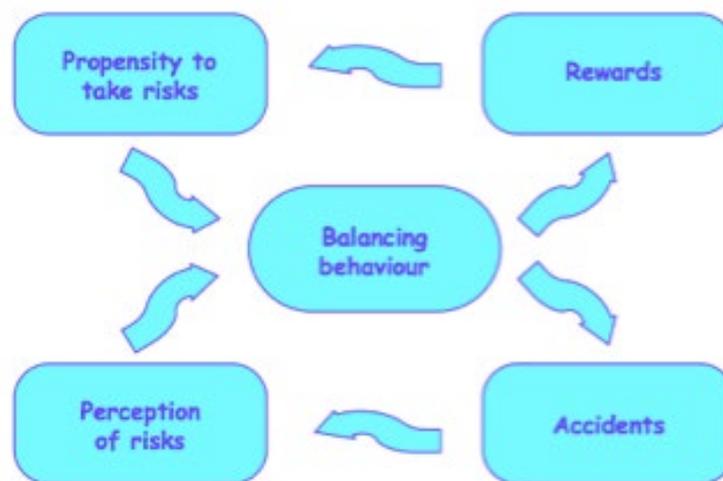


Figure 3.2: Risk tolerance

Source: Adams (2010)

There is therefore considerable potential for differences between how inspectors and businesses perceive risk. In an Environmental Health context, for example, a business operator who does not enjoy paperwork may attenuate their interpretation of risk in terms of risk assessment and HACCP (Hazard Analysis and Critical Control Points), especially if they have never experienced causing a food poisoning incident or a serious accident. Their personal experience is likely to tell them that this hazard is unlikely to materialise and thus their perception of that risk will be lowered. There is also evidence to show that there are differences in perceptions of legal risks between different business operators (Virglerová *et al.*, 2020) thus the likelihood of differences in perceptions between inspectors and business operators are unpredictable and inconsistent making it a complex issue to address. Clearly, most inspectors will have had considerable experience of the adverse effects of poor risk management due to their job role and role in investigations of complaints, accidents and food

poisoning cases for example, compared to how the average lay person perceives environmental health risks. On the other hand, business operators and entrepreneurs are particularly exercised by the day-to-day experiences and challenges of business survival, and particularly if they only infrequently encounter an Environmental Health inspector. As Slovic (1987) explains, although lay people sometimes lack certain information about particular hazards, their basic conceptualisation of risk may be much richer than the experts in that they include legitimate concerns that are often omitted from expert risk assessments. He emphasises the validity of both sides and how each side must respect the insights and intelligence of the other. For instance, it could be that inspectors' perceptions are skewed due to their repeated exposure to 'worst case' situations and thus their perception of Environmental Health risk is higher than most small firms who are more focussed on the survival of the business. It is already known that small firms are more vulnerable to business risks than larger businesses (Falkner and Hiebl, 2015) which makes this even more relevant in relation to this research and could present a barrier for learning in as much as that the two parties' views are too far apart to begin with. The degree to which this is true could depend upon the inspectors' level of experience as a newly qualified inspector is likely to have been exposed to less 'worst case' scenarios than a very experienced inspector. Although, that said, in some cases vast amounts of experience may lead to complacency or almost a level of immunity to serious cases. It may be that the more that is seen and experienced, the less shock factor there is and the less impact it is likely to have on a person.

In addition to the individual factors that affect risk perception another influential factor is the way in which the risk is presented (Tversky and Kahneman, 1981; Gigerenzer and Hoferage, 1995). The same problem can be presented in a number of ways and be interpreted differently depending on how the recipient perceives the information presented. For instance, different inspectors may present the same information in different ways, resulting in different levels of learning. Similarly, the way in which the business operator presents their information to the inspector will affect how the inspector perceives the information and their level of learning the other way. It may be necessary for inspectors to master the skill of being able to present the same information in different ways to business operators in order to achieve learning objectives. How inspectors present information and advice to business operators is an under-explored topic which this study aims to shed light upon.

Laboratory research has shown that individuals sometimes have difficulty in understanding statistical methods of assessing risk such as probabilities (Kahneman et. al., 1982) and that if evidence is available but cannot be understood, people rely on their own experience in relation to risk. It may not purely be about ability to understand but also about being able to change

the individual's perception. It is difficult to change an individual's mind if the available evidence does not conform with strongly held personal views of the individual (Nisbett and Ross, 1980). As Morgan *et al.*, (1990) further suggest, it is also about heuristics, mental short-cuts and how the availability heuristic plays a part. The ability to judge probability is influenced by how easily the individual can think of a past experience or imagine it.

The media plays a role in people's ability to imagine as most people learn about risks from information systems such as the media rather than having had personal experience of it (Kasperson *et al.*, 1996). The media plays a significant role in risk perception and communication and can increase personal knowledge (Ball and Ball-King, 2011). Media coverage about risks and risk events can result in either amplification or attenuation of risk perception depending on how it is portrayed (Hopkin, 2010; Almond, 2009; Kasperson *et al.*, 1996). Some sources argue that the media has a negative impact on the public's perception of risk and regulation (Kasperson *et al.*, 1996; Almond, 2009). Various media channels including social media nowadays, all impact on how risks are perceived. Some risks are attenuated as a result of being entangled in society's web of values and assumptions which can unfairly criticise the significance of the consequences and/or disproportionately promote the benefits (Kasperson *et al.*, 1996). For example, the media tends to report predominantly on either the big/bad cases for example the Alton Towers rollercoaster accident (Halliday, 2015), or small cases such as conkers being over-zealously banned in school playgrounds (Loveys, 2011). They tend to focus on poorly judged enforcement activity, exaggerate 'regulatory myths' and generally report on conflict between the ordinary man and the powerful regulatory bureaucracy, tending to align their sympathies with the ordinary man (Almond, 2009). This in turn results in the ordinary man (which most small firm operators are likely to be) perceiving the regulator as being less legitimate and over-zealous in their actions and thus they are likely to under-estimate risks as a result. On the other hand, media coverage can lead to an amplification ripple effect (Ibid). For example, a prosecution of a local business being published in the local press soon leads to other businesses fearing the same thing will happen to them, so they begin to over-estimate risks.

Poor understandings of risk have also been attributed to the lack of objective information from mainstream and popular media (Almond, 2009). As Hopkin (2010) says, the public's perception of risk is often due to the lack of information or misinformation and as we all know, the media has been known to misinform on occasion. Small firm business operators can be considered as the public in this context, they are receiving the same information and interpreting it as any member of the public would do as they are often not specialists in risk or regulation and are reliant on the information they receive from various sources to form their

own perceptions. If lack of information or misinformation is a problem, this presents an opportunity for inspectors to fill this gap and provide the right information for business operators to aid their perception of risks in the right way.

As it has been shown, risk perception plays a big part in how an individual forms their existing mental model. The next part of the process is about how this can be changed through learning and the next section will discuss the methods by which learning can take place.

3.3.3 Learning methods

Learning methods can be related to individuals or organisations, with the focus of this research being on individuals within businesses and regulatory agencies. Learning is an important concept in relation to business opportunities because where policies and regulations themselves do not create business opportunities, learning can play a critical role (Jacquemin and Jansenn, 2015). In order to understand how inspectors can facilitate business learning it is necessary to look at how businesses learn, in particular smaller firms.

Whilst this study is focussed on two-way learning between inspectors and individuals within small firms, There is a vast amount of literature about individual learning and how large organisations learn within their own organisation but less about two-way learning between small firms and third party actors in a regulatory context. This research aims to contribute towards that gap by focussing on the two-way learning process between individuals in small firms and inspectors. The focus of this review is therefore on individual learning with some organisational learning concepts with a view that smaller firms are made up of a small number of individuals and in the majority of situations, the interaction that takes place is between the inspector and the individual person within the small firm who deals with regulation.

It has been established that learning can happen in a number of ways. It can be cognitive (Gherardi *et al.*, 1998; Boyle *et al.*, 2001; Caley *et al.*, 2002; Otto and Jörg, 2006; Tanner, 2010), constructivist (Caley *et al.*, 2002; Dolfisma, 2002; Blayden, 2005), or social (Gherardi *et al.*, 1998; Caley *et al.*, 2002; Hamilton, 2011) and it can be a combination of all or any of these. The main message being that learning is more than a conscious cognitive process alone.

Evidence suggests that knowledge exchange within small firms involves individuals (e.g. business operators/managers and other key players such as inspectors) and processes which can involve interplay between different learning mechanisms (Huber, 1991; Zahra *et al.*, 2006). Huber (1991) categorises those learning mechanisms as individuals own experience, others

experience, organisational memory, formal or informal learning, internal routines, externally focused, planned or unintentional learning although there are other suggestions of different learning mechanisms to this (Boyle *et al.*, 2001; Caley *et al.*, 2002; Tanner, 2010).

There are 4 categories that can be used to describe what is common in human learning as identified by Caley *et al.*, (2002) and these are:

1. *Behaviour* – This is about repetition of behaviours rather than the transmission of knowledge or personal experience and the argument is that people change behaviour as a result of responses to events and the positive or negative consequence that result. In terms of how this could relate to the regulatory intervention, if the person in the business can see a positive consequence of the change they are being asked to make this could be more likely to result in the behaviour change the inspector is trying to encourage. An example of a method that has been adopted in an attempt to change behaviour presented by the Local Government Association (LGA) (2013) uses 3 types of compliance interventions referred to as smacks (e.g., eliminating choices), shoves (e.g., financial disincentives) and nudges (e.g., provision of information, changing default and financial incentives). These could be linked to the categories of SMEs presented in Vickers *et al.* (2005) model whereby smacks could be appropriate for avoiders/outsideers, shoves could be aimed at reactors, and nudges most suited to proactive learners. However, these types of interventions would not necessarily help businesses learn and develop as they could be perceived as being methods of ‘tricking’ businesses into making certain choices without them really understanding the reasons behind this.
2. *Understanding* – This is a cognitive concept which is based upon the perceptions, beliefs and understandings of the individual and involves the deconstruction of mental models. This is relevant because in order to change the mental model, the existing one needs to be deconstructed and this is the aim when attempting to change behaviour in terms of the response to Environmental Health problems businesses are faced with.
3. *Knowledge construction* – This concept argues that people are in control of their own learning and that this cannot be separated from their own personal action. Constructivists believe that the only knowledge that exists is personal knowledge, and that learning does not involve understanding what is true, but that it is the personal construction of meaning from their experiences. This view brings so much into

question, especially when considering Environmental Health risks. Is risk assessment objective and real or is it highly subjective and constructed differently according to people's individual perceptions and standpoints?

4. *Social practice* – This concept says that learning requires a social setting in order to occur and be applied and that the organisational culture influences the degree to which this is possible. The regulatory intervention could provide this social setting where learning can take place and the interaction that happens between the two parties could be a good learning opportunity. The fact that learning is a result of social interaction is not a new concept and has been the view of other authors for many years (Vygotsky 1978; Lave and Wenger, 1991; Engestrom and Middleton, 1996).

There are other interpretations and suggestions of how people learn. Tanner (2010) advocates the 5E learning styles model developed by Bybee *et al.*, (2006):

1. *Engagement* – which is about inviting the learners consideration, encouraging their interest in a bid to unearth their past experiences and wanting to know more.
2. *Exploration* – this usually involves creating a scenario where learners attempt to understand a problem either in groups or by themselves which usually involves confusion and conflict but allows the learner to think about what they do and do not understand about it. This stage should always occur before any explanation. Thinking about a regulatory visit situation, this could be a stage that tends to get missed as inspectors may tend to go straight to explanation stage which is described next, before allowing the exploration to take place thus not allowing the understanding of the problem to take place first.
3. *Explanation* – This is a two-way process of explanation from both points of view. Again, in the regulatory visit situation, it could be the case that the business operator is not always given enough opportunity to give explanation which could be a downfall that prevents learning being effective.
4. *Elaboration* – This stage involves the instructor guiding the learner to use their new knowledge. In a regulatory situation, this stage may sometimes be difficult because the inspector is not able to be there all the time to follow-up. They may during the visit manage to achieve engagement and provide some explanation but then they leave and go onto the next visit.

5. *Evaluation* – This stage involves the instructor giving the learner the opportunity to reflect and demonstrate their understanding. In the regulatory visit setting this stage would be unlikely to happen very soon after the learning has happened and could also be carried out by a different inspector which could have a bearing on how effective the process is.

An important question to consider is ‘what does good learning look like?’ and in order to consider this in an academic setting Boyle *et al.*, (2001) examined good learning behaviours (GLB’s) in science students. Whilst this is clearly a different setting to the focus of this study, the concept is particularly useful in the context of this research. Their study involved firstly, identifying a list of GLB’s. This was developed by both teachers and students coming up with a list of what they considered to be signs of good learning. They then adopted 9 procedures to encourage these identified GLB’s. These were procedures already established by Baird and Northfield (1992) as effective learning methods in the academic setting. They found that using these methods increased the frequency of occurrence of GLB’s. The authors concluded that the reasons for the improvement in GLB’s was firstly, use of the procedure, secondly the range of procedures used and that discussion of the GLBs helped to motivate the learners.

This was a useful method to consider in this research in order to establish some GLB’s so that effective learning can be measured and was replicated as part of the methodology in this study. In the Environmental Health regulatory setting there are no set GLB’s and so a focus group of inspectors were used to develop a list of GLB’s in the Environmental Health context. The details of the focus group and the GLB’s that were established from it are presented in Chapter 4.

3.3.4 Interaction, dialogue and language

There are some common themes within the literature in relation to learning methods around communication, in particular how interaction, dialogue and language are important (Gherardi, 1998; Caley *et al.*, 2002; Liu, 2014). Clearly, during a regulatory intervention, some level of interaction has to take place between the inspector and the person within the small firm who is involved with regulatory matters. During that interaction, dialogue takes place. The role of dialogue is one aspect that this research is interested in.

Dialogue has been identified as an important learning mechanism in terms of transmitting knowledge between firms (Halme, 2001; Ingram, 2002; Knoppen *et al.*, 2011). This way of learning is different from learning on an individual basis in that it involved synergies that can

be created by the interaction between firms (Larsson *et al.*, 1998). Dialogue is a way that firms can indicate their intent to learn, and it can enhance their ability to learn (Hedlund, 1994; Zollo and Winter, 2002). According to Caley *et al.* (2002) dialogue is one of the main ways that knowledge construction happens providing opportunities for discussion and debate which is critical to the learning process. Inspectors are well placed to be the vehicle for this opportunity as they are already in dialogue with small firms every time they interact. The way they use dialogue is what this study aims to examine and determine how this can be used to aid learning.

Closely linked to dialogue, another crucial aspect of learning that has also been identified by Gherardi *et al.* (1998) is language. This is about the way dialogue is given rather than it just taking place. It is through the use of language that something stands out against everything else and Gherardi *et al.* (1998) say that this produces learning but making a significant mark on the recipient's memory that they are obliged to remember. For example, telling somebody to pay particular attention to something, suggests that it may be referred to later, so they are more likely to remember that information. Language is also often used with physical pointing at something to reinforce the message.

3.3.5 Risk communication

The use of dialogue and language as mentioned before are forms of communication that are used by inspectors in Environmental Health generally to talk about risks. Risk communication is a topic in itself and can take place in many ways and from a variety of sources. The media, such as television, newspapers and the internet is one form of risk communication and in addition to risk perception, risk communication is another area to be considered in this research particularly in relation to the communication between the regulator and the business operator and how this dialogue can play a part in learning.

Risk communication is necessary in order to ensure that risk assessment achieves its objectives. It is necessary to reduce uncertainty and to manage operational risks. The risk assessment itself enables decision makers within an organisation to properly manage risks and make sensible decisions but in order to make this effective safety professional must be able to communicate their concerns to those decision makers (Lyon and Popov, 2017). This means it is important that inspectors have the skills to effectively communicate to the people within a business that make decisions about hazards and risks. In order for businesses to learn, the inspector needs to be able to get risk communication right.

Good risk communication has the potential to contribute towards learning and was the topic of a conference titled “Risky Business” reported on by Ellis (2009). The conference which was hosted by Great Ormond Street Hospital brought together speakers from across the world to talk about how their organisations have improved safety and published in British Medical Journal (Ellis, 2009) which looked at how the medical profession could learn from ways organisations had improved safety through good risk communication. Good planning was identified as an important part with the example of the Red Arrows being used to demonstrate how communication at the planning stage was critical to ensuring everyone knew what they were doing before the risk was realised. Checklists were offered up as a good tool for use at the planning stage because they were said to aid guiding people through a complicated and risky process by leading to a place of confidence, although there is a danger of people becoming ‘checklist followers’ and not understanding the full picture. This concept could be helpful in Environmental Health for small firms. For example, the FSA Safer Food Better Business pack which helps business operators to meet the requirements of having a HACCP based system is a checklist based tool which may be helpful for a small firm operator, but they still need to have an understanding and ability to consider potential changes and how they may impact on the system.

‘Closing the loop’ was another method spoken about by Peter Laussen, Chief of Cardiovascular Intensive Care and the Childrens Hospital of Boston USA (ibid) as an example of effective risk communication where the person delivering the message checks it has been understood by asking the recipient to repeat the information given. This is something that came up within the focus group and the GLB’s that were identified which is discussed in chapter 4 and is a method that inspectors can use to assess whether individuals within businesses have learned or have the potential to learn after an intervention.

Debriefing was identified as a really beneficial method of learning from mistakes after an event. This is a process of critical self-analysis but can sometimes be viewed as negative criticism which can present problems because people generally respond badly to negative criticism and will function better when they are encouraged. People often shy away from their mistakes rather than learning from them. The conference identified that a recurring theme was the need for good lines of communication between professionals, patients and families. This concept could also be applied to inspectors and small firms meaning that for business operators and inspectors to learn from their mistakes, good lines of communication need to be in place between them. The conference ended with the message that listening is key. In terms of regulatory interactions this should also be the case as in order for the two parties to learn from each other they must be able to listen to each other. This is a two-way process.

If both parties are to communicate and listen to each other there needs to be a certain level of mutual respect and trust. Without mutual trust, people are unlikely to be open and sufficiently honest to enable mutual learning (Groth, 1991). For instance, if a business operator is not open about what they do not know or understand it is difficult for the inspector to help them. Something relevant here is a point made by Frewer (2001) which is the fact that the experts (e.g., inspectors), need to ensure they are listening to what the actual concerns of the public (e.g., a small business operator) are and not just assume they know what they are. If the lines of communication are free flowing with open and honest information the risk dialogue has the potential to be more effective. Risk dialogue has been identified by Bostrum (2003) and Bennet and Calman (1999) as being an important factor in terms of a participatory risk management process. If the dialogue between inspectors and business operators is effective, with both parties participating then learning could potentially be a product of that interaction.

In Brimer's (2004) research into risk communication in a food safety and public awareness context, it was established that most risk communication strategies are built on the assumption that individuals have concerns and derived perceptions about a specific issue to begin with and that these concerns or risk perceptions correlate to a certain degree to the individual personality (Bouyer *et al.*, 2001) and their state of emotion at a given time (Meijnders *et al.*, 2001). It could be questioned on this basis whether it is down to potluck as to whether the personality of the inspector and the small firm operator work well together or not and whether a 'good match' can lead to better learning outcomes than a 'personality clash', or can the inspectors' approach be changed to achieve a better outcome? This requires further exploration.

So far, the literature helps to explain why conflicting opinions can occur during regulatory dialogue. It would appear that where the inspector and the business operator share the same or similar worldviews that the intervention is likely to go more smoothly and with less debate than where the two parties have different worldviews. It also suggests that where risk communication is done well, then the interaction can be more effective and there could be more potential for good learning to take place. It could be that the challenge is in the situations where there are more differences between the worldviews of each party in terms of who learns from who and how. It is possible that the compatibility of the individual worldviews of the participants within the interaction could impact on the effectiveness of learning. What the literature does not tell us though, is how learning may occur and this is what will be explored

in this research and there are some ideas in the literature that may help lead to this in the right way.

Given that this research is about learning and interactions between 'experts' and small firms a relevant risk communication approach to explore is one known as the 'Mental Models' approach (Morgan *et al.*, 2002) which was mentioned earlier in this chapter. This focuses on how people navigate and deal with the vast amount of information flowing in by selecting the information they wish to consciously think about. Of particular relevance to this study is the 'Expert Model' advanced by Morgan *et al.*, (2002) which involves finding out the beliefs of both experts and non-experts about an issue before the risk communication begins. It aims to find out what the experts know (and there is an assumption that there is a 'right way' of doing whatever the subject matter is), then finding out what the target audience (e.g. the small firms) knows about the topic already, and then mapping the two against each other to identify the gaps in knowledge and misperceptions that exist. The idea is that the intervention can then be designed to deal with the gaps and misperceptions rather than the things they already know. This is an approach that could be used to measure the effectiveness of learning in a regulatory context. How this happens is one of the aspects this study aims to examine. A concept proposed by Kahneman (2011) could have significance here. His concept is that there are two systems that operate in the brain - one is the more conscious, cognitive and effortful system and one is the automatic more intuitive system. The two systems basically allow us to navigate the world and in essence allow us to sleep. It means that when the conditions are 'normal' and operating according to the model we have constructed in our minds, the brain is free to think about something else. However, as soon as something changes and deviates from that normal model our cognitive system switches on and says that we need to think about this and do something different. As this cognitive system is more effortful, we try to avoid it.

This could be quite powerful in terms of this research and how learning can take place, in that if we can change the mental model (i.e. the normal conditions), through communication or practice, you target the same stimulus but do something different, it is possible to pass the decision making on to the recipient and actually make it very automatic. This means that doing something differently during the regulatory intervention has the potential to affect the recipient in a way which could result in the mental model being changed in relation to a food safety or health and safety problem. This could lead to the ability for the inspector to leave that business with the confidence that they will be able to deal with an Environmental Health compliance problem in the right way on their own. In order to explore methods that may be used to do this, the literature about learning methods will next be examined.

3.3.6 Experience

Experience has already been mentioned as being a factor in people's perceptions of risk but has also been identified as being a factor that contributes to learning (Bessant *et al.*, 1993; Hines and Thorpe, 1995; Fairman and Yapp, 2004; Tanner, 2010; Gianotti and Duane, 2016). Organisational learning is often based on past experiences rather than anticipation of the future (Levitt and March, 1988) and is thus a reactive rather than a proactive process. Research carried out by Wang *et al.* (2010) found that in small firms where the owner/manager has a good depth and breadth of technical experiences, knowledge acquisition and capacity to absorb knowledge within the firm is improved. This suggests that small firms with more experienced owner/managers are more likely to utilise learning opportunities. However, it has also been argued that learning is not about prior knowledge but how to use regulatory influences, diversity and heterogeneity in an opportunistic way and that the use of prior knowledge and experience may have a negative effect on the ability to engage with learning opportunities (Cooter *et al.*, 2011; Jacquemin and Janssen, 2015). This is similar to 'organisational memory', a term identified by Huber (1991) whereby routines, information and knowledge are accumulated by firms over time but can be an obstacle to unlearning old and unnecessary knowledge that can get in the way of learning new things. This point is further supported by other research that suggests that having too much prior knowledge and experience may actually hinder learning and make it more difficult to engage with opportunistic processes (Alvarez and Barney, 2007). That said, experience of the process itself can be beneficial. This evidence again supports the theory that the timing within the businesses lifecycle of a regulatory intervention could be of significant importance.

Evidence suggests that businesses, in particular smaller firms, are more likely to learn through experience rather than more formal approaches such as training courses (Vickers and Cordey-Hayes, 1999; Fairman and Yapp, 2004; Gianotti and Duane, 2016). This can be in terms of first-hand experience, networking, observations of other businesses or learning from new members of staff coming in from other organisations (Taylor and Pandza, 2003; Vickers *et al.*, 2003, 2005; Taylor and Thorpe, 2004). Observations of other businesses and staff coming in from other organisations are examples of imitation, a concept proposed by DiMaggio and Powell (1983) whereby businesses mimic the behaviours of others either to copy practices, or to help them face uncertainty, or to deal with the pressures placed on them by other organisations such as regulators.

There is some evidence to suggest that imitation can be beneficial to businesses in terms of growth (Autio *et al.*, 2000). However, going back to the Porter Hypothesis (Porter and Van Der Linde, 1995), this is further strengthened by Nicholls-Nixon (2005) who suggests that firms

that see growth are often more innovative. Such firms tend to adopt more active learning mechanisms rather than simply 'learning by doing' which is a mechanism usually used by more reactive, less innovative small firms (Zahra *et al.*, 2006). So, not only can innovation through regulation be of benefit to small firms, it also encourages more successful learning mechanisms to be adopted.

As previously discussed, one form of learning can be knowledge construction which involves interpretation and application of meaning. The meaning people give to information they receive often depends upon their personal past experiences (Dolfsma, 2002). Thus the fact that experience plays such an important role means that there cannot be a once size fits all approach to learning because the meaning will not always be the same.

Dolfsma's (*ibid*) concept of 'mountains of experience' whereby each person has their own rules of conduct that they develop as they build their mountain of experience during their life which they use to solve problems they are faced with links back into the earlier 'Mental Model' theory. It suggests that facts have to be received and then perceived as necessitating changes in the mountain of experience (a mental model). If the facts are perceived to have negative consequences then it is possible that the mountain of experience will change and effect decisions made. Also going along with the theme of meaning, Caley *et al.* (2002) hold the view that learning cannot be separated from the construction of meaning and that knowledge can only be used by someone when it has meaning to them when it has arisen from their own personal experience. If this is related back to the regulatory interaction context, this suggests that in order to achieve learning the teacher, whichever party that may be, needs to try and provide the opportunity for the learner to have the experience rather than just telling them information in order for learning to occur. This means 'doing' as well as 'telling'.

Experience is a factor that applies to organisational learning not just individual learning. As organisations are made up of a number of individuals, this is no surprise. One way that organisations use experience is through an organisational learning mechanism known as continuous improvement (Bessant *et al.*, 1993; Roome, 1994). Continuous improvement is based on the concept that businesses regularly review their experiences and knowledge gained in order to identify opportunities to improve. Many management models are based on this concept whether it be risk assessment, quality systems or business development. In order for a business to have experience it requires the individuals within the organisation to have their own experiences and bring them together. Continuous improvement is a staged cycle that a business goes through (Roome, 1994) and so it would seem that the learning process progresses through stages at different points in time. This is a useful perspective because

again this suggests that the timing of learning interventions by the regulator could be important in terms of the stage within the continuous improvement process the business is at. If interventions can be timed to the right point within the learning process it could improve the chances of effectiveness.

3.3.7 Participation/Involvement

A number of studies draw attention to the idea that in order for learning to take place, the opportunity needs to be recognised and both parties need to be willing to give and receive knowledge transfer. Typically, those businesses that are categorised as proactive learners (Vickers *et al.*, 2003; 2005) are likely to be already tapping into this opportunity and willing to take the knowledge transfer and are more likely to expect it. However, the businesses that fall into the minimalist category (Ibid) are not likely to recognise or utilise the opportunity so it could be that the proactive learners who would generally be compliant anyway are reaping the benefits of learning from their inspectors but the businesses who really need the learning opportunity are not recognising or taking up the opportunity and no learning is taking place during their interactions with the inspector.

Many studies identify the importance of employee involvement in general, and participation has been identified as a factor that contributes to learning (Suchman, 1987; Bessant *et al.*, 1993; Caley *et al.*, 2002; Tanner, 2010). Participation in relation to learning and innovation in the context of health, safety and environment specifically has also been well evidenced (Vickers and Cordey-Hayes, 1999; Walters *et al.*, 2011). However, this does not appear to be fully acknowledged in some countries such as Australia where OHS inspectors were found to spend very little time talking to workers but mostly spoke to managers during their inspections (Walters *et al.*, 2011). If the regulatory visit is to be successfully utilised as a learning opportunity, then this fact needs to be acknowledged. This is particularly important if inspectors want to be in a position to be able to leave the business and not intervene for a long time with full confidence that the business will continue to do the things they have learned. Suchman (1987) explains that participation in practice is a way not only to transfer knowledge but also to perpetuate and to reproduce it. Therefore, continued changed behaviour relies on participation from the learner in the first place.

3.3.8 Repetition/Reinforcement

It is well established that a more educational and supportive approach is beneficial for smaller businesses in particular (Tomer, 1992; Fairman and Yapp, 2004; Barrett *et al.* 2013). However, it has been found that in some cases opportunities for regulatory learning need to

be presented a number of times before a business will recognise it and take it on board (Jacquemin and Janssen, 2015). This idea of repetition and reinforcement has also been highlighted as an issue within the academic learning literature by Caley *et al.*, (2002) who identify reinforcement and repetition as being a key feature of behavioural theories. Organisational learning is said to be based on routines including with regulators or with customers (Levitt and March, 1988) and the more often those routines or experiences are repeated the more likely the opportunity for learning will be recognised. This concept can also be related back to Ebbinghaus' (1880) 'Forgetting Curve' theory that if learning is not used or repeated, it is forgotten and the longer the time that passes between the learning and the using of it or repeating it the more that is forgotten. This has been demonstrated to still be the case more recently (Murre and Dros, 2015) and further build on to show that it depends on the type of learning as to how easily it is forgotten. For example, Bailey (1989) showed that if the learning involves something with continuous control e.g., riding a bike, the learning is retained for longer, but if the learning is procedural e.g., a computer procedure, then the learning is forgotten more quickly. This also links in with the theory that businesses need to be exposed to learning opportunities repeatedly before they recognise and utilise it.

3.3.9 Changing the mental model

From what is evidenced and available to understand, there are a number of different learning methods adopted by individuals and businesses which are likely to be effective if applied in the small firm setting. If the right processes are utilised and the constructivist theories are homed in on, it would appear that there is the potential to change the existing mental model (Gherardi *et al.*, 1998; Boyle *et al.*, 2001; Caley *et al.*, 2002; Dofsma, 2002;). If this can be achieved, the inspector could be in a position to be able to leave a small firm alone without intervention, confident that they will be able to deal with an Environmental Health risk problem in the right way on their own between regulatory visits. It would be fair to say that if this could be achieved, learning will have happened and been effective. This is the desired result. What this study has unveiled is how there is potential for this to happen and how it is possible to adopt a model for Environmental Health interventions that will enable this.

The researcher's interpretation of the learning process, based on the available literature is represented in Figure 3.3.

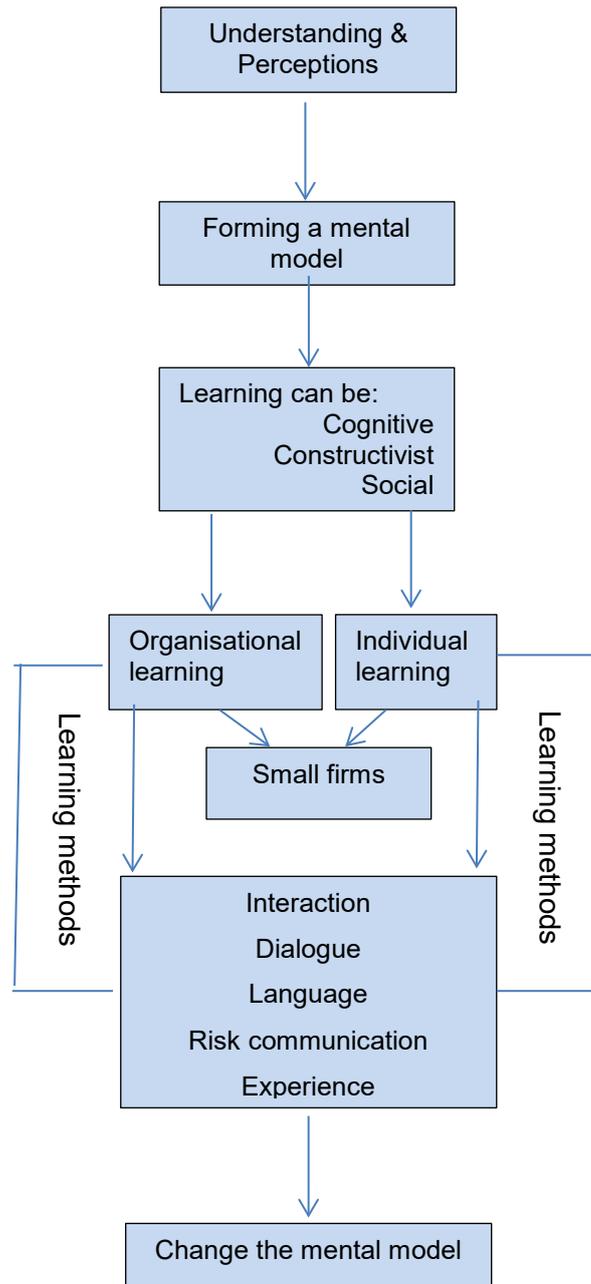


Figure 3.3: Diagram showing researchers interpretation of the learning process

This model shows how, every individual forms their own mental model based on their understanding and perceptions. Both organisational and individual learning processes feed into small firms. A combination of learning methods can be applied alongside interactions, dialogue, language, risk communication and experience that influence the change in the mental model. This changed mental model is the result of the learning that has happened. The challenge is for the inspector to identify that the mental model has changed, and this research looks at this by exploring inspectors' understandings and perceptions of what

learning looks like through the focus group. How this was achieved is explained further in Chapter 4.

3.4 Discussion and conceptual framework

The two literature review chapters have examined the body of literature which draws attention to the potential of regulation (broadly defined) to stimulate innovation and learning. This can bring benefits to businesses such as improved productivity, reduce waste as well as provide improvements in public health and safety which may otherwise have not been triggered without the regulatory need arising. The ways in which individuals and organisations learn have also been explored and it has been established that in order to change behaviour on a long-term basis that the mental model constructed by individuals' interpretations of meaning needs to be changed. The evidence shows that inspectors have the potential to play a role as an information source for businesses and, in developed countries, often use advisory and educative strategies to gain compliance. However, the current emphasis, and notably in the UK currently appears to be on 'gaining compliance' in the most cost-effective way possible with restricted budgets, rather than 'facilitating learning' and empowering businesses to gain control of managing risks for themselves to maintain long term learning and compliance. With respect to the role of enforcement it has been shown that whilst inspectors are a common source of advice for small firms in many developed country contexts, many smaller businesses lack awareness of regulatory requirements and don't know where to access free advice. This is more of an issue for micro businesses because awareness and take up of advice is incremental to business size, and in turn businesses that do access and receive advice do show higher levels of compliance. The evidence shows there is a strong argument supporting inspectors as being well placed vehicles for learning and providers of advice, information and knowledge transfer. However, less is known about how this happens and how it can be further enabled in diverse regulatory contexts, and in ways that lead to long term learning as opposed to gaining short-term legal compliance. This research seeks to address this knowledge gap in the context of Environmental Health.

The literature review has identified that there are a number of factors having influence on each party in terms of attitudes, behaviour and capabilities to learn. These factors can be separated into specific internal and external factors which affect both the responses of the business operator and the inspector within the regulatory arena. Whilst some evidence has been found in relation to the interaction that happens between the two parties there is a gap in knowledge in this area which this research contributes towards. A conceptual model from the literature review is shown in figure 3.4.

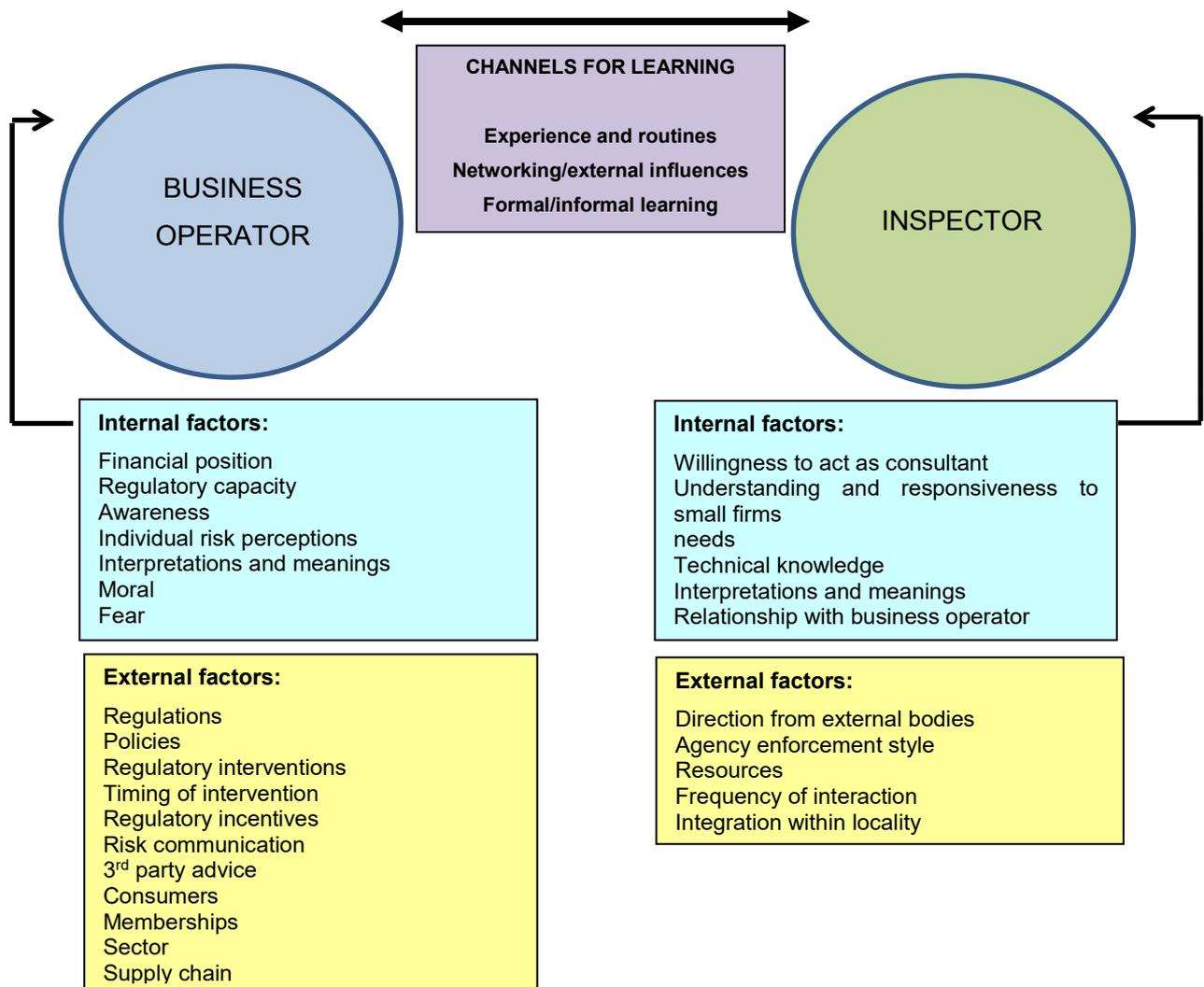


Figure 3.4: Conceptual model

The findings of the literature review enable the conceptual model to be developed further by providing a more in-depth understanding of the transactions that take place between the business operator and the inspector during their interactions with each other, and what factors play a part in influencing each party and their responses. In the initial conceptual framework that was presented in Figure 3.1 earlier, it was identified that there was potential for two-way knowledge exchange and learning, and that there were likely to be some contextual factors that played a part in influencing that.

The literature review has identified that there are in fact two-way transactions that can provide channels for learning between the two individuals. These channels for learning form part of the route in which knowledge exchange takes place. This learning can occur through experience and routines; networking and external influences; and through formal and informal training methods. The individuals involved in the transaction are influenced by several internal and external factors which can impact on the potential for a successful transaction, and the combination of these factors may affect the likelihood of whether learning can take place or not. Each interaction will have a unique combination of factors involved dependant on the individuals involved and this combination will determine the likely outcome.

Internal factors are those factors that are more personal to the individual and their own experiences such as their knowledge, understanding and interpretations of the topic, their willingness to engage, relationship with each other and also financial position in terms of the business. External factors are those factors that impact on the individuals by their environment such as the organisations they work within, external bodies, market factors, organisational lifecycle, supply chain pressures, regulations and regulatory incentives, regulatory capacity and social pressures from consumers and the public. These factors are often beyond the control of the individuals involved but have an impact on their behaviour and responses during interactions with each other.

In summary, the conceptual framework shows how business operators and inspectors interact in a two-way process and with both parties influenced by a number of internal and external factors identified from the literature. The tables in the following section explain the meaning of the internal and external factors identified in more detail. There is a little already known about what goes on in the space in the middle, but not enough and that is what this research aimed to explore to answer the research questions.

3.4.1 Influences on businesses

The review of the literature has enabled the identification of a number of factors that appear to be significant in shaping business responses to regulation as set out in tables 3.1 and 3.2.

Table 3.1: External factors influencing business responses to regulation

External Factors	
Regulations	Clearly, regulations have some level of influence, although the evidence indicates that it is often not the regulations themselves but the way they are enforced that is most influential on business perceptions and behaviours.
Policy	Complementary policy measures have the ability to improve business performance in response to regulation. If supportive instruments are utilised by inspectors in a way that uses learning this will result in more improvement to business performance.
Regulatory interventions	Intervention such as inspection and advice visits have been shown to have a significant impact on compliance levels. Sometimes this is a short-term gain and sometimes it achieves learning and leads to prolonged compliance levels.
Timing	The timing of interventions can also be significant in terms of how the business responds and what is gained from it in terms of knowledge and behavioural change.
Regulatory incentives	Incentives such as fee for intervention operated by the HSE and the food hygiene rating scheme can influence compliance levels in businesses due to the effect it may have on them financially and in terms of their reputation.
Risk communication	The way risks are communicated and the way they are portrayed by other actors e.g., the media has a bearing on how people such as business operators interpret them and the attitude they have towards them.
3rd party advice	Some businesses seek regulatory advice from 3rd parties and do pay for this. This is sometimes because they do not know where else they can get advice and sometimes because they would prefer impartial advice where the advisor has no regulatory role. This can sometimes lead to 'over-compliance'.
Consumers	Businesses observe and react to how consumers respond to their actions, and it has been suggested that businesses are more responsive to consumers than regulators. Some businesses are therefore more likely to comply if consumers stop purchasing from them due to a poor food hygiene rating for example, than if the regulator tells them to.
Memberships	Memberships of trade bodies have been identified by a number of studies as influential on compliance levels, although (see provisos re smaller firms in particular). This could be due to additional support offered in terms of interpretation of legal requirements or due to minimum standards required in order to maintain membership status.
Sector	The sector the business is within can influence the level of importance given to regulatory matters, the information available to them through internal mechanisms and the prevalence of knowledge exchange between businesses.
Supply chain	If suppliers and customers demand more from a business in relation to regulatory matters in order to do business with each other, this will drive knowledge, appetite for regulation and compliance levels.

Table 3.2: Internal factors influencing business responses to regulation

Internal Factors	
Financial position	Businesses in a better financial position have been found to be more likely to comply than those in a worse financial situation. This may be due to the perception of costs of compliance and poor understanding of the costs of non-compliance, and also less likely to invest in training and education of individuals in the organisation including at owner/manager level.
Awareness	Many businesses appear to be unaware of both what the law requires and also where and how to access advice about regulatory matters which therefore influences their ability to comply. This also links into the management capabilities and education level of the owner/manager.
Individual risk perception	The individual business owner/manager's personal risk perceptions influence the way they respond to regulation. This cannot be learned and is an intrinsic part of the person although a person's individual risk perception could be influenced by their own experiences and may change as a result.
Interpretations and meanings	The way the individual constructs their own mental models based on their interpretations of the world and meanings influences how they behave when faced with a problem.
Morals	Some businesses comply with regulation for moral reasons rather than financial and reputational reasons. This has been found to be the case in particular with family businesses.
Fear	Businesses are fearful of reputational damage, civil litigation costs and prosecution which are drivers for compliance.

3.4.2 Influences on Inspectors

Factors influencing inspector responses to businesses have been identified as set out in tables 3.3 and 3.4.

Table 3.3: External factors influencing inspector responses to businesses

External Factors	
Direction from external bodies	External bodies such as the Health and Safety Executive, Food Standards Agency and Environment Agency play a large role in directing the enforcement activity and approaches at LA level and so this has a large influence on how often and in what way LA inspectors interact with businesses.
Agency's enforcement style	The enforcement style of the agency that the inspector is working for has a significant influence on how the inspector operates and which enforcement choices they may choose. The enforcement style of the agency may be influenced politically and/or by those in the controlling positions.
Resources	The fluctuation in regulators resources in some countries and particularly the reductions seen in the UK over recent years has an impact on the interactions inspectors have with businesses. For example, it is likely that fewer officers are available to carry out advice visits outside of the normal inspection visit. In some cases advice is being charged for due to resource issues.
Frequency of interventions	The frequency of interventions has an effect on the relationship and rapport the inspector has with the business and therefore can affect the choice of intervention or compliance tool chosen.
Integration within locality	The level that the inspector is integrated or familiar with the area in which they are working and the businesses they are dealing with influences the enforcement approach. Where there is more integration less formal approaches are more likely to be used.

Table 3.4: Internal factors influencing inspector responses to businesses

Internal Factors	
Willingness to act as consultant	The inspector's willingness to be an advisor and to provide the opportunity for learning is important. If the willingness is not there then the inspector will continue to use traditional enforcement approaches that do not necessarily facilitate learning.
Understanding and responsiveness to small firms diverse needs	The inspectors understanding of the diverse needs of small firms needs impacts on their ability to direct their interaction in the appropriate way that will achieve the best outcome. Their ability to learn from the business is a key factor here. The inspectors' ability to adapt and respond to the needs of the particular small firm they are dealing with can have an impact on the outcome of the interaction and exchange of ideas that may take place.
Technical knowledge	The specific technical knowledge the inspector has got which may or may not depend upon their trade background has an influence on the inspector's ability to provide the level of knowledge and information to a business that will contribute to learning.
Interpretations and meanings	The way the individual constructs their own mental models based on their interpretations of the world and meanings influences how they behave when faced with a problem.
Relationship with business	The relationship between the inspector and the business has an influence on how the inspector interacts with them and the choice of compliance tools that they use. The more distant the relationship, the more likely that formal approaches are used whereas the closer the relationship the more likely that light touch, educative approaches are used.

The evidence shows a complex mix of contributing factors influencing both businesses and inspectors which suggests that the interaction that takes place between the two parties will vary according to the interplay of these factors in each situation.

It has been established that there is something that takes place during an interaction between an inspector and a business and, although there is some evidence of the nature of such interactions, there is a need for further research to provide greater understanding. However, using the evidence that is available that has been examined in this chapter a number of theories/hypothesis are proposed as set out in Table 3.5.

Table 3.5: Propositions to be investigated in this study

Guiding propositions	
1	There is a two way process of learning that can take place during an interaction between a business and an inspector which may be described as collaborative, whereby the business can learn from the inspector and the inspector can learn from the business.
2	The likelihood of this learning process taking place is dependent upon several internal and external factors which influence each party.
3	The effectiveness of the learning process if it takes place is also dependent upon the nature of the relationship and the learning method used and the choice of compliance tool of the inspector.
4	If the conditions are conducive to the learning process taking place an exchange of ideas happens that can lead to learning that contributes to improved compliance and also potential business benefits.

3.5 Summary

A thorough literature review has been undertaken and the findings presented across the areas of regulation and its effect on small firms generally and in the Environmental Health context. Regulation as an opportunity for learning and the potential role of Environmental Health as a vehicle for learning has been explored as have learning methods in both individual and organisational contexts. The findings of the literature review have been discussed and brought together to formulate and further developed conceptual model which sets up the areas this research needs to investigate further.

This research aims to contribute to the knowledge gap by investigating how interactions between regulators and businesses can be improved and used to enhance knowledge and the ability to comply, in turn aiding business growth and development. These propositions were investigated in order to address the gap in the literature about the regulatory space between the regulator and the regulated and this is what this research explores. The following chapter will describe the research approach, methods used and details of how the investigation was undertaken.

4 METHODOLOGY

This chapter explains the rationale behind the methodology used in this study and the different stages of the research process. The research design adopted was based on the 'research onion' developed by Saunders *et al.* (2015) shown in Figure 4.1:

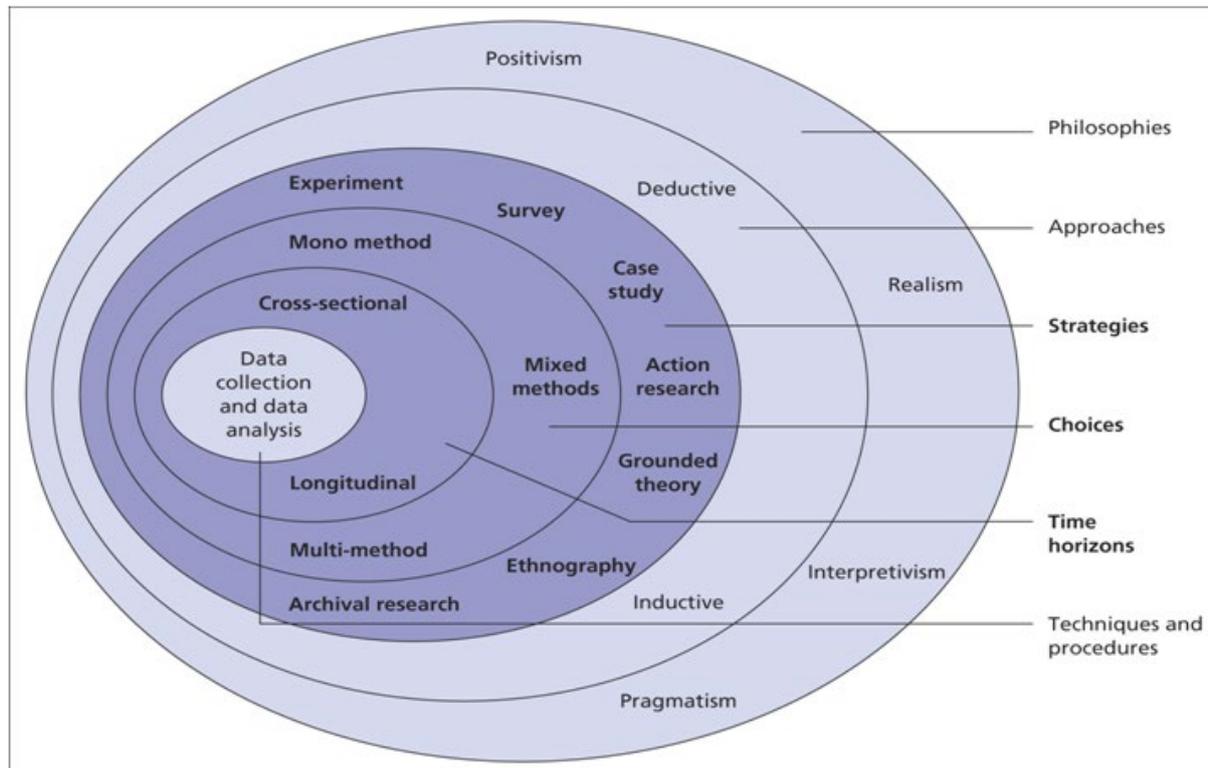


Figure 4.1: Research Onion

(Source: Saunders *et al.*, 2012)

This shows the many layers that are involved with research design and how personal values influence the research we pursue and the way we pursue it. At every stage assumptions are made about the way in which people view the world and this underpins the research strategy (Saunders *et al.*, 2012).

This chapter will begin by presenting the theories identified in the literature review that have been considered as the most appropriate for providing the theoretical foundation for this project and the topic of enquiry. The chosen philosophical assumptions and research approach will be presented and explained. The research strategy and methods of data collection and analysis will be identified and explained. Finally the reliability, validation and ethical considerations will be addressed.

4.1 Research questions and approach

The purpose of the methodology chapter is to identify and explain how the research questions were answered. The research questions for this study were identified from the lines of enquiry developed from the literature review. This section explains what the research questions were, how they were identified, and which methods were needed to address them. The chapter will then discuss the theory behind the research design. The research design was based on the principles of philosophical worldviews (paradigms), approaches to theory development, methodological choice, strategies of inquiry and the most appropriate methods which are principles used by Creswell (2009) and Saunders *et al.*, (2015). The research design was therefore the result of this combination.

4.1.1 Lines of enquiry developed from literature review

The literature review identified that there are varying approaches to Environmental Health regulation around the world. Preventative approaches are more prevalent in developed countries and resource allocation is variable. Regulation has been perceived as burdensome to businesses to some degree and small firms have greatest difficulty in understanding and complying. Inspectors have been identified as a common source of information and advice for small firms but advice is predominantly given as a tool to gain compliance than for learning and innovation but there is potential for this to happen. A number of factors have been identified that influence both inspectors and businesses responses and choices in relation to regulation.

4.1.2 Research questions

The overarching aim of this research as set out in Chapter 1, was to investigate the potential of the Environmental Health inspection process as a developmental influence on small businesses. The literature has led to a number of lines of enquiry that this research aimed to answer. Table 4.1 outlines the research questions and methods that have been used to address them.

Table 4.1: Research questions and methods

Research questions		Methods to answer
1	Is there a two-way process of learning that takes place during interactions between businesses and inspectors, whereby both parties can learn?	Observation Interview small firm owners/managers Interview Inspectors
2	How does learning occur and what is the role of various internal and external influences actors affecting each party?	Interview small firm owners/managers Interview Inspectors
3	How does the nature of the regulatory relationship, the learning method used, and the choice of compliance tool of the inspector influence the learning process and its outcomes?	Observation Interview small firm owners/managers Interview inspectors
4	What are the conditions for effective two-way learning that leads to improved compliance and also potential business benefits?	Observation Interview small firm owners/managers Interview inspectors

4.1.3 Philosophical assumptions

There are a number of different philosophical worldviews that have long been recognised and are used in research (Creswell, 2009, 2013; Denzin and Lincoln 2011; Robson, 2011; Saunders *et al.*, 2012). These include but are not restricted to post-positivism, social constructivism, pragmatism, critical realism and post-modern perspectives. Pragmatism was the chosen approach in this research.

Pragmatism is an approach based on the principle that the most appropriate method is used to address the problem rather than being committed to any one particular philosophical worldview (Robson, 2011; Creswell, 2013) and pragmatists tend to decide what they want to research based on their own personal value systems in that they choose to study something they think is important (Robson, 2011).

Pragmatism was first identified as an alternative position to positivism and constructivism in the work of Pierce, James, Mead and Dewey (Cherryholmes, 1992) and it has since been recognised as a valid approach to research (Morgan, 2007; Creswell, 2009, 2013; Robson, 2011). The approach acknowledges that research doesn't have to be based strictly on only one philosophical view in order to be successful and that sometimes it is more about what approach will best address the question than pure philosophical views.

Morgan (2007) explains how he sees pragmatism as an abductive approach that moves between both inductive and deductive approaches. Pragmatism has the flexibility to do this and is not as restrictive as other paradigms which follow only one approach. Morgan (2007) also compares this with the scenario of being in the real world and having to operate strictly in one mode or the other and suggests that such a limited approach can be dangerous and sees that the pragmatic approach has more scope to be transferrable than other approaches.

4.1.4 Approach to theory development

Qualitative research tends to be inductive rather than deductive, in that a theory is developed from the data gathered, rather than a theory being tested at the start of the study. Creswell (2009) calls this a 'bottom up' approach. He also goes on to explain that in qualitative research the information is first gathered by asking open-ended questions. The data is then analysed to identify themes, patterns and generalisations, which are developed and lead to the proposal of a theory at the end of the research.

In this study an abductive approach was taken. Abduction is associated with a pragmatic approach (Pierce, 1934-63; Frankfurt, 1958; Bertilsson, 2004). It is known as a form of combination of deduction and induction whereby the researcher moves back and forth from one type of research activity to another and between empirical observation and theory simultaneously. The researcher identifies a 'surprising fact' or 'puzzle' and the research aims to find the most likely explanation. The outcome is the best explanation among many possible alternatives (Dubois and Gadde, 2002; Saunders *et al.*, 2012; Bryman and Bell, 2015).

In this case the available literature has been used to draw upon existing theories, a so-called theory construction stage (Creswell, 2013). The evidence discussed in previous chapters suggested the position that inspectors have the potential to play a role as an information source and are well placed enablers of for learning. The observations and interviews sought to find the best explanation for how this learning takes place and what factors influence how this happens.

4.1.5 Methodological approach

The study utilised a multi-method qualitative approach. Where the exploration of a population is required and the variables cannot easily be measured, a qualitative approach is most appropriate (Creswell, 2013). This study required the exploration of the views of a population of small firm operators and inspectors. These views could not easily be measured numerically and so a qualitative approach was chosen. The data collected was of a narrative nature,

collecting the views, thoughts, experiences and perceptions of both businesses and inspectors which have been analysed for themes. The research encouraged participants to share their views to help develop theories, thus statistics would not fit the specific problem being explored (Ibid).

Qualitative research is different to quantitative research because it is of a more naturalistic nature and is based on different people's interpretations of meaning. For example, the researcher, participants and readers may interpret the meaning differently resulting in many views of the same problem. It is less black and white than quantitative approaches, but more flexible, and allows for free expression to be captured. It tends to be based on an idealistic philosophical view rather than the realistic view that most quantitative research is based upon. This idealistic approach means that one cannot say exactly how the world is, only how some people view it (Gibbs, 2002).

4.1.6 Methods required to investigate the research questions

In order to answer the research questions, it was necessary to observe and interview operators of small firms and inspectors that interact with each other during interventions. The researcher firstly needed to observe the interactions to see what was happening and how both parties reacted and responded to each other during regulatory visits. Secondly, there was a need to interview both parties afterwards to find out how they were thinking, behaving and interpreting the interactions they had experienced on a deeper level. It was important to conduct these interviews individually to ensure participants felt able to speak openly without the presence of the other party. This was important both from an ethical perspective and also to ensure the data collected was as genuine and honest as possible, without influence from the other party.

4.1.7 Strategy of inquiry

Consideration was given to a number of different strategies of enquiry before choosing the one most appropriate for this research. The strategies of enquiry considered included Narrative, Phenomenology, Grounded Theory, Case Study and Ethnography. Case study research was the chosen approach.

Case study research is believed to have originated within the areas of anthropology and sociology (Hamel *et al.*, 1993) and has been widely used in psychology, medicine, law and political science disciplines (Creswell, 2013), thus it suited this area of research well. Case study research has been identified as being an in-depth exploration into a topic or

phenomenon within its real-life context (Yin 2009, 2014; Saunders *et al.*, 2012) and has the potential to develop empirical descriptions and theory (Eisenhardt, 1989; Dubois and Gadde, 2002; Eisenhardt and Graebner, 2007; Ridder *et al.*, 2014) which is what this research has done. In this study, the case refers to a group made up of a business operator and an inspector experiencing an event which was the inspection visit. It is useful where the researcher wishes to gain a rich understanding of the context and processes being enacted and it has the ability to address the 'why' questions in addition to the 'what' and 'how' questions (Saunders *et al.*, 2012).

Key features of case study research as identified by Creswell (2013) include:

1. Identification of the 'case'. In this research the case was the regulatory relationship between the inspector and the business operator.
2. The intent of the case study. This was to understand how learning takes place and thus was what is termed as an instrumental case rather than an intrinsic case as explained by Stake (1995).
3. To gain an in-depth understanding of the case being studied.
4. Approach to data analysis. Selection of how to approach this can vary with case study research. Software was used in this research to aid data analysis.
5. Description of the case, identification of themes and issues uncovered by the research was the end result of the case study.
6. Results can be presented in a chronological format or theoretical model.
7. Conclusions are often formed by the researcher about the overall meaning of the findings.

There are challenges with case study research but one important issue is that researchers can be tempted to consider a large number of cases in an attempt to 'generalize' (Creswell, 2013) but generalization is not usually a feature in qualitative research, so it is better to concentrate on a small number of cases in order to gain the in-depth knowledge that is required. It is also important that the researcher sets boundaries in respect of time, events and processes to be studied to ensure that there is focus and depth rather than breadth (Ibid).

Case study research was chosen as the most appropriate strategy because in order to find out whether or not a learning process has taken place, the interactions between the business and the inspector needed to be observed over time. It is not easy to determine what learning has taken place by taking a snapshot observation or interview without following through to see what the outcomes were and how things changed over a course of time. With case study

research a small number of participants are studied over time, rather than a large number being studied for a short time which has enabled the information required to be obtained.

4.1.8 Identifying the cases

The case studies were defined as the interaction between an inspector and a business operator during an Environmental Health (food hygiene or health and safety at work) regulatory intervention. Multiple case studies were included in this research. It is suggested that no more than 4 to 5 case studies should be studied because any more than this does not allow the researcher to go in-depth enough and dilutes the overall analysis (Creswell, 2013).

For the purposes of this research an Environmental Health intervention was any visit that takes place by an inspector to a business concerning Environmental Health and could be either a proactive inspection visit, a reactive visit following an accident report or complaint received or a revisit to monitor compliance following either of the aforementioned visits. Due to the situation at the time this research was undertaken with reduced proactive interventions, this was a realistic picture of the type of interventions that were being conducted at that time in LA's.

4.1.9 How an intervention takes place

A regulatory intervention in Health and Safety would take place for a number of reasons. The most likely reasons being that there would be an accident reported, a complaint received, or a programmed inspection would be carried out due to the business carrying out a high-risk operation listed in the appendix to Local Authority Circular 67/2 (rev 11) (HSE, 2022).

An intervention in food hygiene would most likely take place because it was due a routine food hygiene inspection in accordance with the Food Law Code of Practice (England) 2021 (FSA, 2021_a). The frequency of inspections was determined by the risk rating scheme within this code and could be either 6 months for category A, 12 months for category B, 18 months for category C, 2 years for category D or 3 years for category E. An intervention could also take place due to a complaint from a member of the public or a food poisoning investigation or a food alert for action which could be issued by the FSA ordering LA's to take action on a widespread food safety issue.

Following any of these initial interventions a further intervention may also have taken place to follow up on any issues identified at the initial intervention. Compliance would be assessed. If the business was found to be compliant the process ends. If the business was found to be

non-compliant action such as a written warning letter, an enforcement notice and a revisit would be likely to take place. Following this, a further intervention would be carried out to assess compliance again. If the business was now found to be compliant the process ends. If the business was still non-complaint, a further intervention would be likely to take place and may include prosecution. The process would continue until compliance is gained or the business stopped operating. The diagram in figure 4.2 shows the process.

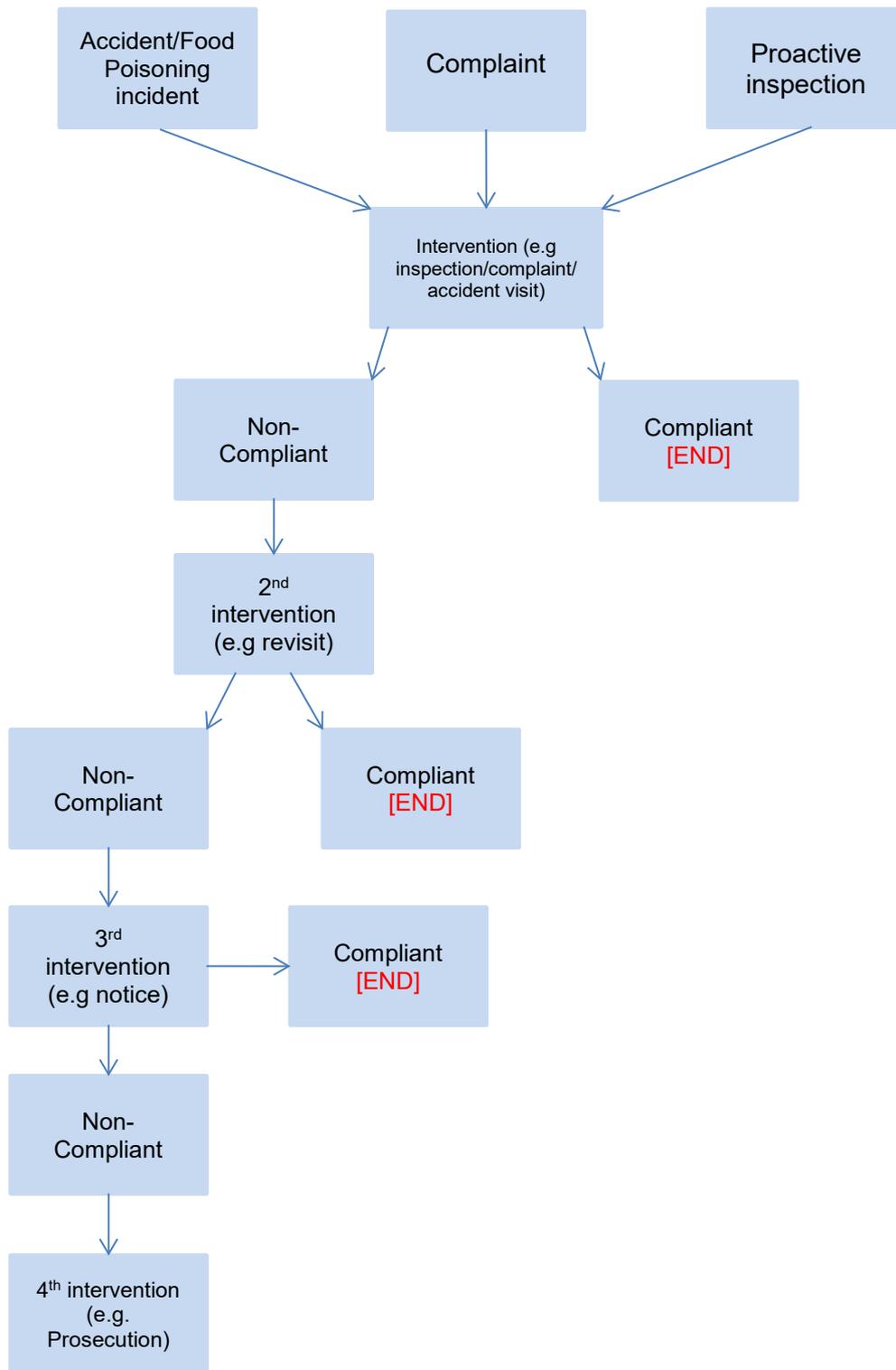


Figure 4.2: How an intervention takes place

4.2 Insider research

The researcher in this study was a practicing Environmental Health Practitioner working in the food hygiene and health and safety disciplines. There are clearly considerations that must be made when dealing with insider research. There are possible types of bias within Environmental Health research which has previously been considered by Couch *et al.* (2012) and their conclusions were that practitioner researchers are likely to bring personal bias and subjectivity to the table. The researchers own background was likely to influence their relationship with the research participants. They also identify a number of points that should be considered in undertaking insider research, for example, that the researcher does not dismiss evidence that does not support their personal position, that participants are not responding on the behalf of others and that the methods used to record data can influence how participants respond. The research design must therefore aim to reduce these biases. There are also advantages of insider researchers in terms of having an understanding of what the job involves (Robson, 2011).

My role as the researcher in this study was to draw out the knowledge of others from observations of and questioning about a regulatory process. To be able to process this information in a meaningful way, it was necessary to have an understanding of the regulatory process being studied. I had a very good level of knowledge of this regulatory process because I am professionally qualified in Environmental Health and Occupational Health and Safety had 16 years of experience of working as a practitioner in this field at the time of writing.

There were advantages to my professional background and knowledge in this research topic in addition to the aforementioned risks. Insider researchers are in the unique position of being able to study a particular issue both with depth and with their specialist knowledge about the particular issue they are researching (Costley *et al.*, 2010). My position meant that I had access to research participants both inspectors and businesses. This gave me the advantage of being able to access the specific process being studied as and when the opportunities arose. The result of this was that the case studies were more natural and a truer representation of real life rather than being set-up on demand. The research participants were more likely to trust me and be open and honest with me as they knew I had an understanding of the process and the profession.

However, during a pilot study, it was clear that particularly the inspector participant was seeing me as part of the process rather than a researcher. They looked to me to become involved in discussions and sought my opinion on things. I had to address this because I was not a

participant in the research. I dealt with this by being clearer to the participants that I was a researcher and not there as an inspector when I went on to carry out the actual observations. I also decided that I would only use case studies where I had not personally had professional dealings with the business in the past so that the business did not know me as an inspector but only as a researcher. I felt that this did help to eliminate the risk of influencing businesses responses.

The knowledge and experiences I had as a practitioner influenced the methodology in so much as that what I knew, was not evidenced, it was in my head. The methodology aimed to gain the data needed to evidence some of this knowledge and explore whether other participants' interpretation of the case being studied was the same as mine or whether there were different ways in which these events were viewed by other actors.

From the knowledge and experiences I had, I knew on the whole, inspectors genuinely want to help businesses to achieve compliance and reduce the risk of harm to the public and employees. They want to achieve this by working with businesses to help them understand and to change their behaviour and generally do not enjoy using formal enforcement approaches to achieve this. I did not know many colleagues who actually enjoyed prosecuting businesses, closing them down or serving notices. Inspectors sometimes feel that they have failed if they have not managed to secure compliance by using their own persuasion skills.

Inspectors generally want to be liked and respected. The first few minutes of an interaction between the inspector and the business really sets the scene and determines how the relationship is going to be. There are some inspectors who portray a very dominant, powerful sense of being when they first interact with a business and those who in contrast present themselves in a very friendly and informal way to begin with. Businesses respond differently to this. Some will respond defensively to the dominating, powerful inspector whereas some will be more intimidated. The friendly, informal approach can result in better co-operation and more open and honest responses whereas some business may see the inspector who acts this way as a soft touch or a push over.

Personally, I have tried both of these approaches in the past. It is trial and error, particularly when newly qualified and you are finding your feet and the approach you are more comfortable with. Inspectors usually adopt different approaches depending on the situation and many personal factors influence this.

Inspectors do want to help businesses learn. However, they do not always use the right techniques to enable this to happen. This is partly to do with the inspectors' personal background and their own past experiences of dealings with a business.

An inspectors' previous experience with a business influences how they interact with them on the next occasion. If they have had problems previously with their levels of compliance and their attitude towards this, their co-operation in becoming compliant, following instructions and taking on board advice the inspector has given them, there will be a pre-conceived idea in the inspectors mind about what they are likely to be faced with the next time around. When that time comes around the inspector will introduce themselves and start off the interaction in a different way than they would if they have had a good experience with that business in the past. The difference in approach so early in the interaction can then determine how things will pan out over the rest of the interaction. If the interaction is going to begin on a negative footing due to the inspectors' pre-conceived opinion, the business is more likely to respond in a negative way. In my personal experience and those anecdotal experiences of others, this scenario is less likely to be conducive to learning because both parties are less likely to respond positively to each other.

Another factor that influences the inspectors' ability to act as a vehicle for learning is pressures placed upon them to deliver targets resulting in less time available to spend on education and positive interactions with businesses. Declining resources have resulted in more workload for inspectors, and they often feel that they do not have the time to spend on doing this.

In my experience, businesses can learn from inspectors, and I have certainly learned from businesses. One of the key things in my opinion for this to be able to happen is about not being too proud to admit you don't know something and accepting that you might not be right. This applies to both parties. It is also essential that there is mutual respect.

In my experience, learning can be demonstrated by both inspectors and businesses. Firstly, from the inspectors' perspective I can demonstrate I have learned from an experience with a business by approaching a situation in a different way the next time. For example, if I have learned that speaking to a particular business operator in a certain way was not effective, because they did not understand what I was asking them to do or they clearly got upset or angry at me, I can change the way I speak to them next time to see if I get a better response. If I do, I will use that approach again. Additionally, if I have been to inspect a business that carries out a process I have not seen before and I learn about it by asking questions about the process, I can demonstrate that I have learned the next time I visit a similar premises because

I will ask less questions about the process itself, and more questions to verify they are following the process correctly.

A business can demonstrate to me, the inspector that it has learned by showing me it has done something proactively, or that it has maintained a standard the next time I visit. For example, if the business had no risk assessments in place when I carried out the first inspection and I explained to them what a risk assessment is, and how to carry one out and then I go back and they have written a risk assessment and they have reviewed it and maintained it over a period of time then I know they have learned. If I visit the first time and they have got a band saw and the guard is tied up out of the way which is a common thing I have come across, I tell them they must keep the guard in place and explain the reasons why. I tell them I will be revisiting to check they have done what I have asked. If, when I visit the next time they have put the guard in place I know that they have complied. I do not know whether they have learned because they have simply followed my instruction knowing about my impending revisit. If, at the next routine inspection, my colleague visits and the guard is tied up out of the way again, the business has clearly not learned. They are reacting to instructions because they know they have to. What this research has achieved is to determine what conditions are required to make the difference between learning and complying in the short term.

Whilst I can talk about my personal experience of what learning looks like through my lens, in order to ensure the data I gathered was meaningful it was necessary to establish what learning looks like through other people's lenses. I undertook a focus group at the beginning of the data collection process in order to compile a list of 'good learning behaviours' that inspectors recognise which will be explained in more detail in the next section.

Whilst my knowledge and experience was from the inspectors' perspective, I also knew that not all businesses see inspectors as a hindrance and that many of them like to interact with the inspector. They usually feel a little nervous about the inspection, but most say they find the visit helpful. This tends to be the ones who want to do the right thing and need guidance to help them know what they should be doing. On the other hand, there are also businesses out there who do not want to do the right thing. They don't care about safety and are purely focussed on making as much money as they can. These businesses do not like to interact with the inspector and are not usually open to learning unless they can see a financial benefit to them. These would be examples of proactive learners and avoiders/outsideers as discussed in Chapter 3.

Taking this into consideration it was decided that in order to be able to demonstrate how learning can be facilitated in different scenarios it was necessary to study businesses with poor history and those with good history and that it was also necessary to study different inspectors interacting with businesses to see how different participants reacted with each other. This is why case study research was determined to be a good option because it has allowed different combinations of people to be studied and over a period of time different pre-conceptions have been present at different stages from both sides. The way interactions have progressed from start to finish, the way parties have perceived and responded to each other and whether they have learned from each other has been evidenced. This has built upon existing academic knowledge and been used to produce a model that can be used to inform future practice.

4.3 Techniques and procedures

This section explains how the data was collected, handled and analysed in order to provide answers to the research questions. The research strategy that was adopted involved a 3-phase approach. The phases included a focus group, observations and semi-structured interviews. Each phase helped to inform the next as demonstrated in figure 4.3:

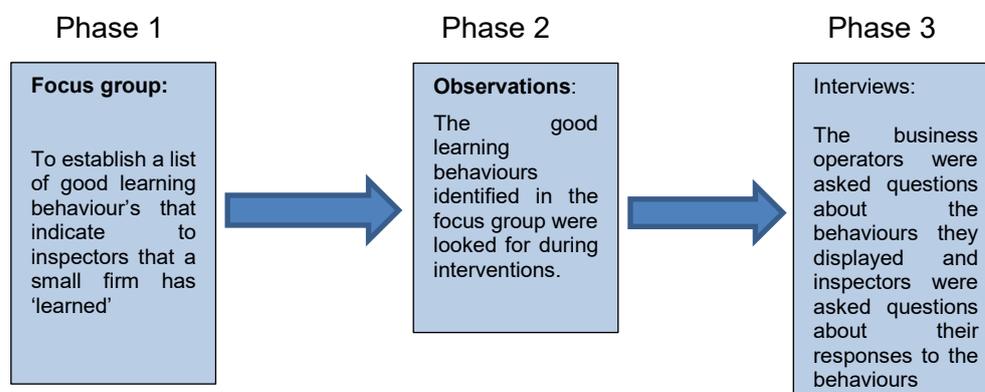


Figure 4.3: Research strategy

Phase 1

The purpose of the focus group was to use a group of inspectors to establish a list of good learning behaviours (GLB's) which they identified with when looking for evidence of learning in the individuals they interact with in small businesses. These GLB's were used to develop the observation form that the researcher used in the field while observing the visits.

Phase 2

The researcher accompanied inspectors on regulatory visits to observe the visit and the interactions that took place between the inspectors and the individuals in the businesses. The GLB's that had been established from the focus group in phase 1, were what the researcher looked for evidence of during the observation visits. The researcher recorded on the form when evidence of each GLB was witnessed and how strong that evidence was as perceived by the researcher.

Phase 3

Following the observations, semi-structured interviews were carried out with both the inspector and the business operator to explore what had taken place during the observations of the visits. The interviews involved finding out about how both parties had felt during their experience of the visits, why they had behaved and responded to each other the way they had and to ask more in-depth questions about particular observations the researcher had made.

Each phase of the data collection was informed by the previous phase and the whole data collection process could not have been effective without each part being carried out.

4.3.1 The population being studied

In this research the population of SME operators studied were from businesses with <50 employees within the jurisdiction of the LA being studied that were known to the LA and were subject to food hygiene or OHS interventions between April 2019 and July 2020 by the LA. The population of inspectors were officers authorised at the LA being studied to enforce food hygiene and health and safety at work legislation.

4.3.2 Time horizon

The case studies followed a business and inspector from the initial intervention whether that was an inspection or reactive visit following a complaint or accident, until the end of the entire intervention so this included any follow up visits to monitor compliance.

4.3.3 Focus group - what does good learning look like?

In order to use the information gathered to assess whether learning has taken place, it was first necessary to establish what good learning looks like in an Environmental Health context. In chapter 3, the concept adopted by Boyle *et al.* (2001) was discussed and how they established what good learning behaviours were prior to carrying out their observations and

interviews. This part of their methodology was replicated in this research in an Environmental Health context. This was achieved by carrying out a focus group with food hygiene and health and safety inspectors to develop a list of good learning behaviours in businesses. The focus group was led by the researcher by first giving a short presentation to the participants to explain the context and purpose of the group. The researcher then used a focus group protocol to lead the discussion which can be found at Appendix A. The focus group was transcribed, then data was analysed using Nvivo to assist the data management, and a list of good learning behaviour's (GLB's) were established. These GLB's were used in the observation form (see Appendix B) that the researcher used during the observations to capture evidence of learning taking place. A record was made in the researchers' field notes on the observation form where the researcher noted any of the GLB's they observed and also the frequency that they occurred. The results were later compared before and after the interventions to see if there was any improvement.

4.3.4 Sample selection

4.3.4.1 Focus group

Participants for the focus group were invited from the researchers' professional contact list. These included all of the inspectors that were included in phases 2 and 3 and also other inspectors from other authorities which provided a more diverse set of viewpoints. All participants were asked well in advance of the focus group and were given time to think about whether they wanted to participate or not. They were all provided with a participant information sheet (see Appendix C) well in advance, and participation was completely voluntary. There were no incentives used to persuade participants to take part. It was explained that they could withdraw at any time. All participants signed a consent form (see Appendix D) prior to the focus group commencing which was retained by the researcher for confidentiality. All the participants were given anonymity in the transcript of the focus group to ensure they cannot be identified by anyone who was not present in the room at the time. The focus group protocol was used to guide the facilitator through the process.

4.3.4.2 Observations and interviews

A sample of small firm operators and inspectors were purposively selected for interview to capture those in the best position to provide good quality data. In an ideal situation randomised sampling is often preferable and is advocated by Creswell (2009). However, it is also acknowledged that in real world research there are difficulties in achieving such representative sampling (Robson, 2011). Due to the restrictions on LA health and safety

regulation at the time of the research, it was not realistic to use randomised sampling as there were not enough businesses that would experience an intervention during the research period. Whilst it would have been possible to do this for food hygiene interventions, the same method needed to be applied to both sectors for consistency. In addition to this, it was also important to select a range of cases made up from a variety of business types and different inspectors with a range of experiences. Due to the population of inspectors being relatively small in comparison to the number of businesses, had randomised sampling been used it would have been difficult to ensure a different inspector was involved in each case. This was due to the way inspections are allocated to officers as inspections were picked off a list by officers in order of priority, or if a complaint had been received on a rota basis so were not always allocated in advance. For this reason purposive sampling was used. This method has been identified as a valuable method (Neuman, 2006) that can be used to access specific types of participants for more detailed study. This fitted well with the case study research principles. This also ensured that bias was minimised by ensuring a different inspector was involved in each case, and also a variety of business types were represented in the sample. Whilst 5 of the cases were food businesses, they were different types of food business with varying history of compliance.

Other methods of sampling were also considered. These included randomised sampling, snowball sampling and convenience sampling. However, reasons for not choosing any of these methods included the fact that probability sampling is less important in qualitative research, the group being studied were not 'hard to reach' and a method with good credibility was important.

A sample size of 6 case studies was chosen. This was to account for the fact that there was always the risk that some may decide to withdraw after the data had been collected and this would ensure that there were still enough case studies to make the research reliable and credible even if one or two dropped out. Each case study comprised of 1 business and 1 inspector. There were 6 different businesses and 6 different inspectors. The samples were taken from an English Local Authority who operated a shared service at the time the research was carried out. This provided for good contrast as the shared service was made up of a city LA area which was a very metropolitan, multi-cultural, busy city environment, and a smaller LA area that was a very rural and affluent area. The researcher was working as an inspector at this LA and so had access to this sample. However, the researcher was not involved in any of the interventions being used in this research.

4.3.4.3 Small firm sample

The participants were selected on the basis of what was due for inspection and which businesses required reactive intervention as they came up. The typical number of interventions that occurred during a year can be seen in the table below based on actual figures from the previous 4 years before the data was collected. It could not be predicted how many interventions would take place in the future as some were programmed but many were reactive and follow-up visits. It was anticipated that the number of interventions for the year 2019/20 would be similar.

Table 4.2: Actual interventions for previous 4 years before data collection

Type of intervention	2015/16	2016/17	2017/18	2018/19
OHS visits	119	104	156	87
OHS improvement notices	9	18	12	1
Food hygiene visits	1118	890	817	1206
Food hygiene notices	39	20	11	6
Food hygiene closures	7	6	6	11

Businesses subject to a food hygiene inspection would likely to be from a range of different business types. However, businesses subject to proactive inspection in OHS were likely to be from similar sectors of industry due to the HSE guidance issued which stipulates what activities can be inspected (HSE, 2019, 2020). The reactive visits cannot be planned ahead. Of the 6 case studies, only one involved a health and safety visit. The reason for this was that due to the current landscape of OHS, and the reduction in proactive visits that has been seen over recent years this was proportionate to the population being sampled. The population being individuals in businesses that had experienced an Environmental Health regulatory visit. From the data presented in table 4.2, the mean average of OHS visits compared to food hygiene visits was 12%. This meant that a ratio of 5:1 was representative within the sample size of 6.

Businesses operators were asked to participate by approaching them face-to-face and asking if they were willing to participate. Businesses where the researcher had previously had regulatory interactions were excluded to reduce any potential bias but also to ensure the business did not feel under pressure to participate or influenced by the researcher in any way. This aimed to ensure as far as possible that the business operators saw the researcher as a researcher and not as an inspector. The only way to ensure that each participant fitted the criteria was to ask some preliminary questions to ensure criteria is met before commencing

the observation and interview. The following inclusion and exclusion criteria was applied as shown in table 4.3.

Table 4.3: Inclusion and exclusion criteria for business operator participants

Inclusion criteria	Exclusion criteria
<ul style="list-style-type: none"> • <50 employees • Subject to food hygiene/OHS intervention by LA • Subject to a routine or reactive food hygiene/OHS visit between January 2019 – July 2020 	<ul style="list-style-type: none"> • Businesses not subject to food hygiene/OHS intervention by LA • Businesses with 50 or more employees • Franchises • Businesses not subject to a routine or reactive food hygiene/OHS visit between January 2019 – July 2020 • Businesses where the researcher had previously had regulatory interactions

These criteria were chosen because this research was focused on the truly small businesses that were less likely to have access to in-house technical expertise in health and safety. Whilst the definition of an SME as defined by other researchers such as Anderson (2008, 2009) is a business with <250 employees it has also been recognised that those SMEs in the 50-250 employee category tend to behave more like larger businesses (Micheli and Cagno, 2010; Vickers *et al.*, 2013). As this research was really interested in small businesses this criterion was set. Franchises were excluded because whilst they may be considered to fall within the criteria of an SME, they were likely to have access to a larger company for regulatory information which would give them an advantage over other SMEs and may have influenced their views in a way that would skew the results and would not be representative of a typical SME.

4.3.4.4 Inspector sample

The sample of inspectors represented 57% of the inspectors actively undertaking food hygiene and health and safety visits at the LA being studied between January 2019 – July 2020 which was the time period of data collection. In total there were 7 qualified officers. One of these officers only worked in health and safety and one only worked in food hygiene. The other 5 officers worked in both food hygiene and health and safety. The sample included 6 of those officers. The officers who worked only in food hygiene and health and safety were included because it was useful to be able to compare that data with the data from officers who work in dual disciplines to see if there are any similarities or differences. The following inclusion and exclusion criteria were applied as show in table 4.4.

Table 4.4: Inclusion and exclusion criteria for inspector participants

Inclusion criteria	Exclusion criteria
<ul style="list-style-type: none"> Fully qualified and currently practising inspector in food hygiene/OHS Carries out food hygiene/OHS interventions between January 2019 – June 2019. 	<ul style="list-style-type: none"> Retired/absent inspectors Inspectors not actively practicing food hygiene/OHS interventions

Participants in both groups were given an information sheet (see appendix C) which was fully explained to them prior to their agreement and after agreement to participate, a consent form (see appendix D) was signed and retained by the researcher for confidentiality. Ethical consideration was given to the fact that the researcher was able to provide the information sheet and gain consent from the inspector participants in advance of the observation visits, so there was more opportunity for thinking and asking questions before a decision was made about whether they were happy to participate. With the business participants, the researcher was not able to do this as far in advance due to the fact that the visits were generally unannounced. However, this was dealt with by ensuring the researcher carefully explained the content of the information sheet and gave the business participants plenty of opportunity to ask questions before they decided whether to participate. Emphasis was given to the fact that it was completely voluntary, and that should they change their mind at any point during or after the visit or the interview they were able to withdraw. The researcher asked each participant if they understood this and always asked if they had any questions before and after the observations and interviews.

4.3.5 Data collection

In case study research multiple methods of data collection are used in order to gain an in-depth understanding of the case. This is an indicator of the quality of the case study (Creswell, 2013) and is also referred to as 'triangulation' by Saunders *et al.* (2012). This multi-method approach was adopted in this research. Data was collected by way of a focus group which was audio recorded and transcribed. Observational studies were also carried out of interventions taking place with an inspector and a business which included written field notes by the researcher. Semi-structured interviews were also undertaken with both the small firms and inspectors involved in those observational studies which were audio recorded and transcribed. Triangulation in research, in particular qualitative research, is an important way of providing confidence in the findings by using more than one approach to answer a research question (Heale and Forbes, 2013). Here, three approaches were used – focus group, observation, and interview, in order to provide confirmation of the findings through these independent methods. The combination of findings have been able to provide a more in-depth

insight and understanding of the phenomenon being studied than any one of those methods would have been able to do in isolation. This has enabled the detailed model presented later on to be developed from the findings.

Great care was taken to ensure that the researchers position as an 'insider' did not affect the participants in a negative way or influence the data collected. As explained in Chapter 1, there are some risks with insider research that has been acknowledged and procedures put in place to reduce their impact as far as possible. That said, there are also some great benefits to insider research in terms of the position they are in to access data that other researchers may not be able to. In this study, the researcher ensured that no business participants were involved where the researcher had previously had dealings with them in their regulatory capacity. The researcher ensured that they wore their academic institution identification rather than their Local Authority employee identification and also that they dressed more informally for the observations and interviews so as not to present themselves as a 'professional' or as a regulatory inspector. In every case, after the inspector had introduced themselves, the researcher spoke to the business participant to explain the research and they were asked at the very beginning of the visit if they would be happy to participate before the inspector began their visit. They were advised that they did not have to participate and that they could change their mind at any point during the visit or afterwards. They were provided with the participant information sheet which was explained and the consent form was also signed. This gave participants an opportunity to say no if they wanted to. There were some business operators who were asked and did decline. In these situations, the researcher left the premises and did not continue to observe the visit. The researcher ensured they travelled to the visits separately in case this happened.

The inspectors were all approached in advance of the visits to asked them if they would be willing to participate. This was easier in that the researcher had time to explain fully what was involved, provide the inspectors with the information sheets and consent forms well in advance and inspectors had plenty of time to think about whether they wished to participate. The inspectors that were approached did all agree verbally, however, to ensure that they were participating completely freely, the researcher requested the inspectors to invite them to some visits with them rather than the researcher setting up the appointments. This meant that the invitations were another confirmation of willingness to participate.

During the observation visits, once both participants had agreed to participate, the researcher ensured they stood near to the business operator rather than the inspector wherever this was possible. The reason for this was to lessen any perceived power imbalance and to put the

business participant at ease as much as possible. It was intended to help reduce any potential perception of the researcher being a regulator in the research setting.

4.3.5.1 Observational studies

Observational studies were carried out by the researcher observing the interventions and making field notes on the observation form about what happened during the intervention. This involved looking for evidence of the GLB's identified from the focus group. The researcher noted down which of the behaviours were observed and the frequency they are observed. Some of the behaviours were demonstrated by facial expressions and body language. For example, confidence in the way they spoke to the inspector and the way in which business operators presented themselves, were very subjective behaviours demonstrated not so much by what was said, but the way it was said, and the facial expressions demonstrated while talking or listening. The researcher used their own interpretations of these to judge demonstration of behaviours. If a participant spoke with a positive tone of voice and with a happy facial expression, then this was perceived to be a good demonstration of confidence. If they spoke very quietly with an unsure or confused expression on their face this was interpreted as poor demonstration of confidence. These are behaviours that are very difficult to demonstrate objectively and is the very nature of qualitative research. However, the robustness of this data is in the fact that there was only one researcher and so interpretations were consistent across all cases.

Prior to the actual observations taking place a pilot observation was undertaken to test the process and ensure that the observation sheet was appropriate and that the actual way the observation would be undertaken would work. Initially, the researcher had planned to undertake a very short interview comprising of 6 short answer questions with both parties separately at the end of the observations to gain insight into their immediate thoughts about how the interaction went. The purpose of this was so that the results could be compared with each other to see if there were similarities or differences between how each party interpreted the success of the interaction at that stage. However, after the initial pilot observation it became clear that this was not practical as it was not possible to gain privacy with each party to carry this out. This idea was abandoned, and it was decided that the semi-structured interviews would be sufficient and provide the sensitivity and privacy required for these questions to be asked.

Ethical considerations that were also important with the observations were what would happen if the inspector found issues that were likely to lead to enforcement action, and situations where business operators may have been left feeling that they needed more support and

advice. Provisions were made to ensure that if the inspector felt the observation should be stopped due to the potential for enforcement action, they would ask the researcher to leave and stop collecting data so as not to put the business operator in a disadvantaged position. If any business participants required further support and advice, an informal advice visit would be arranged with a different inspector following the visit that was observed to ensure they were adequately supported.

4.3.5.2 *Semi-structured interviews*

Semi-structured interviews were chosen as one of the preferred methods of collecting the data because they can be a flexible and adaptable way of finding things out (Robson, 2011). Semi-structured interviews ask a small number of very open-ended questions in order to allow participants to talk as much and as freely about their thoughts, feelings and perception as possible. They can be carried out when the individual participant is available which can be easier to organise than other methods such as focus groups where everyone needs to be available at the same time. Interviews can be carried out face-to-face offering a more personal experience and can also be carried out in the work environment making the participant more likely to feel comfortable. Some people may feel more comfortable in a one-to-one interview scenario than in a focus group as not everyone is confident talking in front of other people. The interviewer also has the opportunity to probe further and to adapt the questioning if appropriate, maximising the opportunity to gain valuable data.

The interviews were based on a typically qualitative approach identified by Creswell (2009) which is to conduct semi-structured interviews, audiotape the interview and transcribe the interview. Creswell (2009) suggests that interviews should begin with an ice-breaker question at the beginning, followed by 4-5 questions, followed by a concluding statement or question. The interviews were carried out using an interview protocol (see Appendix E) as suggested by Creswell (2013). The protocol included probes for each question and space to make contemporaneous notes.

The research questions identified from the literature review shaped the questions asked in the interviews, as the questions needed to be able to provide information that would enable those questions to be answered. The right questions needed to be asked in order to allow this to formulate. The questions needed to be open-ended and cover enough scope to enable themes to emerge. They needed to allow information to be gathered that goes beyond how people feel about the intervention, but also how they experienced the interaction that took place, what they learned from it, how they learned and how they responded to that. The data collected had to be capable of explaining people's understanding, not just their knowledge.

They needed to capture participants understanding of meaning and how they interpreted the process as they had experienced it and to explore the influences that led them to this meaning. The interviews were recorded on a digital sound recorder and notes were also made at the time by hand. The interviews were later transcribed.

Two pilot interviews were undertaken prior to the actual data collection, one with a small business operator who willingly volunteered, and another with an inspector from a different Local Authority who was not part of the sampled population. The purpose of this was to ensure that the questions were right and that the inspectors and business operators understood what was being asked in order to ensure that the questions would gain the information the researcher was looking for. The volunteers were asked to explain the meaning of each question. This allowed for some of the questions to be re-worded or asked in a different way before the interview protocol was finalised and used to collect the real data.

4.3.5.3 Small business operator interviews

The interview questions were of an open nature to enable the participants to talk as freely as possible about their experiences. The interviews were able to draw out data to help gain an understanding of how participants experienced interactions with regulators, what impact the regulators behaviour and choice of strategy had on the business operator, how business operators learned and how interactions and dialogue were used by business operators to change behaviour. The data helped build an understanding of how dialogue and interactions were being used by business operators and how those interactions can be used better in future to aid businesses in their learning and development.

The interviews were all pre-arranged by appointment to ensure no additional pressure was put upon the business participants. They were all carried out at the business premises to ensure that participants felt comfortable. As with the observations, the researcher ensured participants were happy to proceed voluntarily and gave the opportunity for them to ask any questions. They were also reminded that they could stop or withdraw at any time.

4.3.5.4 Inspector interviews

The interview questions were again of an open nature and the data obtained assisted in developing the conceptual modelling of influences on interventions by drawing out what factors influence inspectors behaviour, how they interact with business operators, how they use dialogue with business operators to determine and choose compliance strategies, how inspectors learn from businesses, what skills and qualities they have and require in order to

interact with business operators successfully and why they make the decisions they make when dealing with individuals within businesses. They also helped identify knowledge/skill gaps, ability to provide education, persuasion and ability to actually influence business operators to be proactive themselves rather than make them do something on demand. Inspectors were interviewed in order to make comparisons between groups to identify similarities, differences and gaps.

A number of other data collection methods were considered in this study but were not considered to be the most appropriate methods for this research. These included questionnaires which would not have offered the freedom of expression that interviews would and would be too restrictive, telephone surveys which would lack the face-to-face interaction that an interview can offer and participants may be less likely to open up, and business focus groups where there can often be low uptake, it can be difficult to organise a time that is convenient to all participants and there may be dominant characters overtaking the dialogue overshadowing some people's views.

The inspector interviews were also carried out by pre-arrangement during a convenient time for the inspectors so as not to interfere with their work. These were carried out at their office premises but in a private room where confidentiality could be assured. Participants were given the opportunity to ask any questions and reminded that their participation was completely voluntary and that they could stop or withdraw at any time.

4.3.6 Data analysis

The data was analysed using qualitative software Nvivo. Nvivo can be used in case study research to aid in ensuring rigour and is also a useful data management tool (Houghton *et al.*, 2012). The software helped the researcher to identify themes which have been used to explain what the issues are, where the gaps between businesses needs and regulators efforts lie and how those gaps might be filled. These themes have been used to develop new knowledge that contributes to existing knowledge. The contribution to knowledge this study has brought includes the development of theoretical understanding of regulatory interactions and business learning and development.

Data analysis was carried out using a systematic approach. This begun by importing each transcript and audio recording into an Nvivo project. The data was grouped together for each case. Each piece of data was thoroughly read/listened to one case at a time and initial thoughts were recorded in the form of memos before commencing the coding process. The

coding was undertaken using Nvivo as an analytical tool. Figure 4.4 outlines the coding process for multiple case studies according to Creswell (2013).

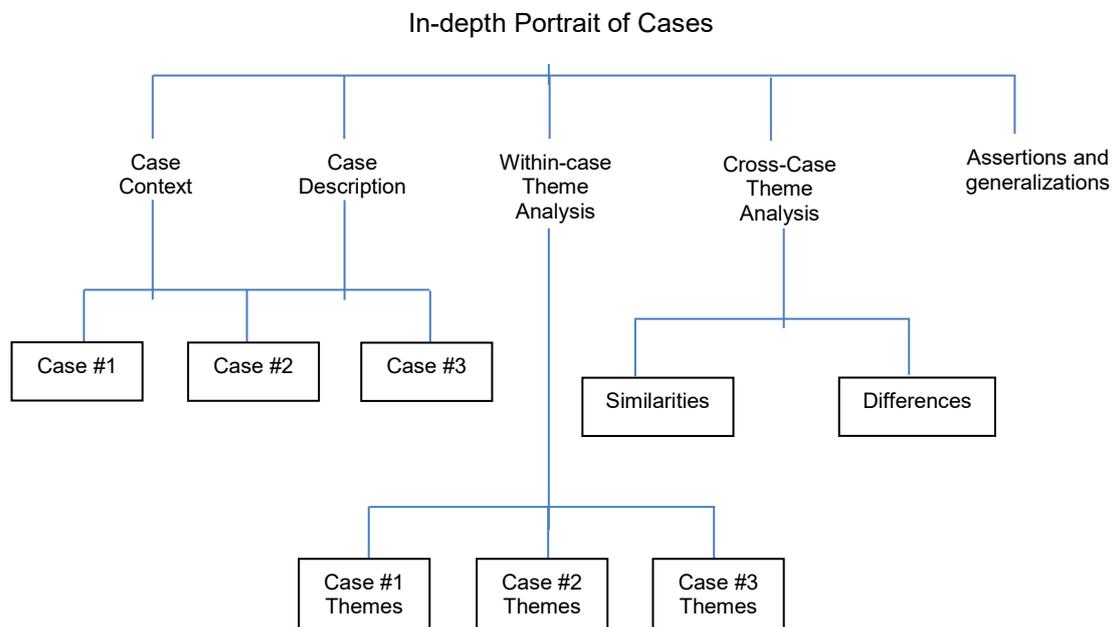


Figure 4.4: Coding process for multiple case studies

(Source: Creswell, 2013)

The coding process helped to identify themes within each case and also themes which are similar or different across the cases (Creswell, 2013).

In practical terms the way in which the coding was undertaken followed 4 main principles as discussed by Saunders *et al.* (2012).

1. Categorising the data – This part of the process entailed identification of meaningful categories which sections of the original data can be attached to. Each category was given a name (termed as a ‘node’ in Nvivo) that has a relevant meaning in relation to the research project and this allowed the rearrangement of the original data into analytical categories. This first stage therefore identified a number of relevant categories that formed the initial structure of the data analysis process.

2. Unitising the data – Attaching the relevant sections of original data to the appropriate categories. This part is where Nvivo was particularly helpful. The process begun by placing data from all sources into categories or codes (referred to as nodes in Nvivo) for each case. The second stage involved taking each category and then sub-dividing those themes into more specific codes which may form different responses within the

same theme. These were likely to be linked to causal and/or contextual conditions which may affect the participants understanding within the theme. For example, participants may all have said they found the intervention helpful, but the reasons may be different, which presented different codes within a theme.

3. Recognising relationships and developing categories – This was an ongoing process and is the actual engagement by the researcher in the process of analysing the data (Dey, 1993; Yin, 2009). This process led to revised categories, subdivision of larger categories into smaller ones and/or integration of categories into larger categories. The final stage of this process involved analysis of all the themes and sub-codes and identifying the relationships and categories within each case and then comparing these across all of the cases to identify the similarities and differences.
4. Developing testable propositions – The emergence of an apparent relationship or connection within the data needs to be tested in order to be able to conclude it actually exists. This testing is not the same as that which is seen in quantitative data analysis but is more about exploring alternative explanations and any conclusions made being able to withstand any alternative explanations and explanations of negative cases which do not support the conclusions. These final propositions formed the end theory of the research.

The data collection, analysis and development of conclusions were very much integrated and took place incognito with each other. The coding framework that emerged from the analysis can be found at Appendix F.

4.4 Reliability and validation

In order to ensure the data gathered was both reliable and valid, a number of steps were taken as recommended by Creswell (2009):

1. Checks were carried out to ensure the accuracy of the transcripts.
2. Regular reviews were carried out to ensure there is no shift in the meaning of the codes throughout the process of analysis.
3. Any data that did not tie up with themes was still included.
4. Clarification of any biases of the researcher have been made.
5. A peer debriefing was undertaken by the researchers' supervisory team to ensure that interpretation by someone other than the researcher validated the results.
6. The final report was shown to participants to validate their recognition of the theory.

4.5 Ethical issues

The researcher was working as an EHP in a LA and was involved with the regulation of food hygiene and health and safety in premises enforced by the LA.

The researcher wished to explore the strategies used by inspectors when seeking to influence business compliance behaviour, the role of dialogue and learning in interactions between inspectors and individuals within businesses, how small firms and inspectors have experienced the process of regulatory interventions and the interactions that take place during this process.

Due to the researchers occupation, there may be some biases and personal feelings about the current role of EHPs within that process. However, the study has been transparent, and conclusions only drawn where there is sufficient literary evidence or data to justify it. The researcher had the advantage of access to businesses and other inspectors through this role. This is the largest, most significant piece of research carried out by the researcher at the time of writing. However, a smaller qualitative study had previously been undertaken which resulted in the publication of a paper (Borley and Page, 2016) demonstrating a good level of understanding and competency in undertaking qualitative research.

Whilst it is recognised that there can be issues with the validity of insider research, the researcher has ensured these are redressed by following the principles outlined by Grady and Wallston (1988) which has involved consideration of issues that may arise and having a plan in place to deal with them. For example, it was foreseeable that business operators may have said that they need more support and advice. A plan was therefore in place to ensure that this information is passed on to the relevant body so that advice could be offered.

Responses were recorded verbatim to enable them to be audited against the research report to ensure that the findings are truthfully reported and that there has been no contamination of the evidence. The results and report were scrutinised by the project supervisory team to ensure the researcher remained objective.

The main ethical issues involved with this research for businesses operators was time, anonymity and the fear of exposing non-compliances which could result in enforcement action being taken against them. For inspectors it was again time, anonymity, and the fear of exposing themselves in terms of lack of competence, knowledge, or ability to deal with

situations, businesses and breaches of legislation. It was important to ensure that participants were anonymised and that the data they provided does not in any way identify them.

Participants were chosen purposively to ensure that the best quality data possible was collected. No participant was forced to take part, and all were asked to take part at their own free will. It was not envisaged that participants would fall into vulnerable groups in this research and that remained the case. The principal inclusion criteria for business participants was that they have <50 employees and that were subject to a food hygiene/OHS intervention in the timeframe of the study.

The principal exclusion criteria was larger SME's (50-250 employees), franchises and businesses that were subject to a food hygiene/OHS intervention in the timeframe of the study. The principal inclusion criteria for inspectors was that they were working as an Environmental Health inspector in a food hygiene/OHS enforcement role, that they were fully qualified and authorised during the timeframe of the study.

Anonymity was ensured by allocating participants a participant number. Interviews were recorded with no reference to name of business or employer made on the recording. The interviews were transcribed with no reference to personal data. No personal details were recorded on notes made during observations. The only place personal data that could identify the participants was recorded is on the consent forms which have been retained by the researcher and kept confidential in accordance with the Data Protection Act.

Raw data has been retained safely by the researcher and the university for the period specified by the university. It has not and will not be shared with any other parties. Data will be able to be accessed by the researcher or the university upon request in hard copy which has been kept in a locked place. The data has been reported in this final thesis in a way which does not identify who the participants are.

Constraints that could have been encountered in the field included language barriers, availability of participants and the fact that reduced regulation meant that less businesses were experiencing regulatory visits during the time this research was undertaken than they were previously. This meant there could have been difficulties in getting willing participants, however this did not present as a problem.

Ethical approval was given for this project by the Natural Sciences Ethics Committee on 26th February 2018 and the letter confirming this approval can be found at Appendix G. The application reference number given for this research was 3153.

4.6 Summary

This chapter has discussed the philosophical approaches and explained that pragmatism was the paradigm adopted by the researcher in this study. It has identified the strategy of inquiry that was used and explained why case study research was chosen. It has also explained in depth the sampling methods and data collection methods that have been used and how they were applied. Finally, the chapter explained how the data was analysed to draw evidenced conclusions and propositions to develop theory as the end point.

5 OBSERVATION OF CASES: WITHIN AND CROSS CASE ANALYSIS

This chapter examines the individual cases in relation to the research questions. It begins by providing the background to the 6 business cases and the inspector in each of these cases, focusing on their levels of experience before presenting the findings of the observations of visits. Each visit was observed by the researcher and findings were recorded on the observation form which can be found in Appendix B. The within-case interpretation of the observation visits is followed by a cross-case analysis and summary of the key findings from the observation part of the study, before moving onto the more in-depth chapters which will present the interview findings. Table 5.1 below provides a summary of which participants were involved in each.

Table 5.1: Summary of participants in case studies

Case study number	Inspector participant number	Business participant number
1	9	11
2	2	12
3	4	10
4	1	13
5	5	14
6	15	16

5.1 Case 1

5.1.1 Introduction

The first case study involved a programmed food hygiene inspection of a newly registered restaurant. This was its first food hygiene inspection, the outcome of which would also determine its food hygiene rating. Two visits were observed for this case which included the initial inspection visit and also a follow-up revisit.

5.1.1.1 Background of business

Although the business was a newly registered business, the business operator was not new to the industry and had a lot of prior experience of running a food business and of inspections. This included a similar restaurant at a smaller premises and, following the closure of this business, the operation of a takeaway from a market stall. As a very small business (less than 10 employees) the operator was the owner, chef manager and cook as well as being

responsible for other tasks needed to keep the business running. They struggled to find and retain good staff. Since relocating to the new premises, the business had been growing.

5.1.1.2 Background of inspector

The inspector involved in this case study had 16 years of experience working as a food law enforcement officer. They had previously worked in the catering and hospitality industry as a restaurant manager although not of running their own business. They held the higher certificate in Food Premises Inspection and had also completed the academic part of the MSc in Environmental Health so highly qualified and experienced.

5.1.2 Observation

The inspection was unannounced. The inspector arrived just as the business was opening for trade. The business operator recognised the inspector whilst unlocking the door and their initial reaction was negative. In fact, the word the business operator used in response was 'nightmare'. The inspector explained the reason for the visit and did attempt to break the ice a little by asking how business was whilst donning their PPE. However, the interactions and dialogue came across as being quite frosty and formal, facial expressions were very serious and the inspector held a clipboard in their hand. The inspector entered the kitchen and went straight to the wash hand basin to wash their hands. It was noted that the hot water was only lukewarm. The inspector advised the business operator that the water was not running hot enough. The business operator responded that they would look at the boiler while the inspector carried on with the inspection. The inspector then realised that there was a pool of water on the floor as the wash hand basin was not correctly plumbed into the drainage. The business operator became quite defensive at this point and started to explain how they were having issues with the drainage and that it had been left in a poor state by the previous owner.

A member of staff mopped up the water on the floor and the inspector continued with the inspection and began to walk around the kitchen making notes on a form attached to a clipboard. The inspector asked a few questions of the business operator during the inspection but there was little in the way of 'small talk' and the conversation was very much focussed on the issues that arose during the inspection.

The inspector pointed out some further issues to the business operator but did not elaborate or explain very much about why they were a problem. The inspector asked a lot of closed questions which did not allow for two-way dialogue to take place easily, rather than using more open questioning like "tell me how you do that". The business operator continued to explain

what a poor state the premises had been left in by the previous owner and how they could not understand how the previous owner had achieved a food hygiene rating of 5 and that they had made a lot of improvements since taking the premises on.

The researcher noted that the business lost a customer during the visit as the owner/chef manager was tied up talking to the inspector and it looked as though he was unavailable to serve the customer and the customer left. The inspector did not speak directly to the other member of staff who was also there at any time and just had dialogue with the owner.

At the end of the inspection the inspector sat at a table with the business operator and summarised the contraventions they had found. There was limited discussion around them, but they were explained and left on a "report of visit form". The inspector returned several hours later to find there was a plumber on site fixing the boiler. The boiler was turned off while the plumber was working on it so the water was not hot at that point. The inspector waited in the dining area while the plumber worked on the boiler. The inspector explained that the business must not open until the water was running hot. The business operator confirmed they understood this. They asked if the inspector was planning to wait there all evening and questioned whether they trusted them. Having waited some time, the inspector left having requested that the plumber made contact when the boiler was fixed. Confirmation was received that evening from the plumber that the hot water was back on.

Following the visit, a letter was sent to the business operator from the inspector advising of the legal requirements and also the food hygiene rating they had been given. The business was issued with a rating of 3.

Overall, the interactions between both parties during this visit were quite formal and there was little two-way dialogue. Where there was evidence of two-way dialogue it appeared to be quite defensive from both parties, rather than listening to each other and making compromises. The business operator demonstrated confidence and co-operation but little in the way of forward thinking, problem solving and risk management. This suggests that from observation little learning took place.

A second unannounced visit was carried out 10 days later, with similar timing i.e. as the business was opening. This visit was to follow up on the issues identified at the original inspection, i.e., a 'revisit' in accordance with the Food Law Code of Practice (England) 2017 (FSA, 2017_b) which was in place at the time. During this second visit the business operator did not come across in such a confident way when talking to the inspector and seemed more

reluctant to talk or engage in dialogue. Initially they said that the hot water was not fixed but then changed their mind when the inspector went to check. There was less evidence than at the previous visit of problem solving, forward thinking or risk management suggesting that the business operator had not benefited in terms of learning from the previous visit or had not put into practice any learning. There was some evidence of sustained compliance in some areas but not all areas.

The inspector's manner was quite firm and assertive. They spoke to the business operator about training, but the business operator claimed that they already knew everything they needed to know. They did not seem willing to accept that there was anything they could or needed to learn. The business operator was clearly not happy about being given a food hygiene rating of 3 as they expressed dissatisfaction with the rating. The issue with the lack of hot water had still not been dealt with. As this is a fundamental and essential requirement for safe food production, this did not demonstrate a good understanding of risk or that they had learned from the previous inspection.

5.1.3 Summary

The interactions in this case were quite formal and on the verge of frosty. The timing of both visits was not ideal for the business operator and this may have influenced on the tone of the interactions and responses. There was little evidence of two-way dialogue with a focus on closed questioning which was not conducive to listening to the business operators' point of view, enabling conversation that might have resulted in compromise or learning on both sides.

5.2 Case 2

5.2.1 Introduction

The case focused on a pub producing hot food which had experienced a recent change of ownership. This was the first inspection under the new FBO and the outcome would also determine its food hygiene rating.

5.2.1.1 Background of business

Although this was a new food business operator (FBO), the pub had been operating for a number of years. The FBO had been operating businesses for a number of years in different areas both food and non-food businesses and was familiar with the regulatory regime and the food hygiene rating scheme. The FBO also had experience of food hygiene inspections in the Czech Republic. He had taken over the pub around a year ago, so it was hard for him to

comment on past performance but was of the view that the pub industry was struggling financially at the time due to people being reluctant to eat out as much; saving money due to financial uncertainty.

5.2.1.2 Background of inspector

The inspector in this case was a Chartered Environmental Health Practitioner, with 23 years of experience working in 5 different LA's enforcing food hygiene, health and safety and infection control. They hold two degrees, one in food science and one in Environmental Health, and also hold the Higher Certificates in Food Premises Inspection and Food Control.

5.2.2 Observation

The researcher observed two visits for this case, the first being an unannounced food hygiene inspection which resulted in the pub needing to close for 3 days. The second was a follow-up visit 3 days later to check on the priority issues identified in the first inspection before the pub could be allowed to re-open.

When the inspector arrived, they introduced themselves in a very polite and friendly manner. They were advised that the FBO was not at the premises but could speak to them on the telephone if required. The inspector was happy to carry on the inspection without the FBO being present. A staff member showed the inspector into the kitchen.

The chef who was in the kitchen spoke very limited English. This made communication challenging. The inspector did their best to ask questions and interpret the answers by using a lot of showing and pointing to things. The chef was of quite a fiery temperament and shouted a lot but as it was not in English, it was not possible to know if the shouting was in anger or if this was just their normal way. The inspector kept very calm throughout the inspection.

Shortly after starting the inspection, evidence was found of food which was past its use-by date which is an offence under food hygiene legislation. When the inspector pointed this out to the chef, this made them shout and appear angry.

The inspector then began to find mouse droppings in some difficult to reach areas behind and under equipment in the kitchen. The inspector pointed this out to the chef who continued to come across in an aggressive manner, saying "I am a chef not a cleaner, I am not paid to do cleaning". This clearly did not impress the inspector as was evident from their facial

expression, but they still remained polite and calm whilst talking to the chef, despite their response.

The inspector continued to find more mouse droppings in the bar area, close to the glasses being used to serve drinks. At this point, the inspector decided that the pub would need to close because it was not possible to determine if the droppings were from an old infestation and that cleaning had not been done, or if there was a current and live mouse infestation in the premises presenting an imminent risk to public health. The droppings were widespread and in large quantity.

The inspector then spoke to the FBO on the telephone, and again kept very calm. They explained the chef's response to matters being pointed out. The FBO was very co-operative on the telephone and agreed to voluntarily close to carry out the cleaning and have a pest contractor visit to survey the problem and carry out treatment if needed.

Following this visit the business closed for 3 days while they carried out a thorough deep clean and had a pest control contractor assess whether there was a current mouse infestation. After this, they contacted the inspector to request a visit so that they could re-open.

The inspector made a revisit, to assess what had been done and decide whether or not it was safe to allow them to re-open. During this visit, the inspector found that the premises had been thoroughly cleaned there was no evidence of any mouse activity. This indicated that the infestation was old, therefore the premises had not been cleaned for some time. No food past its use-by date was found on the premises and the Food Safety Management system was being updated and staff training refreshed to ensure that these issues were prevented in future. The FBO had terminated the chef's employment and was looking to recruit a new chef. There would be no hot food offer until the chef had been replaced. This indicated that some level of learning had taken place as a result of the first inspection, but also that the FBO lay blame on the chef rather than accepting responsibility for the situation.

5.2.3 Summary

The findings show that there was some level of confidence in the FBO's knowledge and understanding but there was room for improvement, and this did not seem to improve even after the inspection. The FBO did not appear to take responsibility or ownership of the issues. There was little evidence of a forward-thinking approach. Both parties were fully co-operative with each other even though there were issues found and the business had to close for a few days.

The FBO did not appear to have been proactive in assessing risks or fully understand the mitigation of risks within their business and as a result risks were not being managed properly. However, this did improve after the first inspection which suggests that some learning about the risks involved with pests and out of date food did take place from the inspection.

There was no change in GLB's in most areas at the second visit. However, there was no decline in any of the GLB's and there was an improvement in two areas; the business appropriately managing risk which increased from no confidence to some confidence; and providing technical data which had increased from no evidence to some evidence. This indicates that some level of learning albeit a small amount did take place.

5.3 Case 3

5.3.1 Introduction

The case involved a programmed food hygiene inspection of a mobile roadside café. The business had been running for several years and had been subject to many previous inspections. The business had never scored a food hygiene rating above 3 in the past, out of a possible maximum of 5 and at the last inspection it received a rating of 1 which means major improvement is necessary. This inspection would determine the next food hygiene rating.

5.3.1.1 Background of business

The FBO had a history of working in several different industries prior to starting up a roadside café. The FBO had worked as a professional chef for many years in a variety of different settings and had also worked in logistics before starting to develop entrepreneurial aspirations selling goods on car boot sales. This inspired the FBO to start up their own roadside café. The business started 14 years ago and was now a very busy and popular 'pitstop' for many regular lorry drivers. The FBO works alone with occasional help from their partner, working 361 days a year taking only 4 days off over the Christmas period. It is very hard work for them. The FBO had also been through a lot of personal issues over recent years leaving them as a single parent meaning that life is very challenging. Understandably, regulatory matters were not always at the top of the list of priorities.

5.3.1.2 Background of inspector

The inspector involved in this case was a newly qualified food safety officer who holds the Higher Certificate in Food Control. They have many years of experience of working in a LA as a Licensing Officer so not new to regulatory work but new to food law enforcement.

5.3.2 Observation

Only one visit was observed in this case but there was previous inspection history which the researcher had witnessed and was able to read notes from previous inspectors. Therefore, the previous history and experience was taken into account during this observation.

The findings showed a significant improvement in most areas since the previous 2 inspection visits. There were noticeable differences in both the way the inspector approached this inspection and the way the FBO responded. This suggests that both parties had learned from their previous experiences.

One thing of particular significance in relation to this visit was the timing. The inspector spoke about how busy the café usually is and when arranging with the researcher a time to do the visit, made particular reference to trying to avoid their busy times. When the inspector arrived to do the visit, it was not too busy. This meant the FBO was in a better position to deal with the inspection.

The FBO did not appear to be under stress when the inspector arrived which was unusual compared to the previous inspections. The inspector was very polite and calm when introducing themselves and was happy to wait a few minutes while the FBO finished cooking an order for a customer that was waiting. The first few minutes and introductions were positive with both parties communicating well.

There was a lot of dialogue between the inspector and the FBO during the visit. The inspector asked lots of questions and listened to what the FBO said in response. The inspector identified 2 contraventions which both parties discussed. The first point was that raw bacon was being left out on the work top during the morning rather than being put back into the fridge between each time it was needed. The FBO explained to the inspector how this was not a problem as it was low risk food due to the high salt content and also that it was not ready to eat as it would be cooked before serving. The inspector took this on board and agreed that it could be left out without presenting a food safety risk. This was a good example of how two-way dialogue led to a compromise and agreement. The FBO showed that they had risk assessed their own business and was forward-thinking and not afraid to challenge the inspector.

The other point was that the diary section of the HACCP based system (Safer Food Better Business) was not being completed each day and it should be filled in every day the business is operating. This frustrated the FBO due to the fact that they work on their own and are very busy. They could not understand the importance or relevance of filling it in. The inspector listened to this and did acknowledge their point of view. After some further discussion it was agreed that the FBO would fill it in once a week rather than each day. This was another good example of compromise being reached and showed learning on both sides, as the FBO learned that it is important and in their best interest as it forms their due diligence defence if something went wrong; and the inspector learned that to get a business on board and to learn, sometimes compromise is the way to achieve this. The way the inspector went about the discussion led to 'buy-in' from the FBO.

5.3.3 Summary

The observation results showed that there was evidence for all of the GLB's, with either some or strong evidence for each one which was very positive. The food hygiene rating achieved following this inspection was a 4. This was the best rating that had been achieved by this FBO for a very long time and this suggests that learning had taken place.

5.4 Case 4

5.4.1 Introduction

The fourth case study involved 2 visits over a period of 5 months. The first visit was to investigate a complaint and the second visit was a programmed food hygiene inspection 5 months after the complaint visit. It was a small independent fast-food takeaway. The nature of the complaint was rodent activity at the premises.

5.4.1.1 Background of business

The business had been operating for many years under the same FBO. The premises had a poor history of compliance having been risk rated as a category B under the Food Law Code of Practice (England) 2017 (FSA, 2017_b) for a long time. Category B is the second from highest risk category and this was due to the poor standards that had been found previously. Historically several non-compliances would be found at programmed inspections, the FBO would do what was required and at the revisit standards would have improved but by the time the next programmed inspection would come around (usually 1 year later) the standards would have declined again. There was clearly an issue with learning due to the inability of the FBO

to sustain compliance over time. The FBO said that business had declined over recent years and they were struggling to make ends meet. They also said that it was difficult to find and keep good staff.

5.4.1.2 Background of inspector

The inspector in this case had over 20 years of experience in food safety enforcement, having started working at a LA in the North of England as a Link Worker to assist EHO's to communicate with Ethnic Minority communities. This inspector speaks 3 languages English, Punjabi and Urdu. They have worked both in LA's and the Private Sector including a supermarket chain and also had been a self-employed contractor working as an EHO for several different LA's so their breadth of experience was vast.

5.4.2 Observation

The first visit that was observed was an investigation of a complaint of rodent activity at the premises. The business had received 2 visits recently (8 weeks and 2 weeks prior to this visit) about issues with rodents in the shared backyard area and been advised to engage the services of a pest control contractor. However, the FBO had not done so. A further complaint had been received from a neighbouring business alleging that the rodent activity was being caused by this business, so a further visit was carried out.

This was a very difficult visit for both parties. As the inspector arrived and explained the reason for the visit was a complaint, the FBO was very defensive in their response. There was a lot of dialogue. This FBO talked a lot and it was quite difficult for the inspector to be able to speak. It was on the verge of one-way dialogue but on the FBO's part which was quite unusual compared to the other observations. However, the content of the dialogue was not positive and did not demonstrate knowledge, understanding or learning.

There had been ongoing issues with rodents in the back yard area that was shared between this food business, a hairdresser and a number of residential flats. The food business often got the blame for the problem due to their food waste bins being located there. The bins were sometimes over-flowing and there was very little space for them to be kept as it was a very small area. The FBO said that the people in the flats were putting their rubbish in his bins which was making the problem worse.

The inspector took a look around the back yard area first and then moved inside the premises looking behind and underneath everything to see if there were any signs of rodent activity inside. After a short time, the inspector discovered rat droppings in the food storage area.

As soon as the inspector identified rat droppings inside the premises, the tone of the visit changed dramatically. The FBO became a lot quieter, and the inspector became very serious in their manner. The inspector explained that as there was evidence of rats inside, there was an imminent risk to public health and that the business must close until the problem was under control. The FBO pleaded with the inspector not to make him close. There was a very long two-way discussion between both parties. The inspector remained very calm and allowed the FBO to say what they wanted to say but did not stand down from their position and insisted that the premises must close. The inspector gave the FBO the option to close voluntarily or otherwise a formal closure notice would be issued and displayed on the front door. The FBO agreed to close voluntarily. This was a good example of two-way dialogue and a compromise being reached.

Although the FBO had agreed to close, they did not appear to accept responsibility for the situation or that they could have done anything to prevent the rats being inside the premises. They could not understand why they could not stay open. The FBO engaged the services of a pest control contractor and once there had been 3 days of clear traps and no evidence of rat activity they were permitted to re-open.

The second visit that was observed was the programmed inspection which was carried out 5 months later by the same inspector. Significant improvements in most GLB's were evident at the second observation. This suggests that learning had taken place, but it seemed to be specifically in relation to the pest issues rather than across other areas. There were still ongoing non-compliances in some areas such as cleaning and training.

It may be that the FBO had been focussing on pests as this is what caused him to be closed and the learning took place because of the experience they had and the financial implication that presented. It may be that the real threat of enforcement was what was needed to make this FBO learn rather than any other methods that have been used in the past and been unsuccessful. Enforcement may be the only tool that works with some FBO's such as this one.

5.4.3 Summary

The business involved in this case had a poor history of compliance. The FBO took a very defensive position and was very vocal but did not listen to the inspector very well. This resulted in one-way dialogue for the majority of time on the FBO's part, which presented a barrier for learning to take place. Once the inspector identified issues, the tone of the FBO changed, leading to less engagement, listening and openness to learning. That said, there was a significant improvement in GLB's at the second visit although they were mainly focussed on the main issues of pest control rather than wider areas.

5.5 Case 5

5.5.1 Introduction

This case involved a health and safety inspection visit as part of the licensing process for a tattooist. An inspection was required to ensure that all health and safety at work requirements are met with specific emphasis on infection control due to the fact that tattooing involved piercing the skin. There had been some previous history with this business with complaints having been received alleging that they were operating without a license. The application for a license had been received after writing to the business operator to warn them of the consequences of operating without a license.

5.5.1.1 Background of business

This business was a tattooist who was working alone from their home address and was part-way through the process of obtaining a license at the time of the visit. The business operator had been tattooing intermittently at various different premises for 18 years so was very experienced at the profession. However, this was the first time they were setting up a business of their own, so this process was new to them. They had been subject to health and safety inspections before at the premises they had worked in but had tended to be working on a 'rent a chair' basis where the facilities and premises were provided, and the tattooists were all self-employed. This is fairly normal practice in the tattooing industry.

5.5.1.2 Background of inspector

The inspector in this case had many years of experience working as a health and safety enforcement officer. They had previously worked in the private sector as a health and safety advisor in the manufacturing industry. This inspector had visited a vast array of different premises across many different industries. They had worked only in health and safety whereas the majority of other inspectors in this LA worked across both food safety and health and safety

leading to this inspector having a more in-depth knowledge of health and safety and tended to carry out most of the health and safety specific inspection visits.

5.5.2 Observation

The visit that was observed was planned and arranged by appointment. This was the normal procedure for a visit of this type because the tattooist would not yet be open and trading as their license had not yet been granted. The fact that this business was operating from a home address also meant that notice of the inspection must be given. The issue of the license would be dependent on this inspection being satisfactory.

This inspection had a really positive nature to it. The business operator seemed a little nervous to begin with but as the inspection had been pre-arranged there were no other distractions, and he was able to fully engage. At the beginning of the inspection after initial introductions, the inspector showed the business operator the inspection form he would be using so was completely open with the business operator about what he would be looking for and talking about. This seemed to put the business operator at ease.

There was a lot of two-way dialogue and interaction between both parties throughout the inspection. The inspector used a lot of open questioning to find out what the business operator was doing, and this gave the opportunity for the business operator to demonstrate their understanding and also ask questions to the inspector. The inspector asked the business operator to show, rather than explain, on quite a few occasions. The business operator was very confident in doing that. The researcher noted that the inspector in this case did not carry a clipboard. It seemed much more of an informal conversation than a formal inspection.

One of the main points of discussion was around the use of reusable needles and using an autoclave for the sterilisation of these, versus disposable needles. The inspector encouraged the use of disposable needles as it reduced the risk of infection considerably, whereas the business operator preferred to use the re-usable needles as they felt they had better control of the needle using them. Both parties listened to each other and took on board one another's points of view.

After discussion and compromise, the inspector accepted the business operator's choice but explained the requirements for inspection and maintenance of the autoclave as it is a pressure vessel so specific legislation applies to it. The business operator was not aware of that before.

Following the visit, the business operator had started researching the requirements for the autoclave and made enquiries and determined for themselves that the cost involved with maintaining it would be too high and opted to change their choice and use disposable needles instead. The business operator came to this conclusion on their own after the discussion and information from the inspector. This was a really good example of learning.

The researcher noted that this planned and announced inspection was very positive compared to some of the other visits that were unannounced. It is also a relevant point that the issue of the license was dependent on this inspection being satisfactory and that there was a license application fee involved and maybe this had some bearing on how proactive the business operator was, as without the license being issued, they would not be able to operate the business legally.

5.5.3 Summary

The inspector in this case took a far more relaxed and informal approach to the visit than some of the others observed. This visit was also carried out by appointment. These factors appeared to have a very positive effect on how the visit went and how engaged both parties were in the conversation. There was lots of two-way dialogue and discussions enabled compromise to be reached and agreed on. Both parties appeared to listen well to each other and there was evidence of learning on both sides as a result of this.

5.6 Case 6

5.6.1 Introduction

This case involved a programmed food hygiene inspection of a food manufacturer. The business had been operating for just over 2 years and had received a number of food hygiene inspections before, with a variable history of compliance. The main concerns that had been raised at previous inspections were HACCP related and sampling failures, rather than poor hygiene standards per se. They had been issued with food hygiene ratings varying between 1 and 5 since starting up. The next food hygiene rating would be determined by this inspection. A revisit was also carried out following this inspection.

5.6.1.1 Background of business

The business involved in this case produced both raw and pasteurised milk and had also started to produce cheese from the milk. The business operators set up their business just over 2 years prior to the inspection in this case and have experienced regulatory inspections

since they began operating. They also received regulatory inspections from the Food Standards Agency for the raw milk production as this is regulated by them instead of the LA. The production building was a lorry container that had been converted into a pasteurisation room which presents some interesting challenges compared to a typical manufacturing environment. The business operator did not have experience of food production or HACCP prior to setting up this business and had a teaching background so had been more used to facilitating the learning of others, rather than being the learner.

5.6.1.2 Background of inspector

The inspector involved in this case had around 17 years of experience working as a food safety enforcement officer within 2 different LA's. Prior to that they worked in the food manufacturing industry predominantly in the technical side of things working as a technical manager. The inspector had in depth knowledge of food microbiology and quality standards, holding a degree in Food Science and Agriculture in addition to the Higher Certificate in Food Control. The inspections are allocated to officers at random, so this business was not allocated to this inspector because of their background, this was purely by chance.

5.6.2 Observation

The first visit was the programmed food hygiene inspection. Whilst these visits are usually carried out unannounced, on this occasion the inspector had made an appointment. The reason for this was that they only pasteurise on 1 or 2 days per week and the inspector wanted to ensure the visit was carried out on a day they were pasteurising so that a full assessment could be made.

The inspection started off very positively. The business operator was expecting the visit and appeared prepared with folders of documentation ready. The inspector suggested that they sit down and go through the paperwork side of things first and then have a visual inspection of the unit afterwards. Both parties were very polite, and communication seemed to flow well between them.

The production of cheese was quite a new part of the business and the inspector had worked with the business operator when they first started this new product and had given advice on microbiological criteria it must meet. The business operator had engaged the assistance of a consultant to help them put their HACCP plan together for the new product and set out the sampling requirements. There had also been some problems with sample results of the pasteurised milk in the past, and as a result of this the inspector had advised the business

operator to carry out their sampling every month. After a period of good results, this was to be reviewed and the frequency may be able to be reduced.

The samples were sent to an external UKAS accredited laboratory for the testing, which had a financial implication for the business, so the business operator had been keen to try and reduce the frequency of sampling as soon as possible. The inspector and the business operator had agreed at the last inspection (1 year ago) that they would inform the inspector of any failed sample results so the inspector was aware and could advise on what action needed to be taken e.g. product recall, as the sample results would usually be received after the product had been distributed due to it being a short shelf-life product.

The inspector began to look through the sample results that the business operator had presented in the folder. It became apparent quite quickly that the inspector had concerns. The researcher noticed a change in the inspector's facial expression. The inspector started to point out some failures where samples had not met the required microbiological criteria. The business operator's response to the inspector was one of surprise. The dialogue between the 2 parties became less fluid. The business operator had not realised that some of the results were failures which indicated that they did not understand the meaning of the results.

The inspector's tone of voice changed and became more formal and more assertive. The business operator became less open with their dialogue and came across in a more defensive manner. The inspector explained that they would need to consider whether to prohibit the activity of the business producing cheese. After some consideration, it was determined that because the sample failures were not immediately recent, that this would not be necessary. The researcher felt a sense of nervousness in the room.

The rest of the inspection went relatively well, in that there were no other major contraventions found by the inspector. However, what had occurred in the office at the start of the inspection did seem to have set the tone for the rest of the visit and conversation seemed to become more difficult and less open from the business operator and the inspector remained quite formal in her approach thereafter.

At the end of the visit, a 'report of visit' form was left instructing the business operator to be more thorough in interpreting their sampling results, to increase the frequency of sampling and to send all results to the inspector until further notice so that a close eye could be kept on them.

Four months later, a revisit was carried out to follow-up on the contraventions that had been found at the previous inspection. The business operator also brought an employee into the meeting at this visit. The good learning behaviours had in the main remained the same at the second follow-up visit but there had been an improvement in areas around managing risk and technical data. The risk was now being managed better and the sampling results were being understood and actioned more appropriately, which did indicate some learning had taken place. However, confidence had not really improved and there was no improvement in forward thinking or problem solving. The business operator seemed to still be reliant on being told what to do in many areas either by the inspector or their consultant. A particular observation made by the researcher was that the employee that came into the meeting seemed to be a lot more knowledgeable than the business operator in the technical side of things. This is relevant because it shows that it might be that inspectors focus on the knowledge and understanding of the business operator more than the employees and this may not always be the best way to engage with a business. It may not be important whether the business operator understands the detail of a process, if there are employees who do understand but if the inspector does not talk to the right person in the business they may not realise and may make a misjudgement. They may also be focussing their efforts on facilitating learning with the wrong person.

5.6.3 Summary

The interactions in this case were quite mixed in that things started off very well with both parties being very positive, there was lots of two-way dialogue and both parties were very engaged and listened to each other well. However, this changed suddenly when the inspector discovered the failed sample results, the inspector's tone of voice changed dramatically and the FBO responded to this by becoming less open and more defensive. The atmosphere changed completely and there was less two-way dialogue from thereafter making the situation less conducive to learning or compromise being reached.

5.7 Summary of key findings: Cross-case analysis

The findings from across the 6 cases are summarised in Table 5.2 which shows how the GLBs were displayed across all the cases in all visits. The table was compiled using the data that was collected on the observation forms (see appendix B) by the researcher during the observations of the visits. Some of the headings that were used on the observation forms have been merged into more general topics and concepts in this table as interpreted by the researcher where appropriate. The strength of evidence, which is shown by the dots (see key at bottom of table), were assessed using subjective interpretations by the researcher. These

subjective interpretations included body language such as facial expressions and tone of voice. For example, if a business participant looked nervous or confused, the strength of evidence in a GLB such as confidence would be weak. If they spoke in a clear, positive and forthright tone of voice, then the strength of evidence for confidence would be interpreted as high. More objective interpretations were the number of times the researcher observed a particular behaviour, or the level of confidence portrayed by the business participant of a certain behaviour. For example, if a participant spoke clearly, and at length about a topic without the inspector needing to prompt them too much for information, the strength of evidence was interpreted as strong, whereas if a participant was unable to speak about a topic without being prompted by the inspector and was only able to give very short unelaborate answers, the strength of evidence was interpreted as weak. If the participant was able to demonstrate that they had appraised the risk in some areas of their business but not all areas then the strength of evidence of that GLB would be medium. The more times during the observation the participant demonstrated a particular behaviour, the higher the strength of evidence was interpreted and recorded.

Table 5.2: Cross-case analysis

Case	1		2		3	4		5	6	
	1st obs	2nd obs	1st obs	2nd obs	1st obs	1st obs	2nd obs	1st obs	1st obs	2nd obs
Confidence of business operator	●●●	●	●●	●●	●●●	●	●●	●●●	●●	●●
Change in how business operator presents themselves to the inspector	○	●●	○	●●	●●●	●●	●●	●●●	●●	●●
Forward thinking approach	●●	●	●	●	●●	●	●●	●●●	●●	●●
Co-operation with inspector	●●●	●●●	●●●	●●●	●●●	●●	●●	●●●	●●●	●●●
Problem solving/use of initiative	●	●	●	●	○	●	●●	●●	●	●
Appraisal of risk	●●	●	●	●	●●●	●	●●	●●●	●●	●●
The business operator has learned the risks in their business	●	●	●	●	●●●	●	●●	●●●	●	●●
Managing risk	●	●	●	●●	●●	●	●	●●	●	●●
Provision of supporting data	●●	●●	●	●	●●	●	●●	●●	●●	●●●
Sustained compliance	○	●●	○	●	●●	●	●●	●●	●●	●●

Key: ●●● Strong evidence

● Weak evidence

●● Medium evidence

○ No evidence/Not applicable

Table 5.2 highlights that cases 3 and 5 show the strongest evidence of GLB's. Both of these businesses had a history of non-compliance with case 3 having been issued with a low food hygiene rating in the past and case 5 being warned about operating without a license. This suggests that learning can occur as a reactive response to past failures and related regulatory interventions. Previous studies support this, as shown in the literature review chapters (Levitt and March, 1988; Bessant *et al.*, 1993; Hines and Thorpe, 1995; Fairman and Yapp, 2004; Tanner, 2010; Gianotti and Duane, 2016).

In case 3 timing appears to have been a positive factor, with the inspector making an effort not to visit at the busiest time for the business. This meant that the FBO was available and able to be present in the interaction both physically and mindfully. There was a good introduction to the visit with the inspector being happy to wait, was very polite and the first 5 minutes were very positive. There was lots of two-way dialogue and very importantly there was compromise.

The value of the timing of inspection is reiterated in case 5 being undertaken by appointment enabling the business operator to be available and present for the interaction. The first 5 minutes of the visit were very positive, there was again lots of two-way dialogue involved, the very informal, conversational feel of the visit and the inspector being very open about what they were looking for all appear to have had a positive effect in this case. There was lots of listening on both sides and again there was compromise involved.

In contrast to cases 3 and 5, case 1 showed a deterioration of GLB's over the 2 visits. This is the only case where this was seen. The differences in initial introductions, style of interaction and timing of the visit impacted on learning. The inspector's formality; limited ice breaking; closed questioning and one-way dialogue with little listening were significant observations. There was a very different tone to the visits in this case to the visits in the other cases and clearly had an effect on the outcome in this case. Again, the timing of the inspection was a factor here having the opposite impact to cases 3 and 5 where this visit was timed immediately at opening for lunch service, so likely a busy time for the business operator who was also the chef and the manager.

Whilst case 4 showed improvement in the highest number of GLB's. Previous history suggests that this is unlikely to be sustained. This business has historically shown improvement in the short term but has failed to maintain it in the longer-term indicating compliance may have been achieved but learning has not. Learning is a very different thing to compliance. The improvement is a shift in the right direction, but something prevents the FBO showing evidence

of learning and being left with the skills to self-regulate and make improvements on their own. The reasons for this are unclear. There could be a number of possibilities including a lack of want or will to do so on the FBO's part; the amount of time and resource being invested in the business; or the ability of the inspector to facilitate learning with the business operator for example.

Case 2 saw the least number of GLB's improve over the 2 visits. In this case the FBO was not on site during the first inspection and the conversations between the inspector and staff were difficult as the chef had limited command of English. This highlights the importance of being able to speak to the right person in order to facilitate learning. It was noted that the FBO sought to deflect responsibility by shifting blame to the chef and thereafter terminating their employment. Whilst there was lots of two-way dialogue this was not effective because it was not with the right person or in the right language to be effective. Given the issues that were found with evidence of mice in the premises, there was not really any room for compromise other than to offer voluntary closure rather than formal enforced closure. However, this did present a good opportunity for the business operator to learn from this experience, to prevent it happening again. However, the business operator did not show signs of understanding the risk or providing any supporting data to show they were now managing the risk better at the second visit, other than having engaged the services of a pest control company after being told to do so by the inspector. There was no sign of forward thinking, proactive risk management.

Case 6 provided the least movement in evidence of GLB's over the course of visits. They showed some evidence of most of the GLB's at the first visit. There was a definite change in how things were going quite early on in the inspection which definitely appeared to change how engaged both parties were with each other for the remainder of the interaction. There were three GLB's where there was evidence of improvement at the second visit and these were those about the business operator learning the risks involved with their business, managing risk and provision of supporting data. Given that the focus on the visit ended up being on sample results and the FBO's failure to recognise poor sampling results, this shows that there was some level of learning in the areas that were most focussed on. This shows that despite the change in how things were going and the impact that had on the level of engagement shown, learning was still able to take place to some degree although it may have been even more successful had the tone of the visit remained more positive.

In review of all the cases the first 5 minutes of the visit and the timing of the visit are seen to play an important role in how the interaction transpires. This will be elaborated on in the

following chapters. All cases showed that they were co-operative with the inspector. However, what can be seen from the data is that co-operation does not always lead to learning. The reason for co-operation could be partly due to fear of the inspector and the prospect of being closed down – a topic that did come through later in the interviews and will be discussed in the next chapters also. Bearing in mind that co-operation was identified as an indicator that learning has taken place by the focus group of inspectors, this suggests that inspectors are seeing co-operation, and wrongly believing that learning is taking place when in actual fact it is not.

There was weak evidence across cases of business operators being forward thinking or solving problems in different ways showing some level of reliance on the inspectors for direction. The reasons for this are not clear. The cases that showed the most evidence of this were cases 3 and 5 which have already been identified as cases where learning was most evident. However, case 4 also showed more evidence of this in the second observation. These cases also happen to be those that had been in business for a long time or had previous experience in their industry. It is possible that various factors could have influenced this such as previous experiences, previous direction given, and the point in the lifecycle of the business that the inspector has interacted have influenced this.

Those cases that showed most evidence of GLB's were significantly stronger in demonstrating risk appraisal and that they had 'learned their business'. These cases had been operating the premises visited for a long time and were, in the main sole operators without staff to manage. It is important to recognise that there is a direct interface between the inspector and the receiver who can then put into practice the learning. In larger micro businesses where there are more employees, this learning has to be cascaded to others. For the learning to be effective and embedded in the business as a whole, both parties need to recognise this and think about how this will happen.

There was some evidence in all cases of technical data being used to demonstrate learning, only case 6 which was the manufacturer scored strongly in this area. Small food businesses are encouraged to use 'exception reporting' methods rather than collecting lots of data for routine checks they carry out. This in itself makes it difficult to demonstrate learning through production of data and more so the lack of data may indicate good practice as a result of learning. The manufacturer on the other hand was able to demonstrate their learning through being able to explain the meaning of the data they had collected. It is therefore more about the understanding of any data that is held, rather than simply producing it, that demonstrated learning.

All cases did show some level of sustained compliance over the course of visits but none of them showed this in all areas. This begs us to wonder is it ever possible to achieve compliance in all areas, all of the time? Possibly not? Maybe it could be with more time and resources to invest in working with businesses.

It is clear from the observations that an important factor in how successful an interaction is likely to be in terms of facilitating learning is the timing of the visit. Those cases where the inspector chose to visit at a less busy time or where an appointment was made, had better outcomes than those where the inspector arrived at a busy time and was unannounced. This suggests that there could be some benefit to visit made by appointment in future.

A more subliminal and complex factor that has become clear is that the length of experience of the inspector is not important. This can be said because learning has been evident in cases involving inspectors with varying levels of experience from very newly qualified to many years of experience and also those in between. However, the inspector and the business operator's demeanour, mannerisms and that critical 'first 5 minutes' is very important and influences the rest of the interaction significantly. These are not things that are easy to teach but interpersonal skills that are inherent of an individual. Both parties' openness to learning, ability to listen and compromise are also very influential which are again very personal traits.

In the next 2 chapters the data from the interviews with the business operators and inspectors will be presented and discussed and compared with the findings of these observations.

6 INTERVIEWS: BUSINESS OPERATORS

This chapter seeks to present and interpret findings elicited from the business operator interviews, identifying emergent themes and the experiences of the cohort in relation to learning, and the conditions required for business operators to enable learning. The themes that emerged will be described using quotes to emphasise points where appropriate. The strength of evidence supporting themes is demonstrated from the empirical data within the coding framework (see appendix F). The findings will show what the experiences of the business operator cohort was, whether or not learning did take place and has the potential to take place during interactions with inspectors and what conditions are required for the business operators to enable learning.

6.1 Business history and past experiences

Interviews commenced by exploring business history so as to provide the researcher a sense of context; for example length of operation, size and scope, experience, and current trading environment. This was followed by exploration of the business operator experience of Environmental Health regulatory visits.

There were many examples given by the business operators where they perceived learning to have taken place. Moreso, than examples of where they did not feel anything had been learned. 4 of the business participants from cases 2, 3, 4 and 6 all gave examples of where learning had taken place. For example:

“Interviewee: They’re pretty good and I always learn something. I always learn something. There is always stuff to learn. If they come in every year-- Like I say, things change every year. Rules change slightly.

Interviewer: That’s it, yes. If you didn’t learn from the inspector or the inspection, where else would you go to get that learning, do you think?

Interviewee: Obviously, you have to-- Your--

Interviewer: Would you look elsewhere and, if so, what sources would you use?

Interviewee: I’ve never thought about it, to be honest. Your first port of call for new ideas and new ways is your inspector. Why it’s important that you have maybe one every year.” (Participant 10)

“Interviewer: Would you say you've learned from an inspection visit before?”

Interviewee: Yes.

Interviewer: Yes, I suppose when I say learning, it's like it's one thing to be told what to do and then to do it, but would you say you've actually learned information that you've been able to carry on with rather than having to wait for an inspector to tell you what to do?”

Interviewee: You always learn. Somebody who understands his work, this needs to be done, that needs to be done and you think, okay, yes, we should probably do it that many times. You always learn.

Interviewer: Okay.

Interviewee: The paperwork nowadays. When I download it all the files, those other pages, I'll went through it and most of it is absolutely common sense but some of the things I thought, "Oh, I didn't know this." You always learn.” (Participant 12)

During the observations it was shown that some businesses demonstrated more evidence of GLB's than others. During the interviews, business operators from both ends of the spectrum and those in between were able to talk about past experiences where they believed they had learned. It was not just the cases that had showed good evidence of GLB's during the recent visits that were able to talk about examples of learning they had experienced in the past.

Despite strong evidence of learning in many cases (6 cases with 11 references as shown in appendix F) there are occasions where participants pointed to not learning. As a theme, this appears to be a result of miscommunication, misunderstanding and/or inconsistency between regulators. The business participant in case 1 said:

“So with past experience I asked the previous inspector, you know this building's got no hot water, I know this is specifically in the past you know, I say, and they said so long as you have a source of hot water that's fine. So me being stupid I thought OK I've got a source of hot water I've got a big pan up there I got gas burning, so that's a source of hot water, you know. You know, in the toilet I have you know the hot water with all that, you know...So in the kitchen we had erm, a source of hot water we have a dishwasher for doing that the plate but it's still hot water we had a big pan up there.” (Participant 11)

The issue here is that at a subsequent inspection the premises/business operator were penalised for not having an adequate supply of hot running water. In the mind of the business operator they were compliant because of the way they had received the previous advice. Despite this, only case study 6 spoke about their past experience of visits in a negative way.

6.2 Experience of recent visits

Participant business operators were able to provide multiple examples of learning taking place in relation to their most recent visits. There were, however, occasions in 2 cases where the business operators felt that they had not learnt various elements. This points to learning and receipt of learning not being equal, content or topic specific, and connected to timing within the context of the visit. There are times when receivers have 'switch off moments' which is more likely if the visit is timed badly. This can be related back to the Ebbinghaus (1880) theory that unless learning is used, it is forgotten quickly. It also depends on the type of learning it is in that something more procedural (e.g., understanding temperature control requirements) is likely to be forgotten more quickly than something that involved continuous control (e.g., cooking).

All 6 business participants provided examples of learning, but this was not equally positive as 2 of the business participants provided examples where they did not feel that they had learned. However, this latter set of business participants had also provided examples where they had learned so this is not entirely contradictory but does show that learning can happen sometimes, but not always and may be topic specific. This will be further explored as the chapter progresses and a deeper delve into the data is undertaken.

Case 6 spoke about how they had been on a learning curve since starting up a number of years ago and said:

"You know, as I said the other day that when the inspector pointed out that the whole thing about the Enterobacteriaceae, I mean it was something I'm not aware of. I'm very honest I'm not aware on all that, but I, I'll find out more. I'm addressing the issues. I've spoken to our consultant and so we're moving forward with that. For me, throughout this whole process from where we were in 2011 to where we are now, it's been a learning curve . I think it's important for me to communicate to-- it's important to for the agency to know that that's where we are and we happily move forward with them, but if they're going to be too restrictive, we'll probably dig our heels

in and say we won't want to cooperate, and I don't think that's a healthy thing for them or for us.” (Participant 16)

Whilst this business participant felt that they had learned, this was not demonstrated in terms of GLB improvement over the 2 visits. This suggests a level of discrepancy between the business operator and inspector perception of what learning looks like in this particular case. However, there was more consistency in the perceptions of the business operators and inspectors in cases 1 and 2. Both of these cases gave examples of how they felt they had not learned and this was reflected in the GLB's during the observations because in case 1 the strength of evidence of GLB's in fact deteriorated and case 2 demonstrated the least improvement over the course of visits. When the business participant in case 1 was asked whether they had learned anything from the recent visits, they said:

“Interviewer: Did you get anything from that visit? Did you learn anything from it?

Interviewee: Erm, nothing that I don't know. Yeah, nothing I don't know, nothing that I need to do.

Interviewer: OK. Do you think it reminded you of anything, you perhaps...

Interviewee: Yeah, it did. I'll give you an example.

Interviewer: So it didn't maybe give you any new information but it perhaps triggered you to do things that you know you should do?

Interviewee: Yeah it did, I mean erm, in this instance our last visitation they did, I think something like erm, the food allergy. OK, I understand you know, I just took for granted that people they understand mayonnaise has got egg in it.” (Participant 11)

Whilst the business participant did not feel they had learned anything, it had triggered them to remember something they knew they should be doing. The business operator did not perceive this to be learning but perhaps it was learning in some form as it reminded them, and it changed behaviour. This again relates back to Ebbinghaus (1880) and others (Bailey, 1989; Murre and Dros, 2015) that unless there is a revisit, another repetition of the learning, or the learning is utilised soon after the visit it is forgotten. This means that unless there is a follow up visit, there is a danger the learning dissipates unless acted upon and embedded.

The general consensus from the business participants was that their overall view of the visits were either positive or balanced with only 1 participant saying they had a bad experience. The latter saying that it had been the worst experience for them because of the zero Food Hygiene

Rating they achieved. From the conversation their feeling of negativity about the visit was resultant from the food hygiene rating rather than the experience of the visit itself.

This latter point is picked up as an overarching theme as the results point to a relationship between whether the food business operators felt that the visit went well or not was very much based on the food hygiene rating they received or the impact on their business rather than how the interaction with the inspector was or their perception of learning and how to improve their operation or premises. Comments were made such as:

*"I think it went pretty well. The last one I ended up with a one star."
(Participant 10)*

"No, because of the score-- No, the score we got was zero. It's shocking, it's shockingly bad. It was a wake-up call for the chefs."(Participant 12)

"A bit of both. If I would say out of ten, I would say it's about six, seven. It's more on the positive side than negative side. It could have gone totally the other way. She could've said, "Stop your milk right now," within her right if she wanted, she could just say, "Stop it right now and you can't do any more until you've shown me the results." That would have been really a big negative. I could've appealed and it becomes a whole-- and then you don't want it to go down that line." (Participant 16)

This shows where the focus is for the business operator and how the impact on them in terms of the public perception and the ability to carry on their business is most important to them. The key questions for them being, are the public going to see them in a good light?; and can they carry on operating? If the answer to either of those questions is no, they are likely to perceive the experience as a negative one. This is key for the regulator in that there is clear evidence here of this being the business operators focus and this can be used by the regulator to improve future learning. For example, knowing that a business is likely to get a food hygiene rating of zero, the inspector might set out the critical points of learning that need to be enacted, rather than a list of contraventions they will receive in a regulatory letter.

6.3 Purpose of the visit as perceived through the business lens

In relation to the perceived purpose of the visit there were two emergent themes: the first related to "catching out the business". This term came up several times with suggestions that

the inspector was wanting to trip them up or find something wrong. This was particularly evident in case 1 where this was mentioned 6 times including:

“You know, they almost want to catch you out on something.....So I think if I will be honest to say you know in [location] they're out to catch you. You know.....That's how it feels, you know, they have to catch you which I find that very unfair.” (Participant 11)

The second emergent theme related to education and was specifically mentioned in 2 case studies with most participants identifying more than one reason for the visit, so it was a combination of both assessing compliance and education rather than one or the other. Case 1 also spoke about how they found the delay between registering and their first inspection taking place a problem. The Food Law Code of Practice (England) 2017 (FSA, 2017_b) which was in place at the time the data was collected and the updated Food Law Code of Practice (England) 2021 (FSA, 2021_a) say that LA's should inspect newly registered food businesses within 28 days. However, this is not made clear to a business operator when they register. In this case there was a longer period of time between the business registering and the inspection taking place. The participant explained that as they do not know when to expect the visit, this made them feel like the inspector was trying to catch them out by leaving them to guess when they might get the visit. When they did finally receive the inspection visit, they explained how they felt the inspector was looking into too much almost suggesting that they just kept looking as far as needed in order to catch them out on something saying:

“So when I see them walk with a clipboard and walking around, you know, I expecting things they didn't inspect but I thought that was too much, you know.....That was over the top, you know.....that's what I see it's almost like, we going to catch you.....you know, we are seeing things here but you know there's more things you're hiding..... You know so we're going to catch you on something.....you know, it shouldn't be like that.....It shouldn't be like that.” (Participant 11)

This suggests there is scope for regulators to think about pre-informing new business operators of the scope, how long an inspection might take and what the inspector will be asking them about so that they have a better understanding of what to expect. This could certainly be stressful for a business operator and could be compared to a student being asked to take an exam but having no idea about the scope, length of time or nature of questions before the exam.

Whilst case 1 clearly had strong views about the “catching out” element, they did also acknowledge the educative role as well, as did case 3. This shows that they did see the purpose of the visit being multi-fold. Case 1 made the point that some food business operators lack knowledge and need to be educated by the inspector saying:

“Erm, as a learning as well, I suppose it should be you know, but as I say, I mean, yeah there's people I mean everyone open food businesses... You know, they're some who have no clue. So, it's important for you to go and have a look, you know, this to educate people... You know, erm, you know, so both I think is the purpose.” (Participant 11)

Whereas case 3 spoke more from personal experience and came across positively about how the inspector's role had to include both education and catching them out on their mistakes:

“Interviewer: Do you think the inspector's role is purely to assess your compliance with the law or is it to help you learn?

Interviewee: Both. It has to be both. It can't be one or the other. The inspectors job is to make sure that we are doing what is currently legal, because it changes. It is both - to teach us the new things and the new ways and the new possibilities, because they might be able to show us something that makes our job easier, actually. This is the new law. You don't have to go through all this effort to do this, right? You only need to do this now. It's also your job to catch us out on maybe the mistakes we are making, those unconscious mistakes.” (Participant 10)

Overall, the business operators appeared to perceive the main reason for the visit as being assessing compliance with education being less of a focus of the visit but did acknowledge the importance of education and generally encouraged this.

6.4 Factors that support learning as seen through the business lens

Emergent themes that were highlighted in this part of the interviews included:

- Timing of the visit
- Two-way dialogue
- First few minutes of the inspection

- Active listening

To a lesser extent issues such as compromise, learning from doing things wrong or the inspector showing them how to do it, and the behaviours/attitude of the inspector for example explaining things well or being open to learning.

6.4.1 Good Timing

4 of the business participants (cases 3, 4, 5 and 6) all spoke about good timing being an important factor. 1 participant gave a very descriptive account of what this means in reality for a business like them:

“Interviewee: When you are a small business and a small amount of time there's a danger of some things never getting done. Inspections are vital. They are vital. I fully understand them, but you need to have an understanding of the business to decide when to go in.

Interviewer: By doing that, do you think that learning is more likely to happen?

Interviewee: Absolutely. I'm not going to listen to half of what you've got to say if I'm trying to cook loads of stuff. Right now, I've done everything, so I have to sit here and talk. You'll get more out of the inspection, especially if someone is struggling, especially if they're a two-star that needs some help. You're not going to get as much out of them while they're busy. They're obviously struggling for many reasons. You're not going to get as much out of them. I think going when they're just finished their shift, they might be able to sit down and talk with you, might be able to run through the fridges. You're in there. It's a targeted little area. They're trying to look in your fridge, and your drawers and under things, and I'm trying to cook a bacon roll.”
(Participant 10)

Another spoke about how an inspector turning up unannounced at a busy time of day is not helpful to them:

“Yes. We can say exactly twelve o'clock, like most of the food business, they open about that. Some about 11:00, 12:00 but this is the lunchtime. Okay, let miss that time. I think come in the middle sometime. Don't go in the evening....I think around three or four o'clock if you go, that's more helpful. More friendly time.” *(Participant 13)*

In contrast, 2 of the cases (cases 5 and 6) both had their visits made by appointment. Whilst 1 of these business participants did not feel that it made a big difference, as the type of work they do is more flexible and all their clients are by appointment only, the business participant from case 6 spoke about how this helped them in terms of being available to deal with the inspector and fully engage in the process:

“Interviewer: Do you think it can make a difference in terms of if it's a bad time, So if they were to turn up on a Wednesday when you're in the middle of the pasteurization process?”

Interviewee: It would be a nightmare. I appreciate that, [inspector name] asked me and gave me the options that I said, I appreciate that because I knew that it's better on a Tuesday when I can get my time rather than be distracted, otherwise I won't finish until 12 o'clock at night and I won't deliver them. So there's a pressure there.

Interviewer: You perhaps wouldn't have the--

Interviewee: Presence. Yeah that's exactly what I mean you wouldn't have the presence.” (Participant 16)

The timing of an inspection visit appears to be significant in terms of the learning outcome and development of GLBs. All the other factors that support learning could be present but if the business operator is up to capacity with cooking, taking orders and managing staff for example, they are not ‘available’ to engage in the process properly and the interaction is less likely to be successful.

6.4.2 Two-way dialogue

Two-way dialogue was highlighted as an important factor for supporting learning by the business operator cohort. There were several sub-factors identified that contribute to what two-way dialogue means and how it takes place which are shown in figure 6.1:

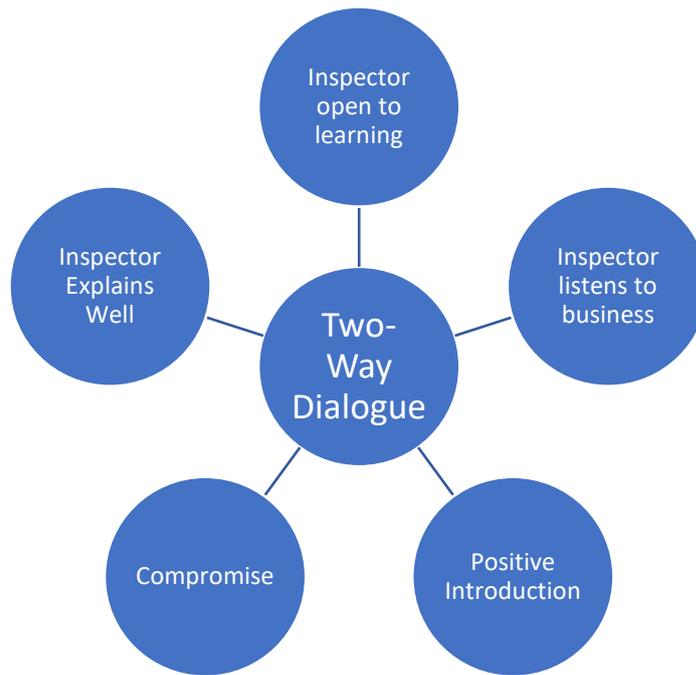


Figure 6.1: Factors that contribute to two-way dialogue from the businesses perspective

The dialogue between the business operator and the inspector is not just about the inspector talking to the business. It is about the inspector being open to the learning process, positive introductions between both parties, listening to the business operator, explaining things to the business operator in a way they understand and being able to compromise with each other.

6.4.2.1 Inspector open to learning

In order for the dialogue to be two-way and for the inspector to be willing to take on board information and learn from the business operator as well as vice versa, 2 of the business operators specifically said that inspectors need to be open to this. If the inspector is only open to transmitting knowledge and information this is not a two-way process and is not as likely to lead to learning from both perspectives.

The business participant from case 2 spoke about how they felt learning can be a two-way process if the inspector is also open to learning but in their experiences, they had not seen this happen before. The inspector from case 6 also described how they would be more open to learning if the other person is also open to it. They said:

"I'm open to learn. If someone's going to be too-- I think if I'm teaching a child, if I'm too much a headmaster role, too restrictive, they're not going to benefit and they're not going to learn, and they'll close up. I see this as a similar relationship. This is government body and they're talking about

compliance and things so yes, show us the parameters and give us a little space, a little rope and then we'll happily move up and grow rise to the challenge.” (Participant 16)

This participant also commented that they believed this openness to learning was very much dependent on the individual which presents a challenge in terms of how this skill can be taught to new inspectors coming through the qualification process.

6.4.2.2 Positive introductions

As already shown in Chapter 5 from the observations, it was evident that the introduction stage of the visit was critical in terms of how the rest of the visit was likely to unfold. 4 of the cases made reference to positive introductions being important which was backed up further by three of the business participants talking about how the inspector came across at the very beginning of the visit having an influence on how they responded. Some examples of participants explained how the attitude of the inspector affected how they responded were:

“Interviewer: Do you ever think how the inspector is with you makes a difference?”

Interviewee: Absolutely, if you come in with the attitude you're in trouble mate. I think the first words-- I've done football coaching, sliding off a little bit.....The fact that we have someone coming in telling us what we should and shouldn't do can upset some people. How you approach that to a person who's running a business is fundamental to getting working with that person or against that person.” (Participant 12)

“If there's a negative approach it can really make a difference to how you respond.” (Participant 16)

The first few minutes of the initial interaction between the inspector and the business operator are therefore very significant in terms of how the rest of the interaction is likely to carry on. It can be thought of in a similar way to a tennis match, where whoever serves first and how they deliver that serve will determine how nicely or aggressively, the other player will play back.

6.4.2.3 Inspector listening and understanding

This was identified as an important factor in 4 of the cases. In order to have a two-way dialogue it is necessary for both parties to listen as well as to talk. If the inspector does not

ask open questions and purely 'inspects' and tells the business operator what is wrong, this two-way dialogue is not enabled, and as a result learning is less likely to take place. The business participant in case 4 said that they did think inspectors listened to them most of the time and described why this is an important factor especially for small businesses:

***“Interviewer:** Do you think that inspectors always listen to you and try and understand the issues that you've got going on?*

***Interviewee:** Yes, most of the time. Sometimes, some you can say they don't listen and they think they are only right, but because they are looking from their angle. They're looking from their angle, and they don't want to know. Some people think they have authority. Okay, you have authority, you can use it, but you should understand, these are small businesses at the end.*

As I said, they don't know our problem. They don't know our income. We can have probably mental worries as well. We have families as well, and we have a lot of outgoings as well. So many things. I think if they understand that way, we can work together and that will help both of us. Okay, you're doing your job, but that will help us staying as I said in our business.” (Participant 13)

Other participants also spoke positively about how the inspector had listened and showed understanding and helped them learn more and to build more trust in the inspector.

***“Interviewer:** Did you feel that the inspector understood your business and listened to your concerns?*

***Respondent:** Yes, I think so. Not that I had many questions. It's just that what we did discuss, h/she was pretty understanding, I'd say a nice person...Definitely, my experience with him/her was fine.” (Participant 14)*

***“Interviewer:** Yes, so I think what you're saying is where the inspectors or the enforcement agencies are willing to show understanding and work with you and perhaps be a little bit more flexible.*

***Interviewee:** Yes.*

***Interviewer:** That leads to a more positive experience for you?*

***Interviewee:** Definitely.*

***Interviewer:** Would you say that when that happens, you learn more?*

Interviewee: Yes, definitely, because there's a trusting relationship and there are always little things and always more challenges in this area.

Interviewee: I think I was glad that she was a little understanding and I was happy to do a few extra tests. I'm already investigating those things, but I hope that will help to build confidence because I think that's the essential thing in the long run.

Interviewer: Do you feel that [inspector name] has got confidence in you at the moment or not?

Interviewee: I think she does because how we are operating now. We've had a good history. There have been challenges, I think particularly when we had this issue with Listeria then I called up straight away and I didn't have to, I think that made a difference.

Interviewer: No, exactly. Perhaps it helped to build a bit of trust perhaps.

Interviewee: Yes, build the trust.” (Participant 16)

It appears that when the inspector listens and shows understanding towards the business operator, this helps to build trust. Trust in this way has a positive impact on the two-way dialogue, and in turn assists in the learning process. Trust and positive relationships between inspectors and business operators were identified in the literature review as being an influential factor on actions and responses (Black, 1980; Groth, 1991; Hutter, 1997; Walters *et al.*, 2011).

6.4.2.4 Inspector explaining/showing

Explanation and demonstration was mentioned by three of the business participants as a helpful part of the two-way dialogue which enabled them to learn and do something for themselves. The business participant from case 5 spoke about how the inspector had explained something to them rather than just telling them it was wrong and how they had found this helpful. This had enabled them to then go off and deal with a problem on their own after being pointed in the right direction:

“Interviewer: Do you think that the way the inspector explained or told you about those issues helped you to know what to do?

Interviewee: Yes, of course. Yes, it definitely helped, yes. Definitely, definitely. He/she couldn't have done no more really, could they? Except get on the phone for me I guess. Pointing me in the right direction. I can't say that he/she could have done any more.” (Participant 14)

1 of the business participants spoke about a situation where the inspector had taken the time to show them rather than just telling them verbally and how this was perceived as being helpful and had led to learning being gained straight away rather than having to think about it or find out more after the visit.

“Interviewer: We were talking about, really whether or not you’d gained anything from the visit and you were saying that you had, yes. I was then thinking of leading to the next question really about, if you learned anything in that visit, how was it?”

Interviewee: The inspector showed us like, this is wrong, that needs to be-- There was a problem here. They showed us both.

Interviewer: Showing you as well. Would you say that you gained that learning straight away or is it something you went and thought about afterwards and then--?

Interviewee: No, it was all very self-explanatory for me.” (Participant 12)

Good explanation and demonstration can be part of the two-way dialogue that makes the difference between the business operator actually being able to do something for themselves after the interaction or still not being sure about what they need to do.

6.4.2.5 Compromise

The result of a good two-way dialogue during the interaction with the business operator and the inspector can lead to both parties agreeing on a compromise. This compromise demonstrates learning on both sides because it means that both have thought about each other’s points of view and agreed something that is realistic and achievable. The business operator has learned what is required and the inspector has learned what is workable for the business operator and both have been able to reach a mutually satisfactory solution. Evidence of this was noted in particular in cases 3, 5 and 6.

In case 3, the lapse in record keeping in the documented food safety management system was an issue highlighted by the inspector. Initially the inspector wanted the business operator to complete the records daily. However, after some two-way discussion a compromise was reached and both parties agreed that completing the records weekly was achievable and acceptable. It is important to recognise at this point that there is a degree of flexibility within the regulations and that compliance can be achieved through multiple methods. The chosen

outcome demonstrates learning on behalf of the regulator in enabling compliance and ongoing food safety without imposing unrealistic burdens on the food business.

In case 5, the business operator did not want to change from using a reusable metal tattooing gun to disposable plastic ones but this presented an increased safety risk in terms of the autoclave (pressure vessel) which was required to sterilise the reusable equipment, infection control, and increased costs for the business operator, so there was a need for some learning here in relation to additional risk. The inspector pointed out and explained some alternative options. The business operator did some further research following the assistance of the inspector and a compromise was agreed where the business operator sourced some disposable equipment that they were happy to use whilst a more permanent solution with the autoclave was worked out. This compromise could not have been reached without the two-way dialogue that took place first. Learning was achieved by both parties in that the inspector learned and reacted to the challenges the business operator was faced with, and the business operator learned what was involved with ensuring the autoclave was safe. The business operator said:

“I was just explaining how I feel about the-- Like I say, the plastic, the disposable side of it, that it's quite nice to have a rigid piece of equipment in your hand to work with rather than something that sometimes-- Because obviously, anything that moves quickly creates friction, so it gets hot. The hotter it gets, especially with plastics, sometimes it gets flimsy, that can also affect your tattoo. Like I said, three or four hours, what happens if it starts to get flimsy? I have to use another one. That's more cost on top of everything, whereas with metal, that doesn't happen. Like I say, hopefully, the ones that I've got now, they are really nice bits of kit and I can get along with them if there's a few other bits and pieces, I can try. Like I say, once I get it sorted, I am going to go back to the autoclave and go back to the sterilizing. This is just a temporary fix, and I spoke to [Inspector's name] about that and he's quite happy with that. Obviously I'll inform him that I'm going back to it, show certificates on that and ask him what I need to do about it, but like I say, for now, I'll just go down the disposable route. I am adamant that I want to stick with it, however, I am not a man that won't change. If times are rolling, we're all going to disposables, so be it. It's not going to stop me.” (Participant 14)

6.4.2.6 Learning from experience

Experiential learning was also highlighted as a learning opportunity particularly in cases where things went wrong (cases 3 and 6). Both spoke about how they had learned through doing things wrong previously showing how some businesses and individuals within businesses will learn through their own experiences. It has been recognised previously that some people do learn through their own experiences as discussed in the literature review chapters (Bessant *et al.*, 1993; Dolfsma, 2002; Fairman and Yapp, 2004; Gianotti and Duane, 2016) .

In summary, the most important factor in terms of enabling learning to take place during a regulatory visit is to have a two-way dialogue where the business operator is listened to, and compromise can be agreed between both parties. The inspector needs to be open to this and have the required communication skills to both transmit and receive and to explain well to the business operator what is required.

6.5 Barriers to learning as seen through the business lens

A large number of themes emerged in relation to barriers to learning. The strongest themes included:

- Lack of understanding on both sides
- Attitude and openness to learning of the inspector
- Bad timing of the visit
- Inconsistency among inspectors and their expectations

To a lesser extent, financial pressures, fear, trust, lack of feeling supported, paperwork and personal circumstances were also seen as relevant barriers to learning. The business operator cohort provided more examples of barriers they had experienced than supporting factors. This may not mean that there are actually more barriers, but it does indicate that they found it easier to recollect the more negative experiences they had.

The themes identified can be grouped into three areas:

- Understanding
- Attitudinal
- Practicalities

6.5.1 Understanding

6.5.1.1 Inspector not understanding business

5 of the business participants felt that inspectors do not always understand the business operator or try hard enough to understand them. This frustrated some of the businesses and appeared to cause a barrier. The business participant from case 3 gave a descriptive example of an experience he had with an inspector who did not really understand cooking or kitchens. They said that they felt Environmental Health inspectors should have some experience in the industry as part of their learning:

"I said, "Do you ever cook, she said well I don't really do any the cooking?" That triggered me because what I felt like is I've got someone who's been to college, knows how to do everything and has no practical experience of doing it telling you how to do it. The discussion we are having here about it is like these lorry drivers, they drive for years and years and then you get someone out of university who is a transport manager who says, "That lorry can go from A to B to da, to da, to da, to da in these many hours and all of that, I want you to do that." Without the understanding of traffic, of weather, of anything like that and they are telling these people who are actually doing the job.

For me, the best transport managers are ex-drivers, they have a better idea. For me I would feel that the better Environmental Health officers are people who have experience in the industry. As I said before when you came, you do this, watching how to do that, watching how to do this and when you are really busy, it's not always practical to do so. You're following what it's telling you or told you to do in the book without an understanding of how to do it in the environment. If there was a possibility of part of their learning to becoming an Environmental Health officer is to have a two-week in a kitchen to have an understanding." (Participant 10)

Another business participant spoke about how they had experienced an inspector who had very little understanding of the type of food they were producing and clearly had not done any research about the business before they arrived. This frustrated the business operator:

"Interviewee: You know, erm, you know, I think in the past as well I had a person who just didn't understand the kind of food I was like so why are you

inspecting me if you don't know what I'm doing? You know, you know, erm, now, what is this, oh what is that of course, it is food that people eat. So I thought hang on a minute, what do you think this is no, we're not selling fish heads or something you know what I mean.

Interviewer: *But do you think it's important, I mean, inspectors might not always know a lot about the type of food, if it's something a bit different? But do you think it's important then that they ask, ask you to explain it?*

Interviewee: *Oh yeah, that's important they ask.*

Interviewer: *Rather than making a judgement before they've asked?*

Interviewee: *Exactly, so it would have been nice, you know someone to maybe pick up the menu you know, and go and do at least that before they do the visitation. You know, or find more about the business before they come." (Participant 1)*

Business operators are not always transparent in how they respond to an inspectors lack of understanding as explained by the business participant in case 2 who spoke about how they would just be polite and agree to everything the inspector asked even though they did not really think the inspector was understanding their business or appreciating the issues in an older building. In the example given, the fact that the business operator felt that if they challenged the inspector, they would not understand put them off even trying to have that conversation. The reason why this business operator had come to this conclusion is not clear, but it could be that something previously has set up this situation or there could be a power dynamic that has not been spoken about. What it does show is how lack of understanding can prohibit learning in both directions as two-way dialogue is not taking place in an effective way:

Interviewee: *You get told what to do and then you do it. You say yes to everything. You're polite. I need to satisfy what they tell me, so I'm going to say yes to absolutely everything. It will be stupid of me to go into a fight, explain to them, "Hey, this is a 400 years old building, I can't do this and that." They don't care. This is what needs to be done, that's that.*

Interviewer: *Okay. Do you think inspectors ask you enough questions. Do you think they try and find out information to try and understand what you're doing or do you think they gave you a chance to explain perhaps the reason for a situation?*

Interviewee: *I don't know. I don't think so. If I tell them it's a 400 years old building with holes all over the place, they'll tell me, "Well, I don't care.*

There're mice, you'll need to deal with it." There's no way for me to-- You're right there's mice, they are everywhere. There's not much, but you need to do something about it. In London, as I said, it was always 10 minutes, "Show me the papers. Oh, yes, what's your temperature?" I guarantee you there are mice in [LA name] probably because I have a shop next to me from one side and a restaurant on the other side. We don't have food, but the mice would travel. Again, one of those things which is absolutely out of your control, no matter what you do, it will still be there. You just need to limit the damage really." (Participant 12)

6.5.1.2 Business not understanding why they are being asked to do something

Understanding why the business operator had been asked to do something is key to learning. It was evident from half of the interviews that this understanding was not always present. Business operators gave examples of not understanding why they had been 'marked down' so to speak or could not see the benefit of what the inspector was asking of them. The barrier being that if the business operator could not understand the reasoning or rationale behind what they were being told to do or taught, they would not take it on board. They would be less likely to do it, if they do it they are less likely to learn anything and are likely to be doing it simply because they have been told to do it and they are less likely to continue to do it on their own in the future. Half of the cases gave examples of situations where they did not understand why. Examples included lack of understanding of the benefit of keeping a documented food safety management system by 1 business operator and how another business operator felt inspectors were inconsistent and did not understand why they had been penalised on their food hygiene rating:

"I avoid it as much as possible. Filling in a daily diary, I couldn't think of anything worse. I can't think of anything worse than doing a daily diary. Why do they need to know that? I don't understand why they need to know it. Why do you need to know that-- What do you want to know? Was there an issue with the fridge, and how did I fix the issue? I bought a new fridge. Fridge broke down, bought new fridge. Why do they need to know that? I don't see the need and logic and benefit of a business so small." (Participant 10)

"Interviewee: OK, that's the kitchen with timbers what you see there is exactly what I have in the market. You know, it's exactly the material I have used, exactly the same stuff I have used but I have got 5 stars there but

I've got 3 star here where I have got more kitchen space, I've got more you know what I mean I just it does not make no sense there is no inconsistency.

Interviewer: *Maybe the reason for your rating is maybe not been explained very well? Because you don't understand why you've got a 3 here and 5 there? So that hasn't been explained?*

Interviewee: *It has been explained somehow but obviously, you know it was explained the way they want to explain but you know what I mean I didn't think, I didn't think I was going to have a 3 stars. I thought, 5 I didn't expect 5..because I know for sure my kitchen is not complete, it isn't finished in there but a 3 star I thought that was out of order because the people who were here before they had I think the same stars, 3 stars. Which with what happened in there, when I came there was no way I would have opened the kitchen the way it was. You know, so I've done so much, so to see it deserve the same stars as the people that were here that make no sense. You know, so I think that was erm, so that's why I've said there's no consistency, you know. I mean for example the guy didn't even have a dish washer. You know, the guy was smoking behind the kitchen, you know. So I have cleared all of that up, erm, they didn't even have a disabled toilet, you know, and other stuff. Canopy didn't work. I've sorted out the canopy, the extractor I mean, it is working, you know what I mean. You know, so all that stuff doesn't make any sense to me. So, it's almost like you're being penalised for trying, you know.” (Participant 11)*

During the interview with the business participant from case 4, it was clear that there was a lack of understanding of the reason for the business needing to close and a lack of understanding of the risks from rats being in the food premises. The business operator was expecting to be able to re-open much sooner than was realistic. This showed a lack of understanding of the significance of the issue and also inadequate communication from the inspector in terms of managing the business operators expectations but also showed that the inspector had not explained this.

“I was expecting like when they said, “Okay, we'll have to close, then we'll see tomorrow.” Straight away, same day, within one day, we got a contact as well. As I know, you should believe us as well. We didn't have too many, five or six rats. They are there, okay, fair enough. They are inside somewhere, but when we start putting poison as well. Rather than closing

for that many days, that affects our business badly. Believe me or not, after that, we didn't recover. We did not recover 'til now, and I'm telling you truth.”
(Participant 13)

6.5.1.3 Inconsistency of inspectors

This was highlighted by 4 of the business participants. This was seen as a barrier because it is difficult for a business operator to learn when they are receiving different messages each time they are inspected by a different inspector or a different LA.

“You know, it didn't make any sense to me because I know some of the people they didn't deserve 5 stars, so I was asking myself how come they got, I even probably me I didn't even think I should have 5 stars so I don't know there's inconsistency. You know.. inconsistency. OK I give you an example, that's the kitchen with timbers what you see there is exactly what I have in the market.

It's exactly the material I have used, exactly the same stuff I have used but I have got 5 stars there but I've got 3 star here” (Participant 11)

“If I had the inspector who was in [LA name], they would not look at half the things which these inspectors have looked at and vice versa. There's no button. There is no each person does you absolutely different thing. A few weeks before the inspectors were here, there was the company. The management company sent their advisor and they said say yes, everything was okay. It all depends. If you want to find something, there's no business where everything is by the book. You will always find something and the view, how you see the rules, each inspector sees them absolutely differently.” (Participant 12)

6.5.1.4 Business believing they do not need to learn

There were examples within 2 of the business participant interviews from cases 1 and 2, that indicated they believed they already knew everything they needed to know. This could be due to business operators already having the knowledge but not necessarily putting it into practice, or it could be due to not knowing what they don't know so to speak. This shows a lack of understanding between the 2 parties as the inspectors in these cases identified areas that learning was required, but the business operators position meant that they were not open to learning. This could be a situation of reaching a learning plateau or simply not having the

foundation of knowledge to build on. Inspectors need to understand that they should be building on what is already known and understood and in order to know this, two-way dialogue is critical.

In case 1, the business operator believed that there was nothing they did not already know, and that the inspector visit purely reminded them of things they already know rather than them learning new things:

“Interviewer: Do you ever feel that you learn, like when you have the inspection do you learn anything from it...ever..

Interviewee: There's nothing that I don't know. So yes I do learn, but it's nothing that I don't know. You now, but yes it's good to have inspectors coming in to, you know remind people what they need to do, but it's nothing that I don't know.” (Participant 11)

This shows that the learning in the past may have been unsuccessful in that the information and knowledge has not been retained to the point that the business operator is carrying out what they need to and using the knowledge without the prompt from the inspector. They are still relying on the inspector to come in and remind them to do it. This is a good example, of how knowledge can be forgotten if it is not used and how repetition and reinforcement is needed to retain knowledge as was discussed in chapter 3.

The business participant in case 2 spoke about how they believed there was nothing that could be done about pests in their premises because as far as they were concerned this was just part of living. They believed that this view was right and that the inspector's expectations of the pest-free premises was unrealistic indicating that their knowledge was adequate and that they did not need to learn anything about this issue. There was clearly a difference between the business operators and the inspectors experiences and expectations which led to a learning opportunity falling on fallow ground.

“Yes, but the mice generally, don't really bother me that much because it's just part-- There's nothing you can do about it. It was the same thing with the flies. I can buy the blue light, but there will always be flies everywhere. There will always be flies coming on to the food. There's no blue light inside here and there'll be flies flying into people's food. It's an inevitable part of living. There's nothing anybody will do about it unless you put yourself in the net.” (Participant 12)

The findings show that a barrier to learning is the lack of understanding between both parties and that in order for learning to take place, a mutual understanding of each other's needs and expectations are required.

6.5.2 Attitudinal

There was a common theme around attitudes and trust. In particular, 4 of the cases felt that the inspectors attitude and openness to learning had the potential to impact on their experience negatively. The business participant in case 1 spoke about how the way the inspector speaks to them has a more significant impact that what they are actually saying. They also go on to say they believe this could be because of the inspectors past experiences with other businesses.

“Interviewer: Would you say then is it, is it more about that the issues, the inspectors find or is it more about the way they speak to you and the way they deal with you about those issues?”

Interviewee: The way, I think the way they deal with it.”

“Interviewer: So, is it more about the way an inspector comes across and the way they treat you?”

Interviewee: Yes, yeah. I think...

Interviewer: Rather than what they're actually asking you to do?

Interviewee: Yeah, I think it's maybe because they've had a bad experience with other food and premises.

Interviewer: Right?

Interviewee: So, the inspectors maybe.... everybody is going to be the same.” (Participant 11)

Another business participant made the point that they believed that in order for the inspector to keep their job they were under pressure to find things wrong. Whereas if they were less focussed on looking for faults, they may be able to focus more on specific areas and more learning could take place because the relationship would be more open and honest.

“Interviewee: My expectation was that we would review things. My expectation nowadays of any officer of the government who comes is that they'll always have to find something to improve. For instance, [Inspector Name] is not as detailed as perhaps this one because we're looking at so

many different aspects sometimes. But I know that for a person in their shoes that they always have to keep-- this sounds really horrible to say-

Interviewer: No, say it. It's fine.

Interviewee: -to keep their job they have to be finding things for the business to improve otherwise they're not doing their job. That's how I see it. I'm just assuming that that's perhaps how every inspector in a month or another, they have to be the-. Basically, their job is-- They're saying that, "My job is to keep the business on their toes and make sure--" Rather-- If they said, "Look, this is constructive criticism to improve." It's a different thing than just looking because then what will it-- what my reaction will be in time is that I'll always be looking to cover up things and it won't be such a thing. But if it's a more open relationship and about constructive improvement, then it'll be different road. Then you will find that-- but I will improve, we'll up our game because we're becoming more conscious of things. That's my sense.

Interviewer: Yes. Perhaps if it was less about finding things wrong and telling you what you're not doing right and more about "What you're doing is good however here's a couple of ideas. [crosstalk]

Interviewee: Let's focus on this area. Now let's look at improving this area and let's focus on improving this and then it becomes a progressive relationship. In terms of expectation coming back to that meeting on Monday, it was ironic because I thought the milk was all done because everything's been fine and because these results don't come regularly I don't always look at them. I just put them in a file. As long as the phosphatase is always fast, I always-- I have a quick glance at them but I file them away. But phosphatase is most important because that's the thing that's key." (Participant 16)

As positive introductions were mentioned in relation to supporting factors, it is no surprise that negative introductions were also mentioned as a barrier. In fact, all of the participants said things which indicated that the first 5 minutes of the introduction stage had an impact on their response to the inspector and how the rest of the interaction would go and if this starts off in a negative way, this is likely to cause a barrier to learning.

With only 2 of the cases talking specifically about not feeling trusted or supported by the inspector, this was not so strong evidentially, but still worthy of mention. The business participant in case 1 felt that the inspector did not trust or support them which had a negative

impact on how they responded. As this case was the only case that showed a decline in evidence of learning over the 2 visits, this further supports the evidence that the initial introductions and manner the inspector displayed through the inspection were not conducive to learning.

Speaking about the situation they were in with the inspector sitting waiting for the plumber to fix the hot water, the business participant in case 1 expressed how this made them feel as though the inspector did not trust them and this had a negative impact on how they responded.

“Interviewee: I don’t expect to be put in that position in that pressure, to do something that I know is important. You know. And, OK, you know the fact that you know the second inspection someone sitting there waiting for that to be done, even the guy was said he say are they really going to sit here and wait for that? They’ve got nothing to do? They don’t trust you? You know, what I would have expect, OK, [name] you know, we’re going to come back tomorrow morning, or we’re going to come back later today, you know. Sort it out. There’s no reason sitting up there, you know what I mean with a white jacket, while my customer come in there. You get my customer worried; you know like they got food poisoning or something, you know what I mean? You know, that is not position for someone to be put on. So I’ll have expect someone to, you know, that’s what I was going back to say, it’s almost treat you like you are, you don’t know nothing.

Interviewer: Do you feel like the inspectors don’t trust you?

Interviewee: Yeah. Maybe it’s past experience but you know...”
(Participant 11)

6.5.3 Practicalities

Timing was an important factor which was identified in two ways. Firstly, the timing of the visit and secondly in terms of time pressures, especially for micro businesses where the business operator has several roles to undertake themselves.

In terms of the timing of the visit, in particular bad timing, was a strong theme identified by 4 of the cases with 9 references to this, as shown in appendix F. Business operators explained how the inspector turning up at their busiest time was not helpful as they were unable to fully engage due to having to continue to carry on their other duties at the same time. The business participant in case 3 explained this situation from their previous experience and how visiting at the end of the shift was more beneficial for them:

“You know a big thing for me? It depends on the time you turn up. If you turn up at my busiest time, what a nightmare, right? Because fundamentally, I need to make money. Timing's important. It is important, because we are just trying to do our job as the inspectors are. They might try to do their job. To work with the person who owns the business, to have an understanding, again, of the business, the environment, and this, that, and the other-- When would be the best time, the most convenient time for both of you to go and inspect? Because you want to have time with that person running it to explain new things that are happening, and you want him or her to explain to you this, and that, and the other, but if they're really busy, you're just going to get a bad atmosphere. I'm not going to listen to half of what they've got to say if I'm trying to cook loads of stuff. Right now, I've done everything, so I have to sit here and talk. You could have this conversation, "Look at the splashback. You need to do that a bit more often. Sitting here as a customer looking in that, I'd say it looks a bit greasy. Do you think you'd be able to do this? Do you think you'll be able to do that?" You'll get more out of the inspection, especially if someone is struggling, especially if he's a two-star-er that needs some help. You're not going to get as much out of them while they're busy. He's obviously struggling for many reasons. I think going when they're just finished their shift, they might be able to sit down and talk with you, might be able to run through the fridges.” (Participant 10)

Another participant had a similar view in that they had found the inspector visiting in the middle of their lunchtime service to be problematic and quite stressful. They had even lost customers because of the timing of the visit and not being able to carry on cooking whilst dealing with the inspector. They explained how bad timing can influence their stress levels and how they are likely to respond in a less positive way.

“Oh dear, OK. No I felt pleased that yeah, I want to get that done, done and dusted, you know but I obvious the time that they came in was a time that in the middle of the service, you know. Timing is important so obviously, I had people I was telling to come back later because you know I was under stress. I wanted the inspector to do what they needed to do, but it should not be a stressful situation. It should be a situation where they come in to see certain things are getting done you know, not a stressful

situation, where I am thinking I've customers need to be served, and I've got the inspector asking questions and needing to see this and that. So, either early in the morning you know before I open for service, is good or like now, when I finished for the service. Not in the middle of the day where I've got customers coming in, I don't think that's acceptable anyway, I just don't understand that. I think that's out of order because you know, erm, so in the past as well, when I had erm inspection, you know again it was a stressful situation because I have to go and pick up my daughter from school, I was late when I pick her up from the school, no-one really understood that when I started to go and I was told no I can't go until you've finished this. And I thought that was quite poor. And that still is in my head it's annoying and I was so angry about it you know what I said I'm going to get on with this, so the timing is important because we all have families, we all have things to do. I know they have got to do their jobs but I think it's like me, I can't just then open certain hours or have my staff there, if they have to go home or when I need, not all of my staff are going to be in. Because I can't force them to be here when I know they've got other things to do, you know what I mean. So timing is important, yeah. It's like anyone else, if you feel like you're being intimidated, you know or you're being pressurised, you know, you're not going to be comfortable in this situation and you're not going to respond positive anyway.” (Participant 11)

Both of the business participants in cases 1 and 3 had been subject to an unannounced inspection where the timing had been determined solely by the inspector. Whereas the business participants in cases 5 and 6 had both been visited by appointment. Their experiences had been different, and the timing of the visit being agreed in advance had been helpful to them. 1 of the participants explained how their business operated on an appointment only basis anyway and that the inspection being pre-arranged meant they could ensure they had not booked a client in at the same time which enabled them to have the time to engage with the inspector. Another explained how difficult it would be if the inspector had turned up unannounced at the same time, they were doing their processing and how they would not be able to be fully engaged in the inspection:

“Interviewer: So if they were to turn up on a Wednesday when you're in the middle of pasteurization process?”

Interviewee: It would be a nightmare. I appreciate that, [inspector name] asked me and gave me the options that I said, I appreciate that because I

knew that it's better on a Tuesday when I can get my time rather than be distracted otherwise I won't finish until 12 o'clock at night and I won't deliver them. So there's a pressure there.

Interviewer: You perhaps wouldn't have the--

Interviewee: Presence. Yeah that's exactly what I mean you wouldn't have the presence." (Participant 16)

Time pressures were also mentioned as opposed to bad timing. This was mentioned by 2 of the participants from cases 1 and 3. Both of these cases had a business operator who was also the main chef in the business which may be indicative of the challenges they face as being the main operational person as well as the manager and operator of the business and this would understandably create additional time pressures than a situation where the business operator has a less hands on role.

Financial pressures were mentioned by half of the participants which cases 1, 2 and 3. Whilst this may not have been a barrier to learning per se, the worry this creates can make it more difficult for the business operator to fully engage with the learning process and see benefits as their primary concern is how they will be able to afford it rather than the learning opportunity itself.

6.5.4 Fear

There was evidence in 2 of the business participant interviews that fear was a factor they identified with in terms of they showed fearfulness of the inspector. This was mainly due to the knowledge that the inspector has the power to close the business. 1 business participant spoke about their experience in the most recent visit and compared it with the fear of being arrested:

"Interviewee: I think I was doing better than the previous visit. I knew I hadn't done the paperwork, and I knew that whenever you turned up, I was going to be in trouble for that. It's just the hope that you're not going to get shut down.

Interviewer: Yes. Is that the main fear, do you think?

Interviewee: Absolutely, yes.

Interviewer: Yes. Is it a fear?

Interviewee: Absolutely. It is the fear.

Interviewee: I tell you what. It's like if a police officer wants a word with you, and you think, "Am I going to be arrested?" Worst-case scenario. Am

I going to be arrested? It is worst-case scenario. Ultimately, when the inspector comes in-- The reason why you do the majority of things you do daily, weekly, monthly, yearly, is because you have that possibility of someone shutting you down, telling you off. Do you know what I mean? It's the same as in life. As I said to you, again, there always is a boss. If you don't do your job properly, you're gone." (Participant 10)

Another spoke about the fear they feel of being closed down by the inspector. This may have been part of the reason they had not been very open with the inspector about the sample results as they were worried they may be stopped operating:

***Interviewer:** It's your understanding that an inspector can just stop you doing what you're doing if they feel like it?*

***Interviewee:** Well, that's the impression I get by the words they say. They carry an air about them if they said, this is not acceptable.*

***Interviewer:** I think this is quite a common perception. Does that cause fear?*

***Interviewee:** Yes. You have to be on your best behaviour. I have one of the farmers who comes and helps me out occasionally. He says he was in farming since he was 15 years old, so he knows these things and he knows the laws and certain things. Sometimes with his EHO, he challenges them because he knows where the line is, but he's got to know that over that period of time, and so he's relaxed that he doesn't have that fear. We're in a slightly more delicate situation because we're still on a bad foot where we're learning and we're growing." (Participant 16)*

The main factors that have been identified as barriers to learning are based on the initial introduction and those first 5 minutes. This can be thought of like a tennis match and how the first serve and response goes sets the tone for the rest of the interaction. This can change but it is more likely to change for the worst, than for the better as seen in case 6. Timing of the visit is critical and has a direct impact on how well the inspector will be received by the business operator and how engaged the business operator will be during the interaction which in turn will impact on the likelihood of learning taking place. How well each party understands each other significantly influences how likely it is that learning will take place, the inspectors attitude and openness to learning are also significant factors. As these factors are so significant in terms of the impact they have on the likelihood of learning taking place it really is critical that inspectors get these right.

6.6 Evidence that learning has taken place as seen through the business lens

There were not a great deal of themes that came up from the business operators perspective in this area which could be due to business operators not being as familiar with how to recognise learning as inspectors are likely to be but nevertheless, there were three main ways the business participants identified that they used to recognise that learning had taken place. This is also the likely reason why the business participants did not identify any evidence of inspectors learning from them. The area most of the business participants identified was that their own level of knowledge of the particular topic they had learned about increased. This was identified by 4 of the participants. 1 participant gave an example of how they had not picked up on some of the sauces and condiments having allergens in until the inspector pointed this out and showed them. Their knowledge increased about this as a result. Another participant spoke about how they learned about the '4 hour rule' for cold food temperatures and another explained how they had learned about the autoclave they had in their premises that they had not been aware of before.

“ Yeah, you know, I didn't pick up, when the inspector showed me the mayonnaise that, and they say look this mayonnaise has got allergens and she was right so I didn't understand that, yeah so I did pick that up and straight away it make sense, you know, it made sense. It wasn't difficult to understand.” (Participant 11)

“It was interesting for her to say the four-hour window, I've never heard the four-hour window before. Oh I learned something from that. Generally, bacon shouldn't be out for more than four hours, that's a good point. Okay, I only keep it out for an hour or so, then when it's quiet I'll put it away. As I said to you, you can't keep opening and closing the fridge because it's not going to be at the temperature you need.” (Participant 10)

“Interviewer: With the learning around the sterilizer particularly, would you say what you learned was something that happened immediately or was it something you thought about afterwards and then it kind of made sense?

Interviewee: No, it was-- Obviously, I had an immediate lesson, yes, definitely. Obviously I found out a lot more information after the visit because I got on the phone to a few people and they informed me a lot more of everything. I guess it was an immediate lesson, I didn't realize the sterilizer had to be-- Obviously, I knew it had to be under tests and stuff like

that. Then, I learned a lot more talking to people that know better than me, yes."

***Interviewer:** Now, you do know, when you have learned about that, do you think it's something that you would know what to do for yourself, going forward? That you could manage that without the help--?*

***Interviewee:** Yes, because after speaking to a few companies that do autoclaves and stuff like that, which is the sensible place to go to, people that tell them, which is what I did. They actually have a service plan which makes it a lot easier for you. Sometimes it's included or sometimes you pay like a yearly sort of thing. It's not too much money to keep on top of it, but obviously, a one-off test is quite expensive. You just, obviously include that with the unit that you're buying, yes, which is great. "Thanks very much," you get their certificate, their warranty. It's all included." (Participant 14).*

In the above case, knowledge increased both immediately after the visit, but also it increased even further later on, after doing some further research after the visit. This shows that the business operator was left being able to follow this up on their own without supervision from the inspector which was very positive.

Another business participant also spoke about how they now felt they were able to use the learning in the future and that they felt able to do the particular thing they had learned on their own and how they would be doing things differently in future after their experience and what they had now learned:

***Interviewer:** Thinking about what you now know in terms of what the inspector does expect with how you manage mice and cleaning and all that sort of thing, how will you use that knowledge going forward?*

***Interviewee:** The paperwork will be done regularly. That was one part of it and then the cleaning will be checked more regularly as well. Chef knows now what you guys looked at so he should really know what to do, but I will check myself as well which before I haven't really done. There'll be a little bit more regular checks now based on-- as I said, once a month will be the proper cleaning." (Participant 12)*

There were examples of learning that demonstrated the business operators feeling able to use their new knowledge to do things independently and without the guidance of the inspector

going forward. This is a step towards self-regulation of the area learned about. Whilst there was not a vast amount of evidence in this area, what was shown is that business operators feel they have learned if they have increased their knowledge of a subject and if they feel confident to do something differently independently after the inspector has gone.

6.7 Ideas that could help encourage more learning

The main theme from business operators in terms of their ideas to encourage more learning was primarily around more provision of advice visits, preferably at a pre-arranged time and before they receive their first inspection visit. This could be interpreted to mean the business operator wants a 'trial run' or to see sight of the answers before the test but if the primary purposes of the visit is indeed to protect public health and to support business as suggested by the other findings, then there should be no harm or disadvantage to anyone if this was to be the case. The aim of course is to support the business to operate safely, to be successful and to ensure that they do not cause harm to the public and if offering more in the way of proactive advice can help achieve this more effectively than a visit which purely assesses the level of compliance at the time of the visit, this approach must be worth consideration.

This desire from business operators indicates that inspectors are seen as a source of information and advice, and not just as a judge of their level of compliance. All but one of the business participants suggested advice visits would be beneficial to them with three participants suggesting that these visits should be announced and 2 of them suggested that all newly registered businesses would benefit from a free advice visit prior to their very first inspection. The business participant in case 1 spoke about a previous experience where they had received a free advice visit from an inspector in a different LA area and how they found it beneficial.

“Interviewee: You know, when I asked them (another LA) to come in and inspect, they actually understood what I was trying to do you know. And, they then said, we're not going to give you anything now but we're going to see if things OK, if clean, you know. Erm, so they were trying to understand what I was doing. You know, rather than...

Interviewer: Was that like an advice visit kind of thing then? Did they come out to see you when you started up before your actual inspection?

Interviewee: Yeah, when I was doing it, so, they actually want to come and have a look but obvious I think they give me stuff, I thought because I was coming from [name of location] as well. So they said OK but erm, no one

in that position in [LA name] had anything bad to say about this you know. You know, inspectors, you know, they could actually understand the situation yeah...It was beneficial of course. It was beneficial, because from there, you know they can advise you what to do from there, or if something is wrong they can say you need to get this sorted because if you don't sort it out when we come, we're going to....So I think if there was an initial visitation first and they advise people you know, even within a month or even a week. So hopefully you open a business, but you are definite do this, then you know we're going to visit you within a same period, if you haven't done that, then there's going to be a problem then I understand that.” (Participant 11)

The same participant later went on to explain how a pre-inspection advice visit would make them less likely to feel as though the inspector is just there to try and ‘catch them out’ as described earlier in the chapter.

“Interviewee: Yeah, yeah. because if you came and you know before I started, telling me I need to do A B C and D and you come to inspect I've not done that, or I am not showing the progress of doing it. Then of course you have a right to you know...

Interviewer: Then you perhaps wouldn't feel like they're out to catch you out because you have had the chance to know what to do first?

Interviewee: Exactly, exactly, yeah, yeah, yeah, yeah, yeah, yeah. So yeah you're right, you know that's alright so I think if I will be honest to say you know in [LA name] they're out to catch you. You know.

Interviewer: That's how it feels?

Interviewee: That's how it feels, you know, they have to catch you which I find that very unfair.” (Participant 1)

Another business participant from case 2 explained how they felt advice visits would be beneficial particularly at an early point such as the design stages of a new kitchen.

“Interviewer: Do you think inspectors should provide advised visits as well as inspections?

Interviewee: Yes.

Interviewer: If they did, is that something you think you would use?

***Interviewee:** Yes. Say designing the new kitchen, I would definitely get one of you guys here and say, "Hey, this is my plan. Before I spend the money, I am going to be happy with this." I think that's how it works. I've had people who came to [LA name] and I said, "Can I get help?" They said, "Yes, we'll come." I just show them what I'm planning and they say, "Yes. Do this here. Do this there." kind of things. It was very helpful because rather than spending tons of money and then realizing, "Oh, this is completely wrong." Same with the fire brigade they usually, other proactive, they'd rather come before, help you, than you're doing something wrong and then not having money to redo it.*

***Interviewer:** You think that's a beneficial thing to you?*

***Interviewee:** Yes, definitely." (Participant 12)*

These kind of advice visits could be a better opportunity for learning to take place as the business operator is receptive to the interaction, has chosen to receive the visit, and if it is at a pre-arranged time, the business operator has the time to be fully engaged with the inspector (advisor) and is more likely to take away learning from the interaction than an unannounced inspection which is predominantly focused on making judgements about the level of compliance rather than facilitating learning.

Advice visits as an idea that would help facilitate learning was the strongest theme by far coming out of the business operator interviews in relation to ideas to encourage learning, as it was suggested by all but one of the cases and referenced 11 times as shown in appendix F. It was also suggested that provision of such advice visits separately from the inspection visit either by making an announced visit and/or a visit prior to the first inspection, would support business operators to learn better than the inspection itself, as the business operators would have the time to be fully engaged, and be more receptive to the knowledge the inspector is able to share with them. If all newly registered businesses were to receive an advice visit prior to their first inspection it is likely that more learning would take place. This is a significant finding.

Engagement with business operators to find out what their needs are was another idea that came through from 2 of the business participants. Listening to the needs of the business was said to be an important thing to help inspectors understand better where their learning needs are.

“Interviewee: You have only one thing I can understand and we talked about it before as well. When they say something and they want us to listen to them, that's a good thing but listen to us as well. When we say something, like we were talking about clothes, use of clothes or even the rat problem. We said, okay, you close. It's fair enough. We should close straight away and we got to contact people start treating. That then closing that many facilities. That will help us as well in the long run. I think if we work together, that is better. That's better.

Interviewer: Listening more.

Interviewee: Listening more.” (Participant 13)

In terms of ideas for how inspectors could take away more learning from their interactions with businesses, 1 business participant suggested that it would be helpful if inspectors asked businesses for feedback which could help with facilitating learning by understanding their needs better and in turn building trust. Trust could be considered as a factor that may be beneficial in learning as the recipient needs to have trust in the person who is passed knowledge on to them in order to buy into it. Trust was identified as an important factor for effective communication between inspectors and business operators in the literature review (Groth, 1991).

“Something that will be very helpful is that at some point in the visit, even if it's at the end, just to bring out a form question with five questions saying, how do you feel about this? How was it? Just get a little feedback, and then how can I help you to improve? Just making that offer, and then if somebody wants to help to signpost them, or just to support them, it's a really important thing. That will build trust.” (Participant 16)

One way that learning can be facilitated outside of the visit itself is through training which was mentioned by 1 of the business participants as something they would be interested in but that it would be important to ensure it is offered at a time that works for a busy business.

“I think what frustrates me is that sometimes they provide courses but your timing of your courses is a nine to five. Well, catering doesn't work nine to five, although you could argue that you couldn't really do it in the evenings because most catering work in the evening, but not everybody--Maybe say- - I'll tell you what. We're going to do a course this day. It's a three-hour

course. The people doing the course do it over three or four days, and you can choose what block you come in to do.” (Participant 10)

Training was also mentioned but in the reverse context by the business participant in case 6 who suggested that inspectors require training in people skills in order to better position themselves as facilitators of learning.

“Unfortunately it depends on the individual. I’m a bit of an anarchist. My tendency is to react but at the same time, I’m a learner. I’ll happily walk the talk-- Walk the path with them. Having the conversation. Maybe if anything, I would say that from this conversation, I would say that maybe health officers should have some training of people skills”. (Participant 16)

Better provision of information being available on the LA website was suggested by only 1 business participant, which might be helpful for self-learning for those more consciences business operators who are happy to read for themselves and learn that way but the fact that most of the ideas for learning were based upon face-to-face opportunities shows that online sources are not the most popular with small business operators who are more time pressured.

In summary, the strongest theme by far coming out of the business operator interviews in terms of ideas that would help facilitate learning better was advice visits and how these being separated from the inspection visit would support business operators to learn more effectively. Other ideas suggested included better engagement with businesses, training provision and better information provision on LA websites.

7 INTERVIEWS: INSPECTORS

This chapter presents the findings elicited from the inspector interviews, identifying emergent themes and the experiences of the cohort in relation to learning, the conditions required for business learning and reciprocal learning, and the influences on tactics inspectors choose when encouraging business learning. The strength of evidence supporting themes is demonstrated by the empirical data within the coding framework (see Appendix F). This shows how the data has been coded including the number of participants and references allocated to each code.

7.1 Inspectors background and past experiences of previous visits

Interviews commenced by exploring the background of the inspector in terms of the length of time they had been working as an EHP, which disciplines they had experience of working in, what qualifications they had and whether they had any industry experience. There was a wide range of levels and types of experience, and a number of different qualifications held among the cohort, and with a significant proportion of inspectors having previously worked within industry.

The inspectors had a fairly equally spread view of how previous visits had gone in that there was a mixture of positive, negative and balanced experiences among the cases. However, there were more examples of learning compared to examples where learning had not taken place. There was a fairly even distribution of positive, negative and balanced views of previous experiences of visits which is to be expected given the number of visits and variety of businesses each inspector is likely to have had prior experience of. There were several examples given where inspectors had experienced learning taking place with several of the cases providing more than one example. There were also examples where inspectors felt they had learned themselves in addition to having observed businesses learning. The inspector participant in case 1 was the only inspector who specifically gave an example where learning had not taken place in their past experiences. They explained how in their experience some businesses just do what they are asked to do but do not 'buy in' to the concept and those businesses need a lot of work to enable learning:

"You get the ones where you go and you talk to them and they seem to understand, seem to learn what they need to do and then you go back maybe a visit next time or time after and it's relapsed so then the learning's short-term rather than long-term and it's more a case of, it's again this

compliance, I've done enough to get you off my back but not enough to understand why I've done it. They just keep doing it because they want compliance not because they've got the buy-in. I think those sort of businesses need a lot of work, the persistent non-compliers, definitely do.”
(Participant 9)

In summary, the majority of inspectors had experienced learning during their past experiences and they had a generally positive or balance view of those experiences.

7.2 Experiences of recent visits

Participant inspectors spoke less positively about the recent visits that were observed by the researcher for this study. However, despite this overall view of how the visit went, the cohort were still able to talk about examples where they felt learning had taken place. There were two examples given, cases 1 and 6, where inspectors felt that learning had not been achieved.

Although case 1 spoke about several different examples, some where they felt learning had taken place and some, where they felt it had not, so there had been some mixed experiences in this case.

Similarly to the business participants, more examples were provided of where learning had taken place than examples of where learning had not taking place. Although some of the inspectors did not give direct examples of where learning had taken place or not in this section of the interviews, there were indicators identified later on in the interviews that helped to demonstrate whether learning took place or not.

The inspector participant in case 3 spoke about how they felt the learning had been a two-way process:

“Interviewee: I think by the end of the visit they did learn that you needed to complete it and why you needed to complete it. I also understood and learned that they were too busy to do it every day but they also learned that they needed to do it, so we came up with a compromise of doing it weekly.

Interviewer: So, you feel that you both learned as a part of that.

Interviewee: Yes.

Interviewer: How did that learning happen? Did it happen through talking and listening or through showing or through having a disagreement and then thinking about it later? How did that learning take place, do you think?

Interviewee: All of those I believe. Obviously, we had a discussion and listened to each other and he explained why he wasn't completing it. I listened to their views of why it wasn't being completed. I then discussed the need of having it completed. Yes, I think all of those options. I learned from the aspect of the manager of a business, their views of it, but then I also explained to them the importance of it being done. Yes, I think you really need to have the conversations.

Interviewer: It really sounds to me like it was really important that you asked questions and listened to them in order to allow you to understand their position?

Interviewee: Yes, because I would never have achieved in the compromise." (Participant 4)

In summary, the overall view of the current visits was less positive than inspectors previous experiences. However, there were still several examples of learning given. There were more examples of learning taking place than not taking place and there was evidence of learning being a two-way process.

7.3 Purpose of the visit as perceived by the inspector

The inspectors saw assessing compliance, protecting the public and supporting businesses as the main purpose of their visits. Assessing compliance and protecting the public had fairly equal weighting in terms of how many inspectors mentioned these reasons with 4 of the cases referring to each of these two reasons. However, all of the inspectors said that they saw the purpose of their visits to include supporting businesses showing this to be a strong theme with 15 separate references to this (see appendix F). None of the inspectors mentioned facilitating learning as a direct purpose of the visit, but the fact that they did talk about supporting businesses and some of the things they said in this area did give an indication that learning is something they see as part of their role even though they may not necessarily see themselves as facilitators of learning. For example, the inspector in case 6 spoke about how they saw these areas as being very much interlinked:

"I think if the only way to protect the public is to close the business that is not a win-win situation. It might be a win for the public, but it's not a win for

the business owner. It's not a win for the staff. It's not actually a win for me. So, yes, business training, business support is, I would say, equally as important as public health particularly in this kind of setting. If you get the business support right the public safety follows, but you can't compromise this. That's how I perhaps get that balance. And we do training and stuff like that. It's very much- that's totally business support, but with the ultimate goal of if they go and went they're a better business for it, hopefully then more profitable and with much less waste. They're less likely to kill somebody and one of the phrases I've used so many times is, "your reputation takes years to build, but seconds to throw away." And if you can help them you're effectively helping both that individual business and also the economy of the authority that you're working for, because if you haven't got businesses then you haven't got business rates, have you?"
(Participant 15)

Supporting business could mean a number of things. For example, it could mean financial assistance, it could mean emotional support, it could mean literally helping the business do their work. In order to understand the meaning of 'supporting businesses' in this context, the researcher asked some of the inspectors to write a short definition of what supporting businesses meant to them:

"To facilitate a business / FBO to produce safe food and achieve compliance with food hygiene legislation. This can be done by a number of ways e.g. Listen, show empathy, be approachable and reasonable, be contactable, share knowledge & experience, signpost to reliable and relevant guidance, put in touch with others including Trading Standards, Licensing, Planning, Building Regs, external organisations, help interpret micro results and legislation, explain consequences of current actions, offer training, advice visits, health certs, use enforcement powers appropriately, be a 'go to' point of contact if they need help in food hygiene matters, be timely and reliable in providing support, make it clear what we can and can't do" (Participant 15)

"Making them aware of, and helping them to comply, with the legal requirements relevant to their business I would say that it is about giving them the benefit of your knowledge and experience and signposting them

to other sources of help and information that could be of use to them.” (Participant 5)

“Supporting businesses is where we are helping, assisting and guiding a business to achieve the best and positive outcome and ensuring that they produce safe food. For example this could be if they are not doing something correctly we can highlight this and guide and assist them to make all necessary changes to correct the procedure and prevent any re-occurrences.” (Participant 4)

The common themes identified from the analysis of these definitions were that supporting businesses in this context means:

- To help the business to be safe;
- To help the business be compliant;
- To signpost the business to relevant information, guidance and other departments/organisations they may need to talk to;
- To share knowledge and experience.

The analysis shows the complexity of the inspectors views of their own purpose and how they see their role as part of a much bigger picture in terms of the social, economic and financial factors. This is something Inspectors learn about during their qualification process. As inspectors are part of the wider LA, they also have a deep understanding of the many factors that feed into the socio-economic dynamics of a community and how businesses play an important role in the demographic and economic prosperity of the area they work in.

7.4 Factors that support learning as seen through the inspectors lens

Emergent themes that were highlighted in this part of the inspector interviews included:

- Timing of the visit
- Two-way dialogue
- First few minutes of the visit
- Active listening
- Compromise.

These themes mirrored those that were highlighted by the business operator cohort. Other themes that came out of the inspector interviews included having an understanding of the industry and how the previous history and attitude of the business operator influences how the inspector responds.

The emergent themes can be grouped into 3 main areas:

- Pre-inspection factors or things that are inherent of the individuals involved;
- The interaction itself and the dialogue that takes place;
- External/other factors that also influence the dialogue but are not necessarily a direct part of the interaction.

7.4.1 Pre-inspection/inherent factors

4 of the inspectors (cases 1, 3, 5 and 6) identified openness to learning on both sides as an important factor to support learning. This is something which is inherent within the individual and may change from day to day or depending on the particular circumstances. Somebody may be more open to learning in one set of circumstances than in another.

The business participant from case 1 spoke about how their experiences of dealing with businesses as a Primary Authority had indicated those business operators were quite open to learning. This may be due to the fact that those businesses have willingly come forward to join the Primary Authority scheme. The inspector said:

“I think they're more open and I think they are more willing to take the advice that's given. If it's assured advice then that's a different matter but I think they are, they're more willing to come to you with problems before they get to be major problems.” (Participant 9)

The inspector from case 4 spoke about how they had benefited from being open to learning in the recent visits that were observed in this study. Inspectors need to allow themselves to be vulnerable in terms of letting the business operator see that they might not always know everything, in order to be open to learning, to ask questions and learn from the business and from the process of finding out the answer if they are not sure.

“Interviewer: Yes. I mean, obviously, you spoke about the particular example recently. Does the learning that you get, does that influence how

you behave and carry out your work going forward? Do those things help you, I suppose, to deal with other businesses in a different way sometimes?

***Interviewee:** Yes, it is, because I know I could then have learned from them, what they're seeing from us. Yes, it does help me for the future.*

***Interviewer:** That's good. You can't speak for all of the inspectors, but do you think an inspector has got to be open to learning themselves?*

***Interviewee:** Yes. I mean there is some instances where you don't want to learn and there are the bad ones out there. If we can get them to see our side and realize we're not there to hurt the business, we're not there to shut the business down. If you can work alongside them, they're going to learn a lot from us and we're also going to learn a lot from them.*

***Interviewer:** Do you ever feel vulnerable as in you don't want the business to think you don't know something? Or are you the sort of inspector that would be more open to asking questions in order to learn, rather than worrying about not showing that you don't know something? Does that make sense?*

***Interviewee:** Yes. I do ask them and I ask the processes and reasoning behind the processes and why and what. If they wanted anything from me that I don't know, because I'm still learning those things I would then, instead of bluffing an answer, I'll find that out and I'll come back to you."*

(Participant 4)

The business participant from case 2 also said that they saw a business with a poor history of compliance or a poor attitude as a challenge in so much as that they wanted to change that and would work harder to turn things around with them. This may be one of those business operators who is less open to learning initially but the inspector seeing this as a challenge, may help to change this during the course of the interactions between them.

3 of the inspectors (cases 1, 5 and 6) all identified that having an understanding of the particular industry they were inspecting or dealing with, was helpful in terms of supporting learning. For example, 1 inspector spoke about how they had experience of working previously in the food industry and how this helped them to appreciate the business operator perspective when interacting with similar business operators:

"I think the phrase that loads of people said, and I totally get this, is poacher turned gamekeeper. Because I went to one or two of them without going in to too much detail, some of the jobs that I did, I was very much bailing the

company out when it went wrong. Sometimes that involved being a little bit economical with the truth. I found that extremely challenging. It was one thing telling a white lie, it was another thing hiding things basically . The upside of that, of course, is been there, done that.” (Participant 15)

“So I like to think I'm a bit more realistic with things because I know the constraints for the business. I'm a little bit out of the loop now after 16 years but I can sort of empathise with them I think when they're struggling with things. [...] I think I need to know a bit more about running a small business and I thought that a recent training course I attended was going to be a bit more about that. You know, getting their side of it as well as what we can offer them. So I think it would be interesting to see, because I've been out of that sort of loop and when I was working I was working for chains anyway. So I didn't have financial responsibility for the business. So it would be interesting to see from that point of view what they are dealing with. Costs, because I've got no concept of cost for rent, business rates, anything like that. Not that that should influence how I do my day job but it may give me a bit of an understanding when I'm saying to them, you need to get that fixed and you need to do it now, and they're going, but I'm already in the red, I can't do any more. So, that sort of thing.” (Participant 9)

Another inspector spoke about how they had experienced an enforcement visit by the HSE in a previous role they had, which had helped them to understand how it feels to be in the business operators shoes when they were inspecting them.

“It's useful to know what to expect when an enforcement officer comes in. My first experience of an enforcement officer was after a nasty accident in a factory where the HSE came in. The HSE turned up at the door and all of the managers and directors disappeared like rats down drainpipes and just left me to it. I was new to safety at that time. The HSE inspector, quite a well-known one came. He was quite a-- I say well known, no, quite notorious inspector. He was actually brilliant. Absolutely brilliant. He turned round and he went through everything with me. He complimented me on what I'd done in terms of investigation, making sure that it wouldn't happen again. Then he said, "Right, what do you want to get out of this visit?" He turned it round completely to a situation where he then called in the manufacturing director and said, "Want this done. Want this done." He was

actually very, very helpful. It turned it on his head. I feel that enforcement is not just about a big stick. You've got so many other tools in the bag that you can use. It's very much horses for courses. That in itself really set me off on a good foot in terms of enforcement. He was known as being a hard principal inspector and yet actually he almost took me in hand and sort of, "I can help you with this." That was really good. It worked. It worked very well. They were open with us. We were open with them. It was a nice two-way process."(Participant 5)

This shows that having knowledge of the industry is one thing but understanding what it is like to run a business and all of the responsibilities that go with this is a different thing altogether. Understanding the industry is clearly more applicable in terms of the business operator gaining learning from the inspector. However, in instances where the inspector does not have a great deal of understanding of the industry this is where the openness to learning would be of most importance in order for the inspector to gain learning from the experience with that business operator. Their ability to be vulnerable and to ask the right questions would be the key to whether they learn anything or not from the business. This also highlights a need for greater provision of knowledge and understanding of how small firms operate in EHP training.

Timing of the visit was identified by only 2 of the inspectors which indicates that this is not seen by inspectors as having the same level of significance as business operators. Another aspect was mentioned by the inspector from case 2 linked to timing but this was more around the point within the lifecycle of the business that the first interaction takes place and how getting an 'in' at an early stage had in their experience led to better learning outcomes which links back to the theory of business lifecycles (Rock, 1973; Hutter, 1997) that was presented in Chapter 3 which showed that inspectors tend to spend more time with businesses in the earlier stages of their lifecycle. Resources and other pressures for LA's and businesses are different in the present time that they were back then which may have had an effect on the time available for inspectors to spend with businesses at the early stages which could have an implication for learning potential.

7.4.2 The interaction itself and importance of two-way dialogue

The factors that were identified which are most likely to take place during the visit itself all contribute to the theme of two-way dialogue. Two-way dialogue and the contributing factors were identified by all of the cases to some degree. This was clearly one of the biggest factors identified for supporting learning with all 6 cases making reference to a number of these factors

and 68 separate references in the interview data (see appendix F). The inspector participants in cases 1 and 2 identified with this theme to a lesser degree than the other participants.

Two-way dialogue encompassed a number of sub-factors as shown in figure 7.1.



Figure 7.1: Factors that contribute to two-way dialogue from the inspector perspective

One of the factors that was frequently mentioned was how important the first few minutes of the interaction was, and how having positive introductions had the potential to influence how the rest of the visit was likely to develop.

***Interviewer:** That initial first couple of minutes of the inspection, that introduction and response, how important do you think that part of the inspection is?*

***Interviewee:** I think it's big important, because if I had gone in there and just said, "We're from your local authority." Because they had previous problems, I think they could have quite quickly got their back up. Therefore, if I entered on those introductions, they wouldn't want to go nowhere, they wouldn't want to get the compliance.*

***Interviewer:** Do you think that that introduction sets how the rest of that whole interaction is going to go?*

Interviewee: Yes, because if they're not going to work with you, then you're not going to get it, so that's like the golden opportunity that first few minutes." (Participant 4)

Interviewee: I think when you go in to a visit, you always get gut feeling the moment you walk in the door and you're greeted by the person you've got to see and everything else. You always get a gut feeling how that inspection is going to go.

Interviewer: Do you think that first five minutes, the introductory stage determines how the rest of that visit is going to go?

Interviewee: Absolutely. In that we're human beings and you know take a step out of the workplace environment, you know when you meet someone, almost immediately you know whether you like them or not, whether you can get on with them, whether you can talk to them. It's a very personal thing. It's very subjective as well. It's difficult to write it down but we, again, we're humans and that's quite natural for us and when you go into a business premise, and the person that you're up against is receptive to you, you catch on quite quickly and I think it's important from your point of view that you're not putting up barriers yourself. That's the other thing. It's not being too officious, it's not being too okay. It's trying to be as reasonable as you can but get what you've got to do done.

Interviewer: If in that first five minutes, you don't get a positive response from the business, do you think that changes or influences how much effort you put into trying to help them to enable them to learn?

Interviewee: It can because, like anything else, you don't want to be wasting your time. If they're not receptive, they're not the person who will listen to you and learn from you. You're not going to put that much effort into, it's just like talking to a wall, isn't it? Whereas, if someone is receptive, you're actually going to give them everything they need, and more to recognize. If you look at the two extremes.

Interviewee: In the end of the day, it's very difficult to make someone learn if they don't want to." (Participant 5)

This leads into the next theme which was about how having a good relationship and a good rapport between the inspector and the business operator also supports learning. 4 of the inspectors from cases 2, 3, 5 and 6 identified good relationship/rapport as a factor that

supports learning. This was also identified by the business operator cohort and previously discussed within the literature review chapters as being a relevant factor in how inspectors and business operators respond to one another (Black, 1980; Groth, 1991; Hutter, 1997; Walters *et al.*, 2011). The positive introductions just mentioned forms part of the development of this good relationship and rapport and so it seems that if there is a positive introduction, leading to a good relationship and rapport then these conditions are likely to support learning taking place.

Listening to the business was recognised by 4 of the inspectors from cases 3, 4, 5 and 6 as an important supportive factor. Clearly, this must happen in order for the dialogue to be two-way and for learning to happen, especially for the learning to be reciprocal. There was evidence in each of these cases that the inspector had listened to the business, and this had resulted in learning to different degrees, but there was evidence in cases 3 and 5 that more significant learning had taken place which had been two-way and had both involved compromise based on listening to the business operators point of view. By reaching a compromise that both parties are happy with this encourages learning because the business operator is more likely to accept, remember and be able to use the new knowledge that has been agreed in future because by compromising they have in essence agreed to the proposal.

The inspector from case 3 spoke in depth about the discussion and listening that occurred during the observed visit during their interview:

“Interviewer: How did that learning happen? Did it happen through talking and listening or through showing or through having a disagreement and then thinking about it later? How did that learning take place, do you think?”

Interviewee: All of those I believe. Obviously, we had a discussion and listened to each other and they explained why they weren't completing it. I listened to their views of why it wasn't being completed. I then discussed the need of having it completed. Yes, I think all of those options. I learned from the aspect of the manager of a business, their views of it, but then I also explained to them the importance of it being done. Yes, I think you really need to have the conversations.

Interviewer: It really sounds to me like it was really important that you asked questions and listened to him in order to allow you to understand his position.

Interviewee: Yes, because I would never have achieved in the compromise.” (Participant 4)

This demonstrated how open to learning this inspector was and how they reflected on this interaction realising that they would not have achieved the compromise unless they had listened to the business.

Another inspector spoke about how listening to the business is so important for them for a number of reasons and how much it can actually tell them in terms of what their emotional position might be on the day, whether they need any support or empathy, how to get them on board with what the inspector is wanting to achieve and how they feel this skill makes them a better inspector.

“Interviewee: You know what the next question is going to be. It's part our building of the rapport, but it's easy to throw in my question. You've got to listen to the answer. The answer will tell you whether they're prickly about you. They might give you some information about what's going on. It might determine whether or not you carry on with the inspection or not. Absolute classic example of that one was the landlord of a pub who, a good 10 minutes into the inspection, I was aware they got a funeral wake going on. I'm like, "Okay, I can still see that this might not be that appropriate." I was going carefully. It turned out to be his wife.

Interviewer: Listening is really important.

Interviewee: Yes. If you don't listen, A, you'll miss some very vital information but you'll also miss some clues and some opportunities to be empathetic or to understand what's going on in their world at this moment in time. It might be that they've got a removal van out in the back and they're just about to do a moonlight flit. In which case it's alright, I'll close that one down and I don't have to do that one, and you could do a home inspection and then you find that the premises is shut. I think there's practical reasons for listening, but also it makes you a better officer, but it also makes for a better inspection.” (Participant 15)

The fact that 4 of the 6 inspectors were able to give specific examples of listening to the business operator is positive and suggests that some inspectors appreciate the importance of listening to the business operator as part of their inspection and use this process to aid the learning process.

It is therefore very important to ensure that this two-way dialogue involves the right person in the business. It is important that inspectors do talk to different people in the business as part

of the inspection to assess compliance, but it is also important to ensure that conversations, especially about areas of concern, are had with the person within the business who can effect change. Talking to the right person in the business was identified by 3 of the inspectors (cases 2, 4 and 6) as a factor to support learning.

This was demonstrated well by the inspector from case 2 who gave an account of how they had arrived to inspect the premises and the business operator was not there. As issues began to be identified, the inspector made the decision to get a member of staff to telephone the business operator so that they could talk to him, as they had identified the need to talk to the right person who could deal with and take the necessary action even though this was quite challenging. Had the inspector just dealt with the staff in the business at the time, then the learning in this case may not have happened. When they were talking about this in their interview they said:

“It was difficult because the food business operator wasn't there. They was in London. I was talking over the phone to somebody who was quite evasive at times. When they were going to come back, who did what, didn't necessarily-- they'd obviously been there at some point. The problems that we found weren't 24 hours problem. They'd been ongoing for a while. They'd obviously been in that business and not acknowledged them. I found that quite difficult as well but they were quite receptive to listening to me on the phone. Then obviously when he talked to the chef, trying to explain that to him.” (Participant 2)

In a similar way, the inspector in case 4 had also had difficulties at the beginning of their inspection due to having to deal with a member of staff initially during their intervention because the business operator was not at the premises when they arrived. They spoke about how this led to some misinterpretation of issues and that if they continued to only talk to the member of staff, this could have been difficult. When the business operator arrived, the inspector was then able to talk with them and this reduced the inspectors concerns in some areas. During their interview they said:

“ When I first went in, it was one of the members of staff. I felt that they were a bit reluctant to say certain things probably because the boss wasn't there. Whether they were new- because I think they said that they were a new member of staff or not been there that long or something. Whether it was that or whether they were just holding back information. They kept

saying, "No, the boss is going to do that."

With the member of staff, I don't think, I was achieving-- I was just looking at things and saying, "That's bad. This is dirty." I wasn't getting the information from the staff at that time. I was picking up a lot of things. The walk-in chiller was dirty and the floor was dirty so I'm making a list of things. Often it happens when the relevant people aren't there. You just start picking on every little bit and say, "Why is this doing that?" When the owner came and they were starting to talk about things, you start to think, "Well, it's not really that bad." That's how I felt." (Participant 1)

Both of these examples show how differently the inspection can develop if the inspector does not talk to the right person, and also how the opportunity for learning could be missed by both parties.

Another supportive factor that was identified by 3 of the inspectors was helping the business to understand the benefits to them. If the business operator can understand what is in it for them, they are more likely to learn and to want to change whatever the particular thing is. Inspectors therefore need to have good selling skills in order to convey this message across. This is also where having an understanding of the business and how it works could prove to be helpful as the inspector can use this to explain the benefits better than if they have no understanding of how a business works. Inspectors said things like:

"Getting them to see that what they're doing is giving a positive outcome for their business I think, and that we're not just saying it. We're saying it for a reason. I think they've got to learn that that's why we're saying it, because it's going to help their business, you're not going to get fewer complaints, it's the reasoning behind it, until they learn that." (Participant 4)

"The way around that is to try and talk them in, "Look, at the end of the day, it's your safety." Where would you be if-- where would your family be if you were killed or severely injured? There are ways and means of getting through to people. As I said before, of course, it really depends who the person is you're trying to get through to. Some would just not be receptive at all and you might have to be a bit more strong with regard to what you ask them to do." (Participant 5)

“And, really just break it down to them and explain to them what the next step is, what the next process is and that may cost them more money in the long run. It's, them not understanding that it could lose them their business at the end of the day. Because we may close them, which will give them bad reputation and things like that.” (Participant 9)

Cases 2 and 4 both mentioned that demonstrating to individuals in businesses how to do something can be helpful in terms of supporting learning. Sometimes people learn better from being shown rather than being told or pointed to reading something. Case 4 explained how they like to use this technique and how they believe the people in the business are more likely to remember it than if it was just a conversation:

“I tend to be physical about things like you know. If it's a dirty surface, sometimes do that and you know look it's dirty. Visual. I think that they attempt to understand it because they say, “Oh, look I clean that. I clean this.” Then you say, “No, you haven't and you could pull out some grease or dirt on your fingers, therefore, that's not clean. I think it works often. Talking about it and asking them how they wash their hands. “Show me how you do it.” How to do that and then I'll explain where the bacteria can harbour in the nails, and between the fingers and say “You cleaned that. Did you use the soap?” Actually demonstrate in a picture how to. They remember it, I think. Well, they will remember something when that's what they saw .” (Participant 1)

Demonstrating how to do something rather than just talking to people in businesses, especially when they are historically poor performing businesses was mentioned by 2 of the inspectors. One of these inspectors spoke about how they had been involved with projects working with poor performing businesses in a different LA and how this was a skill they had used then:

“Some of the poor performers, I've done projects with them in the past. There's different methods of doing it like to actually show them how to clean, two-stage clean, actually physically get the cloth, get the washing up liquid, get the disinfectant. “Tell me how you clean? What's the two-stage clean--?” It doesn't mean anything to a lot of people. If I can, in the fridge, I'll move stuff about. If I can, then I always will. Especially with language barriers, that makes it even worse. Even where there's no language barrier,

a lot more people, I would suggest or think, perhaps learn by showing and seeing and doing.” (Participant 2)

7.4.3 Indirect/external factors

Being more visual and interactive in terms of demonstrating things is possibly a tactic that can be utilised by inspectors when carrying out advice. Advice visits were mentioned as being a tool that supports learning by 2 of the inspectors from cases 2 and 5. The inspector from case 2 felt quite strongly about the benefits of advice visits in particular with new businesses, talking about how in their experience, a lot of time and resource is saved because the business is more likely to have good standards when the inspection is carried out so revisits and enforcement action are less likely to be needed. They also explained how it had a positive impact on the relationship between the inspector and the business operator:

“Interviewee: I think advice visits are a really critical and a really important part of learning process. They can always say no. They're not being forced to. Without a doubt, what's worked before when people have registered, as soon as we get that registration form, we've rung them up and had a chat to them on the phone and offered them an advice visit.

Interviewer: Right. And you've seen a difference in learning in your experience from both approaches?

Interviewee: Yes. Definitely. With learning, the compliance, less revisits, better communication and better relationships. Without a doubt, yes”.
(Participant 2)

This indicates that business operators can learn from advice visits perhaps more easily than through inspection focused interactions. It also suggests that this type of visit can help to initiate the good rapport which, as already discussed, is another supportive factor for encouraging learning.

Finally, 2 of the inspectors from cases 2 and 5 identified some of the other social pressures that influence business operators that can contribute to learning. These are not so much factors that can directly help a business operator to learn how to do something but can certainly be considered as being factors that influence a business operators motivation to want to learn, to improve and to ensure they maintain a good reputation, meet their customers' expectations and attract good reviews for example. This interlinks with the factor about explaining to the business operator what is in it for them and can be considered by inspectors as part of their 'sales pitch' when seeking to gain buy-in from the business operator.

In summary, the most important factors to enable learning from the inspectors perspective is two-way dialogue and the first few minutes of the interaction is critical in setting how the rest of the interaction is likely to go. Both parties being open to learning is also essential.

7.5 Barriers to learning as seen through the inspectors lens

There were many emergent themes from the inspectors in terms of barriers to learning. The most significant themes included:

- Business not being open to learning
- Business attitude
- Inspectors less willing to support a business with poor history/attitude to learn
- Language barriers

Less significant themes included cost, resource, time, business perception of inspections as red tape, lack of advice/proactive interventions and bad timing.

The inspector cohort identified a similar number of barriers compared with supporting factors which was positive in that it shows they have a balanced view and were able to identify with both positives and negatives in terms of how learning might take place. However, there were more individual references to the barriers than to the supporting factors, showing that they found it easier to talk about the barriers.

The barriers identified by the inspectors were very similar in theme to those identified by the business operators and can be grouped into the same three categories:

- Understanding
- Attitudinal
- Practicalities

7.5.1 Understanding

7.5.1.1 Poor understanding of inspectors expectations

All but 1 of the inspectors identified that some businesses operators have a poor understanding of what they are asking them to do. If the business operator does not understand, then how are they to learn? However, it was noted that whilst the inspectors were saying the businesses don't understand, there was little evidence that they questioned why

this was the case. They did not appear to consider why this might be or whether there was anything they were doing or not doing themselves that could be contributing to this lack of understanding.

1 participant spoke about how they did not feel the business operator understood the risks involved with using the muslin cloth and how they were not confident that they understood even after explaining and sending a letter.

“He felt it was okay to use the muslin cloth which is wrapped around the raw doner meat because it's a good cloth which can wipe down properly. He didn't see the risks of raw meat being in contact with that muslin. Did he wash it and boil it kind of thing? No, they don't realize the risks. Then it's just down to education again. The people just take on businesses and train the staff the way they know. It's not necessarily what's wanted. He didn't really understand the risks for the contact with the raw product and then wiping surfaces with the same thing. He thought it was a good cloth to be able to wipe it. Maybe it's a good cloth to use but unless they take it off and put in boiling water and bleach and wash it before they actually use it. Whether they do that is a bit doubtful. I don't think he was really getting it. He was trying to explain that it's the best cloth to use, carrying on doing that. I'm not quite sure whether he understood but I put it in writing to him, and maybe just look at it again.” (Participant 1)

Another spoke about how the business operator they had dealt with in the observations was not understanding what was required in relation to having hot water and how this made them frustrated as they expected that they should know.

“They're not understanding the, the not knowing and importance of it and the times you go in and they say I've got a poster up. You know, and they think that's enough. NAME OF FOOD BUSINESS is one of them, they will never get any better, they will never understand why they needs to, they've never killed anybody yet as far as they know and they will just carry on ticking over. I think because they've had businesses before, it's a basic, they should know that they need that before they start. It's, it's like your ABC's for running a food business, you know, you have hot water, you have, and you know I think that was where I was getting frustrated with them. Because they were not a new starter, they've had 2 other

businesses, and had time and experience from other officers and they should know better than that. And that's where you get to the point where you've gone from, I'm here to help and support you, to actually now I'm going to have to preach at you because you're not doing it." (Participant 9)

7.5.1.2 Inspector unsure of what motivates the business

The inspector from case 6 specifically mentioned how they were unsure of what motivates the business operator they had been dealing with in the visits that were observed in the study, and were struggling to achieve learning in some areas. This was the only case who mentioned this and although it was disappointing for the inspector to be struggling to see the business operator learning, it was positive that they acknowledged this and had not just given up.

7.5.1.3 Lack of advice/proactive visits

As might be expected, the lack of advice or proactive visits was identified as a barrier to learning in line with the fact that the provision of this type of intervention was believed to support learning. The lack of advice was seen as a barrier and led to less understanding of what the business operator needed to be doing. The inspectors in cases 2 and 5 both spoke about this but the inspector from case 2 had particularly strong views about the benefits of advice visits:

"We used to do loads of advice visits and you get them on board straight away. The first inspection is a lot quicker, it's a lot easier, better compliance. You've then built up that relationship.

They trust you, they are more like to come to you and you don't have a revisit, because you've done everything from the advice visit. People were told about documentation and blah-blah-blah, so the visit is quicker, because you've got half the information in advance. There's a different attitude between-- When you're doing an advice visit, they are more receptive, because often you've made an appointment. They're then solely not cooking, they're not managing, they're solely focused on you. They've often got pen and paper. They will write things down.

I would suggest that's a much better learning. And they also don't see it as "Oh, I'm going to get a rating after this. I'm going to get criticized. I'm going to get a big letter, I'm going to get closed". Because they've often asked

you to be there, so they want it. An inspection, they haven't asked for you to be there. You are being criticized, they feel and they know they are going to get their rating from it so they're panicking.” (Participant 2)

7.5.1.4 Language barriers

This was identified as a barrier by all but 1 of the inspectors. Clearly, if the business operator and the inspector do not speak the same first language, there are likely to be some challenges in understanding each other. This may be more of an issue in some LA areas than others due to their demographic make-up. It was notable that none of the business participants identified language as being a barrier for them.

7.5.1.5 One-way dialogue

One inspector identified that there have been instances where they have felt the dialogue has been one-way and how this has presented a barrier to learning. This seems logical as two-way dialogue has been identified as such an important factor for learning to take place.

7.5.2 Attitudinal

7.5.2.1 Attitude of business

The attitude of the business operator was mentioned by all but 1 of the cases as being a barrier to learning. Attitude is quite a subjective thing but in essence, if the inspector perceives the business operators attitude is poor, then they do not believe it is likely they will learn. The inspector from case 4 spoke about how they perceived the business operator they were dealing with in the observation as having a poor attitude:

“I felt that that's not really very good business attitude that he's not going to train them because they're going to leave. You've got to think about the food safety aspect, the compliance and safety of the public. Whether it's in-house training, he needs to train people.” (Participant 1)

The inspector from case 5 spoke about an experience they had previously had, with a business operator who had a particularly difficult attitude although they saw this as an unusual situation and in their experience the majority of business operators did not have a poor attitude:

"I struggled with him, getting him to get his ramps checked. He thought he was above it all. He was really struggling. That was actually the first ever improvement notice I served back in the day. He was just difficult, really difficult. He couldn't see the need to do that, to get that checked, to get the compressor checked and everything else. No matter, I spent ages with him trying to talk him around and say, "Look, this is for your own benefit. You're working underneath these cars. If that was come down on your?" He had other people working in there as well which was a real issue. If he wants to was put himself at risk and he's a self-employed person, sometimes you have to walk away and let him get on with it, but when you've got other people that go into those workshops that could be hurt, that's not acceptable but he was difficult. In that particular case, he was really obstinate. If he hadn't been really obstinate, he wouldn't have needed a notice. In truth, it needed a formal notice to do it. It was very, very secretive, very, very difficult. Didn't like the fact that we were getting involved with him. There are businesses out there who will not take enforcement, will not take guidance and knowledge and trying to help them, they will always put shutters up, but I'd have to say the bulk of businesses actually I see differently to that. They actually like to have us coming out, helping them, advising them and to do what they need to do." (Participant 5)

Other inspectors made comments such as:

"If they haven't got the time of the day, they've not learned anything, they're not willing to learn anything, they haven't got the, they're not bothered with us being there." (Participant 4)

"To me it was his blaze attitude, it was a case of 'oh, it's OK it was alright a minute ago' which is what we get all the time. And it might have been, but your judgment is well, I'm finding this, why aren't you finding it and those sorts of things. So then probably it kind of went a bit downhill for me from there [...] I think it, his attitude towards me did influence it. Because, I was kind of being dismissed, you know, I know what I'm doing don't worry about it, you know those sorts of things." (Participant 9)

7.5.2.2 Business not open to learning

The business operator not being open to learning was spoken about by all of the cases showing this alongside perceived attitude as the two most significant barriers as far as the inspectors were concerned. These two points were mentioned the most by the inspectors in relation to things that prevent learning. 1 of the inspectors spoke about how they believed all business operators have the potential to learn but without them being willing to learn it was not likely to happen:

“If they're willing to learn, I'd be willing to spend a bit more time, and say like, "These are the resources you can get and do these things." Go through a bit of training, maybe just hand washing and stuff like that. They weren't really very responsive in that way. [...] They do have a potential to learn. Whether they're willing to learn, I don't know. That's a different thing. You have to be willing to learn. Everybody has got potential to learn and willing comes from the owners really. If they're prepared to provide that time and effort for everybody to learn, then they would do. It depends on the owner in that way but you often find staff who-- If the staff are running it, they might be more responsive and want to learn. If they're controlled by the business operator, then it depends on them” (Participant 1)

The inspectors from cases 5 and 6 both spoke about their experiences with previous inspections where they did not feel the business operators were open to learning:

“He was not in a receptive mood at all. If he had been, he would have learned that we weren't coming there with a big stick and it would have cost him far less, I'm sure. It was to his own detriment really that he went off like that.” (Participant 5)

“He was quite adversarial. He was very much, "I'm doing it, I know what I'm talking about, I've been trained by [name of famous chef],” I think it was, or something like that. Well, what we've got is a risk here, so I can't walk away from him and leave him doing it.” (Participant 15)

Most of the examples that inspectors talked about were from their past experiences rather than from the recent visits that had been observed in this study. This was a positive indicator as it suggests that most of the business operators in this study were open to learning to some degree and this was largely reflected in the findings.

7.5.2.3 Previous history of non-compliance

Half of the inspectors said that they felt a previous history of non-compliance was a barrier to learning. It is unclear why they saw it this way, rather than seeing this as an opportunity for learning. In the previous section about supporting factors the inspector in case 2 saw this a challenge and looked upon it more positively so this shows there is a difference in how some inspectors perceive previous history in terms of the learning opportunity.

The inspector in case 1 spoke about how they had already considered the previous history of the business they were going to visit for the observation in this study and had already got a pre-determined opinion about what they were expecting:

“I wasn’t expecting it to be plain sailing. Although I’d like to have thought it was going to be. I thought there would be something because in their previous premises, there have been issues. I don’t know....I thought structurally it was going to be OK and potentially practices were OK because you know, their food’s good and people are raving about their food and things like that but it was how they were going to be with me, they always seem flustered and worried and you know they are quite, they say they are open and you can come any time, do what you want and everything else but it always seems like an inconvenience when you finally get there. So, I just felt...I don’t know, I was prepared for the worst. I think that’s the way to go in with that one. It wasn’t one I thought we’re going to do this in quick time.” (Participant 9)

As this was the only case which showed a deterioration in GLB’s over the visits, it may be significant that this inspector had already come to this conclusion before even setting foot in the premises. Similarly, the inspector in case 4 also said that they felt the business they dealt with which had a poor history would only ever do the bare minimum to comply and would never learn and move forward. However, in this case there was some evidence that learning took place:

“My impression was that they do bare minimum. I think that’s their type of business, you tell them and they will do it but the bare minimum. Then you go back next time and it’s deteriorated again. He made out that he did everything that you ever wanted before and look, he’s improved this and that but he’s one of those businesses that go back to square one, next time.” (Participant 1)

7.5.2.4 Inspector less likely to try with a business that has poor history/attitude

This was a significant finding that came up in all of the inspector interviews. Inspectors provided evidence that they were less likely to try to help facilitate learning in a business that had a poor history of compliance and/or a poor attitude as perceived by them. This was significant in that the attitude and openness to learning of the business operator was likely to be judged by the inspector very quickly, either during those first few minutes of the interaction or even prior to the visit if based upon previous experiences. Therefore, the subliminal decision about whether or not they would try to enable learning was potentially made before the majority of the interaction had even taken place.

2 inspectors spoke about how they felt they were wasting their time when dealing with business operators who were not likely to learn due to their attitude or understanding.

"I don't know where he'd gone to, but then I thought, "If he doesn't understand me, I don't really understand him." He doesn't think it was a problem. Am I going to be wasting more time by carrying on talking to him? At least the barman understood and relayed the message. He'd already relayed the message to the food business operator, but I'd pointed out in the bar that the shelves and the areas that needed cleaning. I think all the public knew as well." (Participant 2)

"It can because, like anything else, you don't want to be wasting your time. If they're not receptive, they're not the person who will listen to you and learn from you. You're not going to put that much effort into, it's just like talking to a wall, isn't it? Whereas, if someone is receptive, you're actually going to give them everything they need, and more to recognize. If you look at the two extremes." (Participant 5)

Another inspector spoke about how they had experienced business operators who are too busy to engage with them and that this attitude meant they are not able to or less likely to try to engage with them. This could link to the issue of bad timing as it depends if it is because they are genuinely too busy or just have a poor attitude.

"Interviewer: Do you think that response from them makes a difference in terms of how hard you might try?"

Interviewee: Yes, I think so. There has been and there always will be those that say they are too busy to talk and they'll just wander off and you need

to come back later. I've been left on my own to do the inspection. I'm trying to pin them down to speak to them, that's a mission. There is people out there like that. I'm still determined to do the full inspection then.

Interviewer: *Do you think you'd perhaps be less inclined to try and spend time with them to get them to learn when they're like that with you?*

Interviewee: *Tracking them down is the hard point. I don't think I can but there is some way you think, "They're not going to change." You come out of it thinking, "Well, I've left them a report of visit with a list of stuff on it that they need to do." They might do it this time but it will just be the same the next time coming back, the response like that." (Participant 4)*

There was quite an in-depth conversation in the interview with the inspector from case 1 which led to the determination that the more times the inspector engages with the same business operator and finds that they have not improved, the more the inspectors willingness to try to help them learn reduces. It is like a sliding scale, whereby all new businesses with no previous history start at the top of the scale and depending on how they perform each time they are visited depends on where on the sliding scale the inspector moves to in terms of their willingness to try to help that business:

Interviewee: *Well, with NAME OF FOOD BUSINESS, I went there, served notice for the food safety management system, then went back, then we went through it page by page with them and then went back the next time and it's still not done so you get to a point where...*

Interviewer: *You just give up?*

Interviewee: *Yeah, you do. Because if you're getting nothing back, if you're not getting an interaction, you're just getting a brick wall all the time, you will get to the point, human nature says that you're going to give up.*

Interviewer: *So would you say the, the potential for learning to happen it's dependent on, both parties' responses?*

Interviewer: *Yes.*

Interviewee: *And, and experience from previous interventions?*

Interviewee: *Yes.*

Interviewer: *So maybe, you might have a new business, and when you first engage with that new business the potential for them to learn might be up here, and then, you might visit them and don't see very much progress, you go back and then maybe the potential...*

Interviewee: *Is getting less.*

Interviewer: It slides down and each time you don't see learning happen the potential just declines because as an inspector, you're not going to try as hard?

Interviewee: No you're not, I don't think you are.

Interviewer: And you're going to try harder with the new business that's just registered?

Interviewee: Yeah. Or give this a try and see if we can the engagement there. But is that a failing in us engaging incorrectly in the first place?"
(Participant 9)

7.5.2.5 Business perception of visit as red tape

Both inspectors in cases 1 and 6 spoke about situations where they had been made aware that the business operator saw their visit as 'red tape' and this may have influenced their attitude. The inspector from case 1 spoke about how they often have to overcome this perception and attitude with business operators they are dealing with:

"Trying to get across to them the importance of it because, to them they're running a business, they're just doing what they're doing they're trying to earn money. They don't really care about red tape and bureaucracy. Which is what they see us as, it's a case of trying to support them and show them the reason we're there. [...] I haven't had too many sort of obstructive people, people that are totally adamant that you're not coming in. I have had it, but not massively, most of the time you can talk to somebody and turn them round and get them to do that sort of thing but I do find that they don't want you there. Or that's the way it appears or they don't want any official there. They can be quite short with you, being distracted, not paying full attention to you, looking at the phone, checking the orders, cooking the food sometimes, those sorts of things." (Participant 9)

7.5.2.6 Fear

Fear on the business operators part can be a barrier to learning. This was mentioned by some of the business participants but only 1 of the inspectors recognised that this can be a factor. This is something that might be able to be reduced if the right approach is taken during the first few minutes of the interaction and where the positive introductions play an important part as already identified.

7.5.3 Practicalities

7.5.3.1 *Bad timing*

The timing of the visit was identified by only 2 of the inspectors demonstrating that some inspectors do not realise how much of an impact the timing of their visit can have on the potential for learning to take place. This was identified as a more significant issue by the business participants.

7.5.3.2 *Cost*

Inspectors did recognise that cost of compliance was an issue for business operators and they perceived this as a barrier. It may be that this is more of a barrier to compliance than learning per se but if the cost of doing something correctly is at the forefront of the business operators mind, they may be less likely to fully engage in the learning process. This barrier could be overcome by focussing on the explanation of the benefits to the business as mentioned in the previous section and where the role of the 'sales pitch' really has some relevance.

The inspector in case 6 spoke about how finances have presented a barrier to some business operators they have experienced dealing with and how sometimes people starting up food businesses, in particular without the experience of doing it before, underestimate the costs involved. The inspector in case 5 also spoke about how in their experience health and safety is often seen as an unwanted cost when finances become a concern, particularly in smaller businesses.

“But the battle of recession because that had an impact. They don't have as many pest control visits or at all, or they're perhaps cheap on their chemicals, or they reduce the number of staff. And so the economy as a whole, but also the micro-economy of that business you're talking to. The economy may be doing wonderfully but that business is on its feet for whatever reason shoot the road and put their foot forward. That changes. And conversely there are businesses doing really, really well in a bad economy. But finance, and leadership as well oftentimes, is what those businesses operate on. What do they see themselves as, back to the public and the society to buy a pub because he can run that as a pub, but has never run one in his life? He's probably built a few or sorted out a few or spend a lot of time in a few. But he's never actually realized the true nature of running a pub. Then they've got themselves into the contractor there.”

You've got to feel for them, but that's again another barrier.” (Participant 15)

“Smaller businesses sometimes they equate health and safety to cost. If they're struggling to make money at all, health and safety is seen as a hindrance that is just bolted on and we're just forcing them to do it. That becomes a bit of a barrier.” (Participant 5)

7.5.3.3 Resource and time pressures

All of the cases identified their own or their LA's resource and/or time pressures as being a barrier to learning. Many of them felt that they simply did not have the time available to spend with the business to really enable learning to take place and that they were under pressure to achieve inspection targets or to reduce the need for revisits unless really necessary which meant they were not able to support the business enough to really enable learning in the long term.

A relevant point that came out of the interview with the inspector from case 5 was how cuts in LA budgets has led to the loss of posts within health and safety teams and more of a trend towards joint food safety and health and safety teams predominantly made up of specialist food inspectors who also 'do health and safety'. The inspector in case 5 was a specialist inspector in health and safety and spoke about the impact of losing the health safety resource had an impact on the potential for learning because the specialist knowledge had diminished over time. The knowledge and experience of such specialist inspectors was not easy or even possible to replace.

“Interviewee: Now we've got a similar size team 11, 12 thereabout, one health and safety, 11 food officers who do a bit of health and safety.

Interviewer: But they haven't all got the depth of knowledge?

Interviewee: No, they do their best. It's the way things changed after 2009, 2010. We've lost good officers. You know the likes of NAME and such like who were doing a good job. NAME. I challenge anyone to know more than NAME with regards to local authority health and safety. Such a shame that we lose officers like that. We need them. People are not training in health and safety in the way they were years ago because-- If they are, they're going into consultancies, because there's more money to be earned. There's more jobs available.

Interviewer: Do you think that all of that you've just mentioned has an impact on how much learning can happen? Do you think the fact that local authorities have lost that bank of knowledge and experience means that it's less likely that that knowledge is being passed on to businesses?

Interviewee: I think that's true. Again, I mentioned NAME just a minute ago. NAME's knowledge for the council in health and safety, that's lost to-- not just lost to the council, but lost to anyone that they would have been visiting. That is a massive loss. Any officer who's been doing the job for any amount of time and then walks away, you can replace it with another person but you're not necessarily--

Interviewer: You can't replace what was in their brain, can you?

Interviewee: No. Exactly." (Participant 5)

Another knock-on effect of the loss of resource in Environmental Health teams is that there is more work to be done by less people, and so the time pressure increases. Several of the inspectors spoke about how they experience time pressures and the challenges this presents.

"I don't think you have time to do that on an inspection. You can give them snippets, but you've got an agenda which is I have to give you a food hygiene rating, and even on a partial visit you've still got a certain number of questions and there's a certain amount of information that you've got to get through, and actually if you would start diving into all the information that you do during a training session- or advise visit, I suppose, which we don't do anymore- must be painful, right? You usually do not have that time because your reason to be there is to do their inspection not to train them."
(Participant 15)

Interviewer: You said they're too busy. Do you find that that causes a problem during the inspection, like you get there and they're too busy to really spend time listening and engaging with you?

Interviewee: Yes. Then some of them will say, "Can you come back later?" No, we can't, we need to see it as a customer sees it, and so we're allowed to do it there and then. Or you'll be trying to pin them down to ask what do they do and they're too busy with enough, with other stuff." (Participant 4)

In summary, the most significant factors that inspectors see as barriers to learning are the attitude and openness to learning of the business operator. As previously identified this

position could be set very early on, during the first few minutes of the interaction, or even prior to the inspectors arrival as sometimes they may have pre-determined view base on their previous experiences. This determines whether or not the inspector is likely to try or at least the degree of effort they are willing to give to facilitating learning. The inspectors think that the business operator does not understand what they want them to do, but they do not question why this is or consider whether it might be something they are doing or not doing that could be contributing to this lack of understanding. It is possible that this is leading to the perceived attitude of the business operator.

7.6 Tactics used by inspectors to encourage learning

The inspectors were asked about a range of tactics that they use to encourage learning. These ranged from simply signposting business operators to information and making themselves available, to explaining things in more depth, to adapting their approach with business operators. Enforcement was seldom used as a way to encourage learning although the threat of enforcement was thought to be an effective motivator rather than the actual use of it. This is a fairly accurate reflection of the fact the business operators indicated they fear the threat of enforcement.

Providing information and signposting was mentioned by half of the cases. This would seem to be one of the least onerous for the inspectors in terms of effort required, time and resource and can be done either verbally at the time for the inspection or in a follow-up letter. It is a way of helping the business but encouraging them to do the research for themselves rather than doing it for them and might be most effective with some of the keener business operators where there are less barriers in the way and there is a good level of understanding already.

Some inspectors also spoke about how they use explanation as a tactic where they explain to the business operator or staff exactly how to do the thing they are trying to help them learn. This might be more appropriate in a business where there are more barriers and understanding is not so good. This was positive in that explaining things well has also been identified as a factor that supports learning.

The inspector in case 2 explained how they thought writing everything down on a report of visit form at the end of the inspection to explain exactly what they needed to do was a good idea and something they have started to do, rather than sending it all in a letter afterwards which by the time it arrives is no longer at the forefront of the business operators mind.

"I think at the time of the inspection, I think it's very difficult, because you just spend an hour or two hours piling them with the question. I think one of the good things is, and I've not really done it before, is actually, on the report of visit form actually writing out every single thing, whether you're going to send the letter or not, what they need to do.

Yes, it takes time but they've then got something there and then to start working through because they're not going to remember everything you said, so at least they can use that as a method of what they've got to do, which would be learning rather than, I used to, because this is what the authority did. Items now to be discussed at the time the inspection I'll detail them in the letter.

We'd send a letter for every single visit. That letter wouldn't necessarily arrive till a week later. By that time, the visit has gone to the back of their mind. Actually, I probably would say that the report visit and writing everything down on that is actually a good thing." (Participant 2)

Another inspector said that they felt businesses were happy to receive a visit and to have things explained to them as they do not always have the time to look for themselves or to go to a consultant for advice.

"They actually like to have us coming out, helping them, advising them and to do what they need to do. It's not for us to tell them exactly what they need to do, they've got various ways of doing things but actually they like the guidance. They like someone in authority, if you like, but who's actually just there to tell them, "That's the right way to do it or that's the wrong way to do it," because a lot of them haven't got the time to find out for themselves. They haven't got the knowledge or anywhere to go for that knowledge. They can't afford a consultant or whatever. They're small businesses. Consultants come at rather expensive prices." (Participant 5)

The inspectors did not really talk about enforcement as a tactic to encourage learning. Half of the inspectors said things that suggested enforcement does not often lead to learning. It may lead to compliance and learning what the consequences of non-compliance are but not learning new knowledge that can be used going forward. Inspectors generally felt that enforcement was the last resort and in essence meant that they had failed in getting the

business to do the right thing if they had to resort to enforcement action. They had failed to achieve learning and had no other option but to use formal enforcement action

“Prosecution isn’t necessarily the answer. Is that going to bring about learning? Not necessarily. It might do, but not necessarily. I’ve had it in the past where we prosecuted someone and they’ve gone back to being exactly the same as they were before...It’s just having to use enforcement, to me personally, I feel like formal action is you’ve lost. You’ve tried everything you can, and you’re at the last stage, and you’ve just got nowhere else to go. To a certain extent, it means everything else has failed. That’s the way I sort of see it. Not all the time. It means that you’ve tried everything else. You’ve gone down you’ve looked at the enforcement procedure. You’ve tried all the informal revisits, letters, blah, blah, blah and it’s not worked.”
(Participant 2)

“If we hadn’t served a notice there, would they have actually taken that on board and would they? No. They wouldn’t because, they’ve shown throughout that they’re not prepared to learn from what happened and there are other businesses like that. Sometimes you have to draw a line in the sand and go down the formal enforcement route but I don’t think that’s the learning route. I think that’s a separate route and we’ve failed a little bit but sometimes it’s not that we’ve failed. It’s just the combination that has failed.” (Participant 5)

Another inspector spoke at great length about a business they had been dealing with that was serving less than thoroughly cooked burgers and that under normal circumstances this could have justified a hygiene emergency prohibition notice being served which would have prohibited this activity. This would have required a lot of time and resource on the inspectors part, and would not have been likely to have ended up with the business learning the detail of the process or the risks involved with what they were doing. The inspector actually used some very clever communication skills in order to explain, engage with, compromise with and build a good rapport and relationship with the business operator. As a result of their efforts, the business operator bought into what the inspector wanted them to do which was to voluntarily stop doing the activity, although they did end up doing something different in a much safer way in the end. This was a really good example of a successful intervention and learning taking place.

“Between us, we managed to compromise and they were going to have a go at making Sous-vide burgers and see whether that produced a burger that was acceptable to his customers, which was ultimately what we were trying to achieve, because he'd been serving rare burgers to his customers for years, or allegedly for years. I don't think he served that many actually, but he was retailing them at quite a-- I mean, they were £25. We also explored the other routes that he'd got as well, which was to buy through an approved supplier. He could have done the buying of the beef that meets the 4 log reduction and put the warning on his menu. He really didn't want to put the warning on his menu. So we eliminated that one quite early on. Then the other one was the sear and shave method, which he didn't know about. When I explained what that was, he did go, "That's a bit of a faff." I'm saying, "Well, these are the valid methods." The sous vide one, I'll be a bit cheeky here, I basically said, "I think it would be unique to you." I'll be honest, I consciously did that at the time, because he clearly wasn't wanting the warning on his menu. Actually, I probably wouldn't really-- It was an acceptable valid method, but I'm not necessarily sure that it would be unique to him. The sear and shave method has its limitations because control just has to be second to none. His method that he was proposing to me actually sounded like the safest of the three. Actually, the most useful one and the one that he'd come up with himself. I'll be honest, I played on that. I thought this is a way forward. This a positive way forward.”
(Participant 15)

Other tactics that were mentioned by small numbers of the cases but had a similar thread of discussion, sharing and reflection were spoken about. Inspectors said that they discussed and shared their experiences with their colleagues, perhaps getting each-others' views and ideas when dealing with more difficult premises to help them learn how to best deal with them. Also sharing information and knowledge about what has worked in other similar premises with businesses. Reflection was mentioned by case 6 as something that they do to try and learn themselves and think through whether they have dealt with a business in the right way and how they might do things differently in future. Reflection is a skill that is instilled in EHP's as part of their qualification process and is something that they often do without realising it or recording it.

Finally, the inspector in case 5 spoke about passing knowledge on without them realising it. This was an unusual tactic, and it was not clear as to why they would want the business operator not to realise it but it was possibly more about trying to get the message across

without being perceived as telling them what to do. This might be relevant with some of the business operators who do not like authority and being told what to do.

7.7 Evidence that learning has taken place as seen through the inspectors lens

The emergent themes from the inspectors perspective on whether learning has taken place were a mixture of objective and subjective methods which included increased knowledge of a subject, confidence, ability to explain/repeat back new knowledge, ability to answer questions accurately, maintaining compliance/food hygiene rating, observation of change in practices and ability to take new knowledge a step further.

All of the inspectors identified that their own knowledge increasing on a particular topic was an indication that learning had taken place on their part. This is no surprise as it is obviously easier to recognise learning in oneself than in others. However, the positive thing here is that it indicates that learning can and is often a two-way process where the inspector learns as well as the business operator. It is relevant to note that the case with the poorest outcome in terms of learning outcomes according to the observation visits, also shows the least number of indicators of evidence that learning has taken place here.

In terms of recognising when learning has taken place in the business, one of the strongest indicators that was identified was confidence and a gut feeling that the inspector has. This is a very subjective judgement and down to individual interpretation. It is not possible to replicate this or to teach it as a skill, but this is something that grows with experience. It is as much about the confidence the business operator has in delivering the answer to a question as it is about the accuracy of the answer. Inspectors made comments such as:

“It’s about what they’re saying but the confidence they give with that. Confidence is important. It’s satisfactory answers, I suppose, when they reply to you and give you the right answers with confidence.” (Participant 1)

“There are different ways of understanding what learning is taking place. Some of it is very much a gut feeling in yourself, whether you think that person has taken on board or not.” (Participant 5)

Inspector’s use this confidence and gut feeling indicator to make a judgement on the business operators ability to explain concepts, repeat back knowledge the inspector has given them

and to answer their questions. If they are able to do these things accurately and the inspector has confidence in their ability and the answers they are giving then they are more likely to be convinced that learning has taken place and this is how they determine this has happened.

The inspector in case 1 spoke about how when they go back to assess whether the business operator has done what they have been asked to do, they ask them to explain if they understand why they are doing something in order to help assess whether learning has taken place.

"I suppose when you go back and you, of course, review the procedures that you've done and see whether they understand, what they've done is what they understand or whether they're just trying to tell you again, "Oh, I'm doing it now." Maybe just reiterating and saying that, "Do you understand why you're doing it? If you go to visit again to see if they stopped using those muslin cloths, and we told them not to use them, and you go back and say, "Well, you're still using them." And they say "Oh, I don't wash them now. I just boil in them for whatever." Then they've learned. Or if they're not using them you know whether they've learned from it really." (Participant 9)

A business operator's ability to explain/repeat information back to the inspector and to be able to answer questions about the topic they have been learning about were indicators of successful learning identified by inspectors.

"You can pick up on the way people react to what you've told them. You can pick up on how they can then describe things back to you like so. Going back to our illegal tattooist, they clearly had learned, they'd taken on board what I'd said a year before and they made the full application and everything else." (Participant 5)

"That they've actually, before you even ask the questions, they're always at the bottom or the fridge or I checked the temperature every day "Here's my records", or before you've even asked the question. The other day I was at one and they were literally, I just said so I might as well go home now, because they were giving me the paperwork, telling me before I'd even asked the question. Whether they've learned that from another officer or learned that through training or whatever method you know, because they tell you before you've even asked the question or as soon as you've asked

the question, the paperwork is there taking you to that bit of the kitchen or you open the fridge and you see that everything's labelled with the name of the food, three days." (Participant 2)

Businesses operators being able to demonstrate their new knowledge in some way and the inspector being able to observe a change in their practices were also identified by 4 of the inspectors from cases 2, 3, 5 and 6. This shows that some inspectors need to see something visual in order to be satisfied that the business operator has learned. It is not just about being able to say the right things, but it seems that there is more of a 'seeing is believing' theory here. The business operator needs to 'walk the walk' as well as 'talk the talk' in order to convince the inspector they have actually learned. Inspectors by nature tend to have a slightly distrusting standpoint and so they need convincing. They do come across business operators who are dishonest sometimes and it is their job to work out which ones these are, so it makes sense that they require something more evident than purely verbal answers to questions to convince them.

The inspector in case 2 mentioned about how they can see a cleaner business and that can tell them they have learned, or how they will sometimes ask a business operator to send them photographs or an email to explain what they have done which they have found to be a good way of getting commitment from them to follow something though and to show they have learned by having to put it into an email to them. The inspector in case 6 explained how the operator of business they had visited was able to show them the sample results and send them by email explaining what the results meant which was a way they had showed they had learned. Both demonstrating how they made the judgement about learning by seeing something visual as evidence.

Other tangible ways that evidence of learning can be shown is by the business maintaining a good food hygiene rating at future inspections. Each time an inspection is carried out the scores the inspector gives are used to determine a food hygiene rating which indicates how well they are complying with food safety requirements. If a business manages to maintain a good rating this shows they have learned from previous interactions and have been able to carry on the things they have learned without the inspector being there to support them all the time. Likewise, if no or few contraventions of legislation are identified during future interventions this is also a good indicator that they have learned and carried on with the new knowledge over time. The inspectors from cases 1, 2 and 3 all mentioned how maintaining a good food hygiene rating was a sign that learning had taken place.

"It's about when you go back. I said the satisfying thing for me is if I get the next inspection and 12, 18 months to two years later, they've actually maintained and they're still doing what you've said. That is the best thing about the job. It's not about the revisit two weeks later, two months later because anyone can keep it up for that long. If they're still maintaining it that next inspection, that is so satisfying because you know then that they've learned from you. Yes, they're either just following what you've said, or they've then thought about it and are still maintaining it." (Participant 2)

Another indicator that learning has taken place on the inspector's part is that they may try a different tactic with a business operator to try and achieve learning. This was highlighted by inspectors in cases 2, 3 and 6. This may be something that happens after reflection or discussion with their colleagues, but it shows if they are trying a different approach that they have learned something in terms of what is and is not working with the business operator they are dealing with. This strengthens the evidence that learning can be a two-way process.

The inspector in case 6 explained how they had used their previous experiences of being the second officer on visits to the business operator they were dealing with, to help them use a different approach when they became the lead officer with this business. They felt they had become better at dealing with this business operator who had a tendency to be quite aggressive previously.

"I've definitely got better at dealing with him. As I said initially, I wasn't the main officer and it was a lot easier to be the second officer because you can stand back rather than more-- You can observe what's going on. You can see how both parties-- Because when you're that person it's like am I going to- Or come in and say actually well you're not getting this. This is dead serious and we're perhaps rephrasing it in a different way. That was certainly very helpful to read when then I was the person that was-- had the knowledge of the history and the site to then go and be the lead officer. I think I got better at it. We've certainly not had too many heated exchanges with him for quite a while. It definitely got better. Definitely learnt a lot about myself but continue to do so because at the end of the day this is not resolved." (Participant 15)

Similarly, the inspector in case 3 who had not long completed their practical training also made reference to how they have learned by observing other officers and how they have approached

things and what the outcome has been and using this to choose the tactics they are going to take to hopefully get a better outcome.

"I'm still learning now. I'm learning all the time and I've only been qualified a year, so I'm still constantly learning. From doing those inspections, I've seen obviously people not going in there fully harsh, but I've seen the different ways of officers going in and carrying out their inspections and outcomes at the end of them. That's why I've taken the instance of that, but this is the way I'm going to do mine, so as far it worked." (Participant 4)

2 of the inspectors from cases 3 and 5 both said that it can often take time to know if learning has taken place. Compliance can be assessed quickly in terms of has the business operator done the thing they were asked to do, but whether they have actually learned rather than just done what they are told cannot always be determined straight away. For example, to know if a food business has maintained a good food hygiene rating could take 18 months to know if they are an average category C premises. A food hygiene rating can easily be assessed by any inspector but some of the other indicators of learning can be difficult to assess if there is a different inspector carrying out the visit each time. It can therefore be difficult to know and to measure whether a business operator has really learned or not.

1 inspector explained how sometimes it is difficult to know if a business operator has just done something to satisfy the inspector in the short term or if they will continue to do it in the longer term and that this is not clear until the next inspection.

"I mean if you need to carry out a revisit, then you get the kind of-- there is a bit there where you think that they're not-- they're going to carry on. Some of them it's on the next inspection have they carried it on, have they continued doing it? It wasn't just for me to come back on that one week to revisit." (Participant 4)

On the other hand, another inspector explained how they had experienced some of the people from businesses that had attended the training sessions they had run, taking their new knowledge a step further. This was in a group training session rather than a one-to-one inspection scenario.

"If they've gone away and I've encouraged them to look at it in even more detail, so they've even looked at things that I haven't talked about, because

there's a limit to how much you can do, the allergens particularly, because it's such a fast-evolving area, then you give them some ideas as to what might be helpful or good practice and then they come back with it in spades because you're rather collectively set as a group. That certainly works well with the businesses that train as a group. They're sort of, "Well, I know you said this. Well, we've done this. We've done that," and they've actually learned the skill and they then instead of just going, "I'm always going to use a red board", but they also then go, "Oh, I've got a red knife as well and I've actually got a red box that I'm putting them both in." (Participant 15)

This type of evidence would be a very good indicator that learning really has taken place and the business operator has taken the initiative to go that step further than where the inspector left them and step towards self-regulation. These business operators have the potential to facilitate learning the other way in that the inspector may learn from them the next time they visit and in turn may share that new knowledge of their own with other businesses which would be a really positive outcome.

In summary, inspectors want to see a change in order to be satisfied that learning has taken place and also rely largely on confidence and gut feeling in judging whether learning has taken place and to what degree. Learning can definitely be a two-way process and inspectors use their learning to try different tactics, but it can sometimes take time to know whether learning is really embedded or not which can be difficult when it is not always the same inspector visiting the same business each time.

7.8 Ideas that could help encourage more learning

The themes identified by the inspectors in terms of ideas to help encourage learning were very similar to those suggested by the business participants in that the main theme was advise visits or visits by appointment with half of the inspector participants mentioning this. Other ideas that were suggested but only by single participants included more proactive health and safety inspections, engagement with businesses, training and projects aimed at poorly performing businesses.

Advice visits were spoken about a lot by the inspectors in various part of the interviews. There was a very strong argument that business operators would learn more from a visit that was focussed on giving advice, where an appointment was made so that the business operator was able to put time aside to be fully engaged and was not worrying about the queue of

customers or whether they were going to be closed down. Some of the inspectors also thought that these should be free of charge although it has to be acknowledged that LA's do not necessarily have the resources to offer them free of charge anymore. The inspector from case 2 explained about how they had experienced significant benefits from offering free advice visits in a previous LA where they had worked.

"I don't think that they should be charged for. I really, really don't. I think it's a massive barrier to learning. I understand why we have to charge for things, but I think there's things that we should charge for and things that really we shouldn't. I've noticed between the two authorities I have worked in most recently the difference. We used to do loads of advice visits and you get them on board straight away. The first inspection is a lot quicker, it's a lot easier, better compliance. You've then built up that relationship. They trust you, they are more like to come to you and you don't have a revisit, because they've done everything from the advice visit. People were told about documentation and blah-blah-blah, so the visit is quicker, because you've got half the information in advance. There's a different attitude between-- When you're doing an advice visit, they are more receptive, because often you've made an appointment. They're then solely not cooking, they're not managing, they're solely focused on you. They've often got pen and paper. They will write things down. I would suggest that's a much better learning. And they also don't see it as "Oh, I'm going to get a rating after this. I'm going to get criticized. I'm going to get a big letter, I'm going to get closed". Because they've often asked you to be there, so they want it. An inspection, they haven't asked for you to be there. You are being criticized, they feel and they know they are going to get their rating from it so they're panicking. They potentially might lie or answer wrongly. I think advice visits are a really critical and a really important part of learning process." (Participant 2)

The inspector from case 1 had a similar point of view on this but suggested the advice visit could be carried out by someone less qualified and who would not be the inspecting officer in order to take away the fear factor for the business operator.

"I think going back to non-payment for advice visits I think. I think giving the officers an opportunity when somebody registers to go and spend half an hour maybe with the business to make sure they're on the right track

would save a huge amount of time going forward. It doesn't necessarily have to be EHO level but somebody you know a trainee or something like that. I think maybe that way, going in as a support officer rather than what they see as an enforcement officer, may make that learning easier for the business because when we did the safer food better business packs going in out of hours helping them fill out the packs and all those sorts of things definitely I think helped with their learning.” (Participant 9)

This was the only inspector that suggested talking to the business operators to find out what they need. They suggested that a business forum might be a good idea. This is interesting in that this is the case where there seemed to be very little in the way of two-way dialogue in the visits that were observed. It may be that this inspector takes on a different set of mannerisms when they are in an inspection environment to when they are in a less formal intervention.

“To understand what they needed to do going forward and those sorts of things. Doing some project work with the ‘non-compliant businesses asking them what they want. You know getting a forum together and saying right OK, this is what we need to get across to you, what do you need from us to help you achieve this. And making it a two-way dialogue rather than talking to them all the time, get them to talk to you. I think forums or something like that where they've got a voice, where they can sort of say we understand you've got to come in but can you pay attention to have heed to those sorts of things. I think that may help. To be able to get them to engage a bit more.” (Participant 9)

The other ideas that were suggested by single participants included poor performer projects and training. The inspector that mentioned training happened to be the lead officer for delivering training in their LA so was more likely to have been at the forefront of their mind whereas the other inspectors may not have been involved and seen the benefits in the same way as this inspector had.

8 DISCUSSION OF FINDINGS

8.1 Experiences of regulatory visits

The analysis presented in chapters 6 and 7 showed that in the majority of cases there were examples of regulatory visits where learning had taken place. However, the extent and quality of any learning is also shown to vary considerably and is dependent on certain enabling conditions and behaviours. These conditions and behaviours have been identified from the interview analysis and are further discussed in this chapter.

Both the business operators and the inspectors were able to give more examples of experiences where they believed learning had taken place compared with instances where learning had not occurred. This positive finding supports that learning can and often does occur during inspection visits and that both parties perceive this in a similar way. This builds upon the insight of other studies which have examined learning within regulatory arenas (Gianotti and Duane, 2016). It also supports the concept that learning in this context can be a two-way process as there were examples given by both the inspectors and the business operators where both parties had learned. In most cases there was a mutual belief that learning had taken place to some extent, with the exception of case 1 where both the inspector and the business operator gave examples of this when talking about the recent visits they had experienced together. This was the only case in this study where the evidence of good learning behaviours (GLB's) declined over the course of visits, indicating that the conditions at the time of the visits were not conducive to learning and that both parties perceived this to be the case.

8.2 Understanding of the purpose of the visit

An important finding was that all of the inspectors considered the purpose of their visits to include supporting businesses, as well as to enforce compliance with legal requirements. Previous studies have already shown that good regulation can support the development and growth of small enterprises if delivered in the right way (Vickers *et al.*, 2005; Baldock *et al.*, 2006; Kitching, 2006; Russell, 2012; Croucher *et al.*, 2013; Kitching *et al.*, 2013; Browne, 2020) so it is reassuring to now understand that inspectors themselves do perceive that their role fits into this theory. Inspectors do not just see themselves solely as law enforcers but also as having a role in business support. Supporting businesses in the context of the regulatory visit was defined by the inspectors in this study as being:

- To help the business to be safe;
- To help the business be compliant;
- To signpost the business to relevant information, guidance and other departments/organisations they may need to talk to;
- To share knowledge and experience.

This showed that the emphasis for the inspectors was about helping, guiding and assisting businesses to do the right thing, which in turn protects the public, as well as using other tools such as enforcement to achieve their duty to protect the public.

A key finding relates to the divergent perspective of both parties, with none of the business participants seeing inspector visits as having a supportive role but rather seeing them as solely focused on enforcing the regulations and perhaps therefore as a 'burden' (OECD, 2002; Sala-i-Martin, 2011; Freiberg *et al.*, 2022; Gibson *et al.*, 2023), although 2 of the business participants did consider education to be one of the purposes of the visit. Education could be considered as more of a supportive function than a regulatory function. The business operators perception of the purpose of the visit was more focused on assessing compliance and how some of them felt the inspector was trying to 'catch them out' rather than being there to help or support them when the reality is a bit of both. There is clearly a difference between the perceptions of both parties and the way the inspector goes about trying to support them is not necessarily making the business operators feel supported. This presents an opportunity for learning even prior to any face-to-face visit by offering some pre-information to new businesses about what to expect when they receive an Environmental Health regulatory visit, what the scope of the visit will be, how long they should expect it to take and what the inspector will be looking for. This would help to alleviate some of the anxiety the business operator may have about not knowing what to expect, would enable them to think about any questions they might have in advance, and to think about how they might be able to make the time to engage with the inspector when they do visit. This would help to improve the presence of the conditions required for learning.

The significance of this new knowledge is that all inspectors in this study saw supporting businesses as part of their role alongside protecting the public and assessing compliance. This could be a result of the steer from UK government in more recent years on regulators to reduce the regulatory burden on business and to support economic growth which has been discussed in Chapter 2.

8.3 Supporting learning

There was similarity between the views and perspectives of both the business operator and the inspector cohorts in relation to factors that support learning. The most significant factors were the timing of the visit and the extent of two-way dialogue. Good timing of the visit is the first step towards successful two-way dialogue in that if a visit is timed well for the business and the person whom the inspector is dealing with, the greater is the likelihood of constructive engagement and of other supportive factors coming into play. Two-way dialogue which is supported by good timing of the visit has the biggest impact on whether or not conditions are present to allow learning to take place.

Enforcement alone was not seen by inspectors as a useful tool for learning. Inspectors felt that if they had arrived at the point of needing to use enforcement, that learning had failed after repeated efforts. That said, it may present a final opportunity to motivate openness to learning and is therefore still an important tool. It has been long established that enforcement action is not the first tool of choice for gaining compliance unless all other options have been exhausted and that it is seen as a last resort (Hutter, 1989; Braithwaite, 1992; Arculus, 2009; BRE, 2010; Hale *et al.*, 2011) and this research builds on the existing knowledge by demonstrating that it also does not support learning, but is more an indication that effective learning has failed because the supporting factors to enable learning were not present and that the interaction has been unsuccessful.

8.3.1 Timing

'Good timing' of the visit was identified by both the business operator and inspector cohorts as a factor that can support learning, although it was more frequently mentioned by the business operators, with only 2 inspectors mentioning this. This suggests that inspectors do not have a great appreciation of the impact the timing of their visit has on businesses. Awareness of this could be improved, although the limited flexibility inspectors have must be appreciated. Inspectors need to fill their day and so it can be difficult to time the visit for every business perfectly. Timing can make all the difference in terms of the business operators availability to engage with the inspector and how receptive they are likely to be. Turning up at a busy or inconvenient time has the potential to instantly close the door on openness to learning and influence the business operators attitude towards the inspector from the outset of the interaction. Previous studies on regulatory interventions have largely addressed the time dimension in relation to the stage of the business' lifecycle, and how 'set in their ways' or receptive to learning and new knowledge individuals within the business are at that time of an intervention (Rock, 1973; Huber, 1991; Roome, 1994; Hutter, 1997; Alvarez and Barney,

2007) rather than timing in relation to the operational day/week/month of the visits. This study therefore adds to the existing literature by shedding further light on the significance of timing of inspection visits on small businesses and how this can have a positive or negative effect on the potential for learning.

Following the timing of the visit, the initial first few minutes of the encounter can also have a strong influence on the quality of the interaction and potential for learning. Building on the evidence presented in chapter 3 in relation to how people's first impressions of something being good or bad is decided very quickly without any specific reasons (Zajonc, 1980) the findings of this research contribute deeper insight into how the initial first few minutes of the Environmental Health visit have the potential to determine how the rest of the visit is likely to proceed, thus adding to current academic knowledge. Positive introductions and openness to learning can be significantly influenced by the timing of the visit and are critical factors in terms of the likelihood of learning. With the majority of Environmental Health visits being unannounced inspections, the challenge for inspectors is finding the balance between effective timing of visits and workload demands. However, if learning is a desired outcome of the interaction, attention needs to be paid to the timing of visits and the first few minutes of the interaction.

The key finding and contribution to knowledge from the research is that two-way dialogue is essential to enable learning to take place and other factors either support or undermine this. Effective two-way dialogue is the factor identified the most by both business operators and inspectors and involves some complexity. Most participants across all cases spoke about more than one of the contributory factors for two-way dialogue showing that several of those factors need to be present for it to be most effective. Building on the knowledge already established that in order for learning to take place both parties need to be willing to give and receive knowledge and understanding (Vickers *et al.*, 2003, 2005) this demonstrates that dialogue needs to be two-way and both parties need to be willing to engage in the dialogue for it to be effective in terms of learning. This research has reinforced this theory by identifying openness to learning on both sides as key to the two-way dialogue process as without this it is likely that the conversation will be a predominantly one-way interaction and will hinder the learning process. The influence of the initial introductory phase of the regulatory visit was only identified by 1 of the inspector participants but the business operator cohort placed a lot more emphasis on the importance of this. This is an area that needs to be recognised and considered by inspectors and how their initial approach, manner, attitude and language as well as the timing of their visit may affect how the rest of the visit is likely to proceed. This is not an area that is covered specifically during inspectors formal education and training but will

be learned by informal training methods such as shadowing and mentoring by more experienced inspectors and will depend on the style of the more experienced inspectors they are learning from. This could mean a newly qualified inspector picks up good or bad traits depending on who they are learning from. If the first few minutes of interaction goes well, as perceived by both parties then there is a better chance that learning will take place because this will allow for other conditions that are required in order to enable learning to be present. The attitude of both parties is key to a successful outcome. It was already known that there is huge variation in attitudes and behaviours towards hazards and risks among small firms and the individuals within them (Douglas, 1985; The Royal Society, 1992; Pidgeon, 1998; Slovic, 2000; Eiser, 2004; Cox, 2007; Ball and Ball-King, 2011) and this research builds on that by showing that without a positive attitude at the outset, there is a challenge to overcome, more so on the inspectors part, to allay fears and build trust. If this is not achieved, the conditions conducive to learning are less likely in a regulatory visit scenario.

8.3.2 Establishing two-way dialogue

In terms of the actual dialogue between parties, after the initial introductory phase of the visit, the conditions that are required include the inspector listening to the business operator, taking on board and responding to their thoughts and ideas rather than just pointing out what is wrong and what needs to be done. If the inspector is able to explain the reasons for what they are asking for, to explain how their request may benefit their business and sometimes even demonstrate rather than just explain verbally, the business operator is far more likely to take on board the information and knowledge and learn from it, rather than simply doing what they have been told. This two-way dialogue is more likely to lead to learning as opposed to just complying and therefore leads to a business operator that is more likely to be able to do the right thing and operate safely when the inspector is not there. What is noticeable is that the skill of listening to the business operator and showing them how to be compliant were not really articulated by inspectors in the interviews, but that business operator interviewees clearly felt that listening and showing were important factors for supporting learning. Hence there may be some discrepancy about what individuals within businesses feel they need and what inspectors think they need to encourage learning. The ability of both parties to listen to each other has previously been identified as crucial (Groth, 1991; Ellis, 2009) and the finding of this research further emphasise that regulators as publicly appointed professionals and 'experts' need to ensure they listen to the actual concerns of the public, including individuals who operate small businesses, and not assume they know what they are (Frewer, 2001). If inspectors focus more on active listening then two-way learning is more likely to occur. The circumstances need to be right in order to create a supportive context where sufficient factors are present for both sides of the interaction to allow for constructive dialogue and learning.

This potential for two-way learning is also likely to be strongly influenced by 'personal chemistry' and more cultural factors i.e. the extent to which both parties are willing to be open and empathetic towards perspectives which may seem to conflict with their own understanding and worldview.

Understanding each other was identified as a key contributory factor in terms of supporting learning. These findings build upon knowledge already established in chapter 3 about how the way dialogue is given can influence what information stands out (Gherardi *et al.* (1998) and how inspectors need to have skills in risk communication to ensure businesses understand so they are able to learn (Lyon and Popov, 2017). The findings of authors such as Gherardi *et al.*, (1998), Caley *et al.*, (2002) and Liu, (2014) were more focused on language and dialogue as a mechanism of understanding, but this research adds to this by showing how individuals being able to understand each other's challenges and perspectives, and what it might be like to walk in each other's shoes so to speak, can enable more effective learning. This study goes further by showing how mutual understanding and being willing to negotiate through two-way dialogue can lead to learning on both sides. If both parties are listening to each other and taking on board the other person's point of view, mutual agreement on the best way to achieve compliance is more likely to be achieved. This is a result of both parties learning and understanding from a different perspective and agreeing on what is reasonable, achievable and an acceptable level of risk. Again, this can lead to learning for both parties and is more likely to mean the business will operate safely when the inspector is not there. It can also lead to inspectors adapting and drawing on these experiences when dealing with other businesses and lead to that learning being transferred from one business to another. This concept of compromise in order to agree on solutions to compliance problems builds upon the evidence of Hale *et al.* (2011) which suggested that business operators should be given more freedom in terms of managing the risks in their businesses and that this could be further enabled through two-way dialogue and learning. This notion of a process of negotiation builds upon Hutter's (1997) view that regulatory decisions are the outcome of complex and interpretive judgements by showing how decisions can take place through two-way dialogue and learning rather than independently of one another, and adds to existing academic knowledge and understanding of how learning can be a two-way process in a regulatory setting.

This concept could be developed further by relating it to the enforcement tool used by Australian health and safety inspectors known as the 'enforceable undertaking' whereby business operators make a contractual agreement with the inspector to do something specific to comply and can be prosecuted if they fail to comply with the agreed contractual undertaking.

Whilst Johnstone and King (2008) and Johnstone and Parker (2010) showed this tool to be used extensively in some areas, it is not a concept that has been used in the UK. By using the concept of compromise through two-way dialogue and learning, a contractual agreement could be made between inspectors (or the authority they represent) and small business operators which could be enforceable by way of a penalty if they do not comply. The fact that the business operator has contractually agreed to the action means it is more likely they will comply because they have learned and agreed something that they feel is reasonable and achievable. This would require willingness to negotiate on both sides and any compromise would still need to achieve compliance with the law. Although the UK legal framework does not allow for any official penalty of such an agreement. However, this is a concept that could be considered for future legislative updates or could be implemented through the use of local bylaws.

There are, however, some ethical considerations that came out of the observations in relation to compromise, notably in cases 2 and 3. In case 3, after some dialogue involving negotiation about the food safety management system and record keeping, a compromise was reached whereby the inspector agreed that the business operator could update their records once per week rather than every day. This was perceived by both parties as a positive learning outcome. However, it should be questioned whether the inspector in this case was in fact leaving the business operator at risk by allowing them to only record once per week, and giving the impression that they were still fully compliant. Compromise needs to be considered alongside risk and it is important to remember that the role of the inspector is to protect public health while also supporting businesses to achieve compliance. In case 2, an ethical concern arose in relation to an encounter between inspector and the chef (the FBO not being present) whose first language was not English which gave rise to some difficulties in understanding and communicating with the inspector. The chef was noted to have appeared angry and was saying things to the inspector that potentially put themselves at risk of admitting guilt to food safety offences, thus also putting their job at risk. It later became known that the FBO had terminated the chef's employment as a result of what the inspector found during the visit. This would clearly have had a financial and emotional impact on that individual and their family. This is a good example of how language barriers can have a negative impact on the potential for effective dialogue and learning. Although language was identified as a barrier to learning by the inspector participants, it was not clearly identified as a significant barrier to learning by the business participants. It is arguable that the inspector ought to have considered whether to continue with the inspection without the FBO being present. This is a complex ethical issue because on the other hand, the Food Law Code of Practice (England) (FSA, 2021_a) states that inspections should be carried out unannounced except in certain circumstances. The risk

to the individuals in the business needs to be weighed up against the risk to the public. In this situation, had the inspector stopped the inspection, they may not have reached the decision that it was appropriate for the business to be closed temporarily and this could have led to a risk to public health. These examples reinforce the difficult decisions and social responsibilities that inspectors have, and how they can often be under pressure to 'do the right thing' for different stakeholders, and emphasises the importance of two-way dialogue as a means for achieving the best solution for both business operators, their employees, and the public.

It was clear that in most of the cases where several of the contributory factors for two-way dialogue were identified by interviewees, there had also been some level of improvement or maintenance of GLB's in the observations, indicating that where two-way dialogue had been effective, learning outcomes had also been positive. This corroborates previous evidence of the link between learning and good practices, as discussed in chapter 3 (Cohen *et al.*, 2001; Lynch *et al.*, 2003; Roberts *et al.*, 2008; Adesokan *et al.*, 2014; Smith *et al.*, 2014; CIPD, 2020). However, there was 1 outlier, case 1, where a deterioration in the evidence of GLB's after the visits was observed. The inspector involved in this case only mentioned one of the contributory factors during their interview, which was about explaining the benefits of compliance to the business operator and did not talk about any of the other factors enabling of two-way dialogue identified by other participants. This suggests a possible link between the strength of focus by the inspector on two-way dialogue and learning outcomes. It could be argued that this particular inspector was less focussed on two-way dialogue, and that this had negatively impacted the potential for learning during interactions with the business operator and given that other conditions for learning were less likely to be present. This shows that some inspectors are more likely to encourage and facilitate two-way dialogue than others, and the likelihood of learning taking place is dependent on that. The findings showed that most inspectors use supportive tactics when they are trying to encourage businesses to learn, such as providing information or signposting to sources, and trying to explain things to business operators to help them understand what they need to do. This supports the existing evidence that shows when inspectors are looking at ways to encourage compliance, informal/persuasive tools are those used most of the time and that enforcement is usually the last resort (Ayres and Braithwaite, 1992; Hutter, 1997; Walters *et al.*, 2011), and the same can now be said in relation to encouraging learning. The inspectors in this study also spoke about how they try to adapt their approach to the person they are dealing with, and compromise was also mentioned again as a way to encourage learning. This evidence again shows that learning can be a two-way process, with the inspector consolidating and applying their accumulated learning and adjusting their approaches and practice on an ongoing basis and in different business contexts.

Explaining to business operators the benefits of doing the right thing was a factor identified by the inspectors. This finding could be key to changing the attitude of business operators towards learning. As business operators' overall view of their experiences of regulatory visits was very much orientated around how visit outcomes impacted public perceptions of them, for example through the resultant food hygiene rating, this presents an opportunity for inspectors to home in on. If the inspector can successfully convince the business operator that learning to manage risks in their businesses for themselves will result in a better outcome for them, they are more likely to engage with the learning process. This supports the theory presented in Chapter 3 that learning is not simply about transfer of knowledge, but understanding it in order to make decisions and find solutions for themselves (Vickers and Cordey-Hayes, 1999). Figure 8.1 shows the contributing factors identified by both cohorts as what two-way dialogue means and involves for them and how those factors interlink.

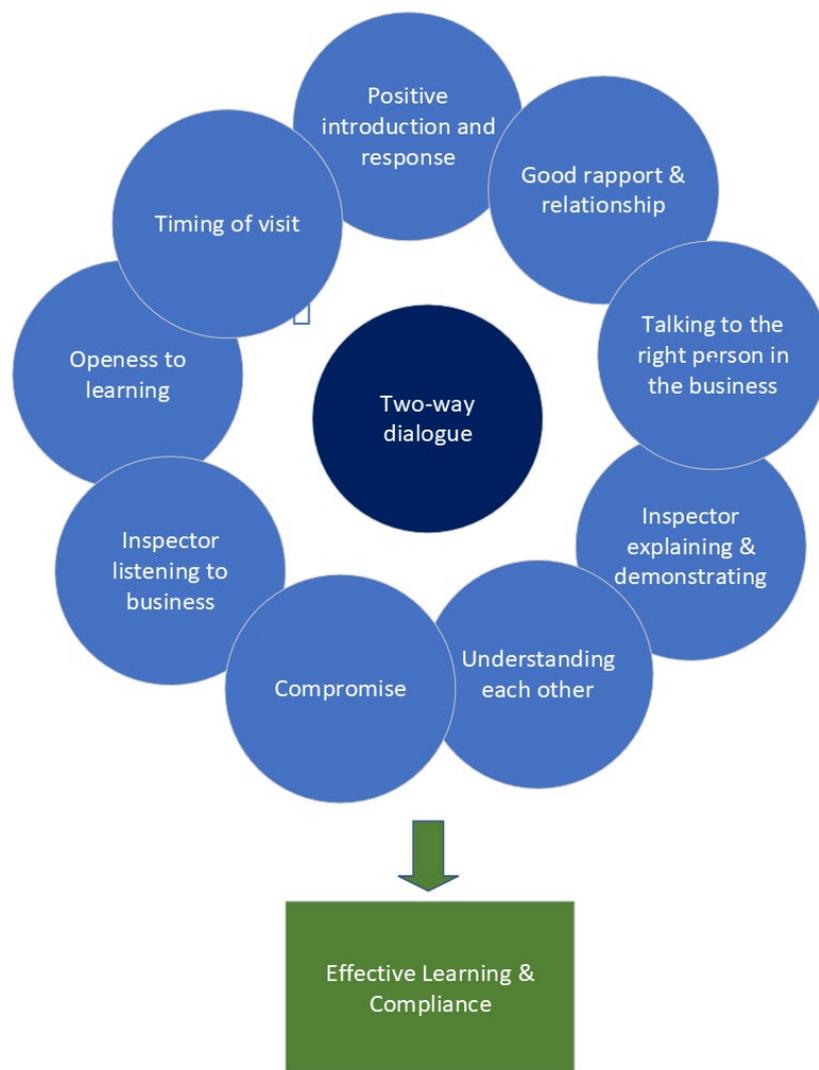


Figure 8.1: Two-way dialogue and factors that support effective learning

The diagram shows the theory developed by this research of how effective two-way dialogue encompasses several dimensions. Rather than it simply being about both parties talking to each other, it is essential that both parties involved are open to dialogue and learning from the outset. Having a positive introduction and response at the start of the interaction is critical to setting the tone and is the first point of establishing a good rapport between parties. Although this can be determined by either party, in general the inspector has the upper-hand and greater ability and, arguably, responsibility to set the initial tone. Once the interaction is underway, the emphasis on the inspector explaining things well and demonstrating becomes more important and is about the way the inspector communicates messages to the business operator together with allowing the business operator to participate by actively listening to their points of view and taking these on board. These actions are likely to contribute to individual's construction of meaning, as identified by Caley *et al.* (2002), as an important factor in how they receive, assimilate and apply new knowledge. This process, if effectively enabled, will lead to better understanding on both sides and the ability to reach agreeable compromises. These contributing factors do not stand alone and have influence on each other as shown by the overlap between them in Figure 8.1. It may be that some level of learning is possible when only some of these contributing factors are present in isolation, but for the most effective learning to take place, all of the factors need some level of presence. Some are more critical than others. For example, if openness to learning and a positive introduction and response is absent, then it is highly unlikely that other enabling factors will come into play, thus undermining the whole process. However, if compromise is not achieved, this does not mean that learning is completely impossible but rather that it will be more difficult to sustain in the longer term. If the inspector succeeds in explaining and demonstrating well and listens to the business operator but is not talking to the right person within the business who can effect change, then understanding is not going to be achieved and those conversations to reach compromise will not be had, again reducing the opportunity for effective learning.

It can therefore be said that the prevalence of these factors or conditions required for learning is likely to influence how much potential there is for effective learning as evidenced by the presence or absence of GLBs, represented in Figure 8.2.

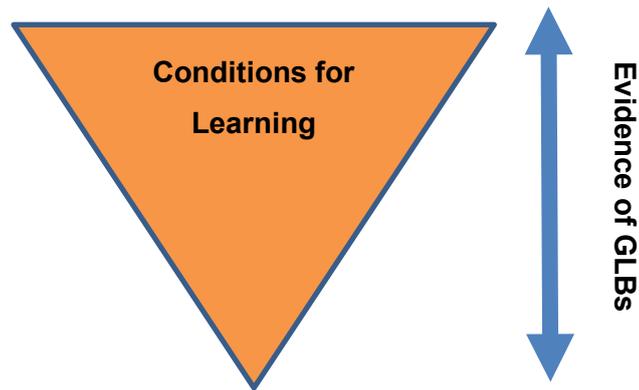


Figure 8.2: Relationship between the prevalence of conditions for learning and GLBs

8.3.3 Enforcement

In terms of the inspectors perception of using enforcement to encourage learning, formal enforcement action (e.g. improvement notices, prohibition notices and prosecution procedures) was not their tool of choice for encouraging learning and if they were at the point of having to use formal enforcement sanctions, they felt this was a sign of failure on their part because they did not believe that enforcement necessarily leads to learning and that if they were at this point then they had tried everything else and still not enabled learning to happen.

The main observation here being that inspectors do not use enforcement tools as a way to encourage learning but more of a last resort to gain compliance once they have exhausted all the other tools they have available to try and achieve a learning outcome. It is already known that the use of formal enforcement action is generally seen as the last resort in terms of achieving compliance (Hutter, 1997; Walters *et al.*, 2011) when all other steps in the enforcement pyramid have failed and that it is the threat of enforcement rather than its actual use that tends to encourage compliance (Braithwaite, 1992) but this research builds on this by looking at this from the perspective of learning rather than compliance, and shows that inspectors do not use enforcement as a tool for learning.

8.4 Obstacles to learning

Having identified the main findings in terms of the conditions that are required for learning to take place, it is just as important to understand the obstacles to learning from both the business operators and the inspectors points of view, and to identify any variations in their perceptions of this. Some of the barriers identified by both cohorts reflect the supportive factors, in that the opposite of what supports learning has a prohibitive effect. Both cohorts found it easier to give examples of barriers to learning they had experienced than to talk about supportive

factors, which suggests that the conditions that prohibit learning are faced frequently by both parties.

The most significant themes that came out of the business operator interviews in terms of barriers to learning were the inspector not understanding the business, the attitude and openness to learning of the inspector, inconsistency between different inspectors and bad timing of the visit. In the same way that good timing was identified as such an important factor for the business operator cohort in terms of supporting learning, bad timing was identified as a significant factor, yet only 2 of the inspector cohort highlighted bad timing as being prohibitive to learning. This again demonstrates a discrepancy between the business operators and the inspectors perceptions of how timing of the visit can affect the potential for learning and is an area that needs to be addressed if potential for learning is to be improved.

Both the business operator and the inspector cohorts identified lack of openness to learning and a negative attitude as perceived by them, as being obstacles to learning. This again supports the argument that the first introductory stage of the visit is significant as it is at this stage where these very subjective interpretations are made by both parties and responses are made accordingly. This also further develops the evidence (Walters *et al.*, 2011, Vickers *et al.*, 2003, 2005) on how factors such as openness to learning, willingness to act as an advisor and background knowledge of the industry influence how inspector/business operator interactions unfold by showing how these more personal factors combined with other factors influence the effectiveness of two-way dialogue and potential for learning.

Whilst 1 of the inspectors said they saw a business with a previous history of non-compliance as a challenge to be addressed in a positive way, half of the inspectors viewed this as a barrier for learning and there was strong evidence that, on the whole, inspectors were less likely to try to help a business learn if they had a poor history of compliance or attitude as perceived by the inspector, with all the inspectors providing some evidence that this was the case. This deepens the understanding that already existed in the literature about how personal factors such as familiarity, relationships between individuals and the level of integration within the locality inspectors have, can affect their personal inclination to adopt formal or informal techniques and the assumptions they make about the population they control (Black, 1980; Hancher and Moran, 1989; Hutter, 1997). The findings indicate that some inspectors make a pre-judgement about how hard they are likely to try and help/engage with the individuals within a business based on their knowledge and experience of them before they even set foot across the threshold. This is a very significant finding and potentially explains why some of the business operators felt that they experienced difficulty with understanding the inspectors

requests and the reasoning behind them, and why they felt that inspectors do not always understand their business. There is a real risk that the inspectors subjective perception of a business operator's attitude has a detrimental effect on that operators chances of learning purely due to the inspectors lack of willingness to help facilitate it. This is significant because it was established in chapter 3 that repeated exposure to learning opportunities are sometimes necessary (Levitt and March, 1988; Caley *et al.*, 2002; Jacquemin and Janssen, 2015) but this evidence suggests that where there is a poor history of compliance with a business operator, the inspector is less likely to try and aid learning despite these business operators most in need of help. This challenge is addressed in the proposed model for the future, that this new contribution to academic knowledge and understanding has been able to inform, later in this chapter.

The perceived inconsistency of messages received from inspectors was highlighted as a barrier, causing confusion and frustration for business operators. This was a particular issue in case 1 where the business operator had experienced different inspectors both within and across different LA's. Inconsistency between inspectors was highlighted by Black (2002) as a potential challenge resultant of a more decentralised view of regulation. It has also been shown that there is inconsistency between different LA's in terms of their approaches and use of enforcement actions as demonstrated in reports on LA activity in an Environmental Health context (FSA, 2020; HSE, 2022). Such inconsistency is indicative of one-way dialogue and reinforces that effective two-way dialogue is required to support learning. This research has shown that if dialogue is mainly one-way, there is less opportunity for learning to take place. The problem of inconsistency, although difficult to eliminate inconsistency entirely, can be addressed by LAs and other regulatory bodies applying the model which will be presented later in this chapter.

Time, financial and personal pressures can also affect the likelihood of learning taking place, although these factors are less significant than the attitudinal and dialogue related factors. From the business operators perspective, it may be that these factors are more likely to prevent the implementation of some of the learning rather than anything else. However, it does reinforce the finding of Jacquemine and Jansenn (2015) that the frequency of contact between inspectors and business operators impacts on the degree of knowledge transfer, and builds on this by demonstrating that it is not only knowledge transfer but also the potential for mutual learning that is impacted by time and resource pressures.

Fear was a factor that was identified by half of the business operator cohort. Fear was only identified by 1 of the inspectors which suggests most are not aware or do not realise the extent

to which individuals within businesses are affected by fear. This finding strengthens the existing evidence that fear of penalty is an internal factor that shapes businesses responses to regulation and their openness to learning (Vickers *et al.*, 2003; Hampton, 2005; Baldock *et al.*, 2006). Business operators are fearful of being closed down by an inspector and they do not necessarily understand the criteria that the inspector needs to meet in order to justify ordering a business to close, hence this is a real fear for business operators. This links in with financial pressures, since if the business is ordered to close this will have a significant financial implication. It also links in with the perception of some of the business operators that the purpose of the visit is to 'catch the business out'. This supports that business operators are likely to harbour a degree of suspicion and distrust about the inspection process and, indeed trust was mentioned by the business participants in cases 1 and 6 specifically. This is likely to influence their responses in terms of how open and honest they may be with the inspectors which can make two-way dialogue more difficult. Trust was established in chapter 3 as an important factor for learning because effective communication is hindered without mutual trust (Groth, 1991). The findings therefore support this theory by showing that lack of trust is an obstacle to learning in the regulatory visit setting. Both of the cases where the issue of trust was raised, showed little evidence of learning, as shown by the cross-case analysis in chapter 5.

With this in mind it was clear that participants agreed on the importance of trust and in general both the business operator and inspector cohorts agreed that lack of openness and negative attitudes can be significant barriers to learning as can the lack of two-way dialogue and other contributing factors. Inspectors did not recognise or relate to the significance of timing of the visit in the same way that business operators do, or the fear factor, i.e. that their position of power can be intimidating for business operators and that this is likely to impact on the nature of their interactions with inspectors.

If there are too many barriers to learning present during a regulatory visit and not enough supportive factors, then the conditions required to permit learning to take place will not be strong enough and learning will be limited or unlikely to take place at all.

8.5 Evidence that learning has taken place

Business operators found it more difficult to explain how they know when learning has taken place than the inspectors did. This is to be expected as their jobs seldom require them to make such assessments other than when training their own staff where they have more opportunity to assess someone's competence, usually through observation. The inspectors

are more familiar with assessing competence during very short periods of time as this is part of their day-to-day job role. The main indicators that show whether learning has taken place this research presents, is the list of GLB's that were identified in the focus group that then formed the basis of the observation visits, and was based on a previously established method used by Boyle *et al.*, (2001). This study has contributed a unique set of GLB's that can be applied in an Environmental Health regulatory context. In addition to the GLB's, participants spoke about their interpretations of what learning looked like for them.

The strongest indicator in both cohorts was that their own knowledge increased which is a personal judgement and difficult for the other party to measure. However, inspectors were found to use a combination of both subjective and more objective methods when assessing their own learning. Most inspectors spoke of the importance to them of confidence in terms of having 'a gut feeling' which can clearly be quite subjective and difficult to teach to new inspectors. This is a skill that comes with experience and may not always be reliable, as sometimes 'gut feeling' can be wrong. Business operators, on the other hand, expressed how they had learned in more objective terms, such as a visible improvement or outcome that demonstrated something they were not able to do before and gave them confidence that they would be able to do it again in future without the inspector being there.

The inspectors did identify some similar objective methods to the business operators which they use to assess whether learning has taken place. More objective methods used included the individuals within the business being able to answer questions and talk confidently about a topic which supports the theory of Ellis (2009) about 'closing the loop' by asking questions of the person doing the learning to see if they can explain/repeat the information accurately. Another longer term indicator mentioned was the ability to maintain a good level of compliance or food hygiene rating over a period of time without the inspector being there. Again, this supports the existing evidence on the link between learning and good practices (Cohen *et al.*, 2001; Lynch *et al.*, 2003; Roberts *et al.*, 2008; Adesokan *et al.*, 2014; Smith *et al.*, 2014; CIPD, 2020). Inspectors also wanted to see something visual in order to reassure them that learning had taken place and not just hear the business operator saying the right things. It is therefore a combination of 'gut feeling', 'hearing the right things' and seeing a change that provide the evidence needed for the inspector to be satisfied that learning has taken place.

The findings add to existing knowledge by showing that learning in a regulatory visit setting can be a two-way process and all of the inspectors gave evidence of their own knowledge increasing from their experience of interacting with individuals in businesses. There was also evidence of inspectors learning, in that they would use a different approach or tactic based on

learning about what had worked in a previous situation. Inspectors being able to discuss how they had gained a better understanding of a business after their interaction with the individuals in them was a good indicator of reciprocal learning. This suggests that there are occasions when learning has been a two-way process but not necessarily within the same interaction. This finding builds upon the existing academic knowledge presented in chapter 3 about how the same problem can be presented in different ways resulting in different interpretations and perceptions (Tversky and Kahneman, 1981; Gigerenzer and Hoferage, 1995). This research shows how this process can lead to learning by inspectors and result in the adaptation and adjustment of their approaches with other businesses, which is a positive outcome, and this in turn can lead to better learning outcomes in the businesses.

8.6 Ideas that could help encourage more learning

Both the business operator and inspector cohorts gave their ideas about different ways of doing things to increase the learning opportunity during regulatory visits. These ideas ranged from more advice visits to engagement with business to find out their needs, to training, poor performer projects and more website information.

The idea mentioned most by both cohorts was that advice visits made by appointment would be particularly beneficial in terms of improving learning, the main reasons being that both parties would have sufficient time and be able to be fully engaged in the learning process. The business operators would not feel under pressure because they are not being 'assessed' in the way they are during an inspection visit, thus increasing the likelihood of them being open, honest and able to take on new information. Business operators said they would find this particularly helpful if it could take place before their first programmed inspection visit, as it would help them to know what they need to do to perform well at their inspection. There was a preference that these visits should be offered free of charge although some business operators said they would be willing to pay for them.

There is an argument that supportive advisory visits should not completely replace the traditional inspection visit (Vickers *et al.*, 2005) and that advisory/educative interventions should run alongside the inspection programme, as demonstrated in Ayres and Braithwaite's (1992) responsive regulation pyramid. 1 of the inspectors, who predominantly worked in Health and Safety, made the point that proactive inspections were important for learning, and explained how the almost abolishment of proactive visits for Health and Safety over the past few years had resulted in a negative effect in terms of increased accidents and complaints. This supports the argument made by authors such as (Vickers *et al.*, 2008; Tombs and Whyte,

2008, 2012; Walters *et al.*, 2011; Tombs, 2016) that reduction of inspections and enforcement suggests a policy acceptance of higher levels of illegality. Advice visits would therefore be a good idea to run alongside proactive inspections, but it is acknowledged that this is unlikely if policy is driven by red tape rhetoric and public sector austerity.

In terms of business training, this was mentioned by 1 each of the business operators and inspector participants, although from different cases. Training was identified in the existing literature as a tool available to inspectors to encourage compliance (Walters *et al.*, 2011) and is recognised as being a useful and effective learning method (Adesokan *et al.*, 2014; Smith *et al.*, 2014; von Thiele Schwartz *et al.*, 2016). Training could either be incorporated into supportive visits on a one-to-one basis or be dealt with by providing specific training to groups of business operators. If business needs are better understood through engagement during such visits, then it may be possible to provide group training sessions targeted at specific topics if enough businesses identify the same needs. It was established in chapter 3 that people and businesses, in particular small firms, learn through experience (Bessant *et al.*, 1993; Hines and Thorpe, 1995; Vickers and Cordey-Hayes, 1999; Fairman and Yapp, 2004; Tanner, 2010; Gianotti and Duane, 2016) meaning that practical training and demonstration of ideas and concepts are likely to be more effective than theoretical classroom type training. This is something to bear in mind when thinking about how training could be delivered. On the other hand, in terms of inspectors training, it was shown in chapter 3 that there was a need for a better understanding of small firms learning needs and contexts in order to achieve the best regulatory outcomes (Vickers and Cordey-Hayes, 1999). The findings of this research has built on this by identifying that there is a specific gap in Environmental Health inspector training, in terms of knowledge of small firms and how they operate because business operators have said that they do not always feel that the inspector understands their business. With the concept that learning from experience can be more effective than taught methods, this presents an opportunity to consider how this might be adopted in future curriculum for Environmental Health qualifications by including more specific experiential training in this area.

In order to provide a higher likelihood of conditions being present that support learning, visits should be more focussed on providing advice and guidance rather than assessment focused. This means that traditional inspection visits are not the best means to provide the opportunity for learning although it does not mean that learning will not take place during inspection visits. If pre-planned visits where an appointment is made with the business operator to ensure they can put the time aside to be fully engaged with the process are more likely to result in a good learning outcome, then it would be beneficial for both parties if these types of visits were incorporated into the regulatory process. Such visits could be used to engage with business

operators and find out what their needs are and help meet those needs better. This should also lead to better learning outcomes and ultimately enable small businesses to better self-regulate in between regulatory visits. This builds upon the previous evidence that was presented in Chapter 2 that many small firms find it difficult to self-regulate (Fairman and Yapp, 2005; Hutter and Amoudu, 2008; Hutter, 2009; Wilson *et al.*, 2012) but that given the right conditions to enable learning, there is potential for smaller firms to increase their ability to self-regulate to some extent. Inspections that are more assessment based can then be utilised as a tool to measure how affective the learning process has been and to monitor whether there are any new learning gaps.

8.7 Conceptual model

The findings of this study further add to existing theory through the conceptual model that was presented in chapter 3 (Figure 3.4) which has been developed by identifying more clearly what happens between small business operators and inspectors during their interactions, and what conditions are required to enable learning to take place. This is not to say that all of those conditions are always required or that learning will never take place in the absence of them, but it does mean that a higher prevalence of these conditions is likely to lead to more learning and a higher likelihood that learning will be a two-way process. Figure 8.3 shows the updated conceptual model and the conditions required for learning.

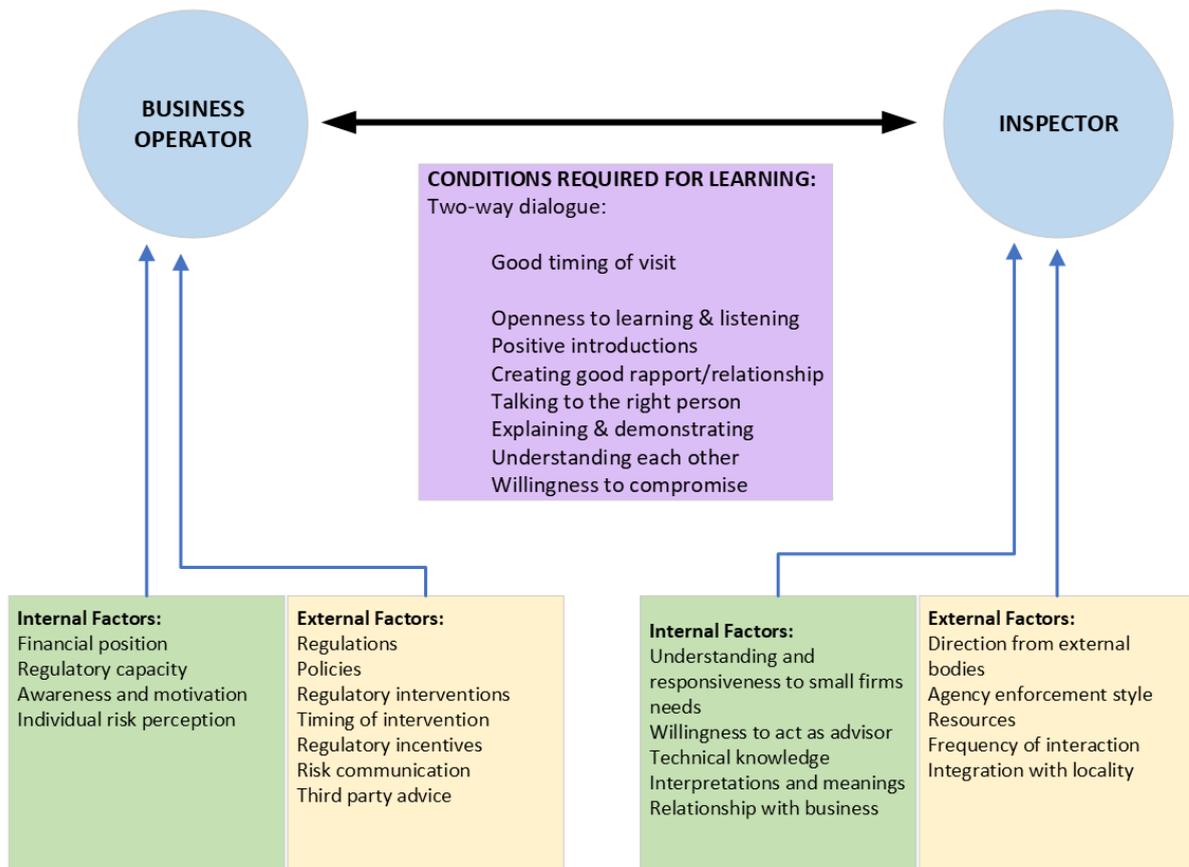


Figure 8.3: Conceptual Model

The initial conceptual model was based on what was already known about the factors that influence each party in how they behave based on the existing literature. What can now be added to this are the factors that have been discovered from this research and what happens in the space in the middle during the interaction between the two parties. This has developed into a set of conditions that are required in this space in order to enable learning to take place as set out below.

8.7.1 Good timing

The timing of the visit can be crucial to how the business operator responds to the inspector and their propensity to engage in the interaction. If the inspector visits at what is perceived as a bad time for the business, they are not likely to receive a positive response, the person they need to engage with in the business may not be available, if they are available they are likely to be too busy to fully give their attention to the inspector and participate in the interaction fully and they are not likely to be in a position to take on board any knowledge the inspector attempts to give them. In small businesses, the reality is often that the business operator is very involved with the day to day running of the operation and likely to be very 'hands-on' which makes their availability to engage with the inspector at an unannounced time

challenging. Inspectors also have limited flexibility in terms of the timing of their visits in so much as that they have a number of inspections to fit into their day and the reality is that the timing is rarely ideal in the real world. That said, if inspectors want to focus on learning with a particular business rather than just assess compliance, it is worth giving more consideration to the timing of that particular visit where possible in order to gain the most from the interaction. If timing of the visit is a consideration, then more emphasis can be placed on other factors to compensate for this where timing may not be ideal. Acknowledgement of the poor timing may be enough in some cases to help achieve a more positive outcome.

8.7.2 Two-way dialogue

The conversation needs to be two-way in order for both parties to be able to respond in a way that is conducive to learning. Two-way dialogue is more than the simple exchange of words between two people. The findings of the research have identified a number of contributing factors that make up what is understood to be two-way dialogue:

- Both the inspector and the business participant to be open to learning;
- The initial first few minutes of the interaction are positive in terms of both parties presentation and responses towards each other;
- A good rapport and relationship is built between both parties during the interaction and follows on during further interactions;
- The inspector talks to the right person within the business who knows the relevant information and is able to influence/effect change – this could be more than one person in some cases;
- Both parties explain things well to each other and are able to demonstrate things to each other to show how something is done;
- Both the inspector and the business operator listen to each other and take on board the other person's point of view;
- Through listening to each other and communicating effectively, both parties understand each other – the business operator understands what the inspector is asking them to do and why, and the inspector understands the business and how they operate;
- Both parties are able to consider the other person's point of view and agree a compromise that meets both of their requirements to an acceptable level.

Something that has become apparent is that some of the internal and external factors identified in the literature review that influence inspector and business operator behaviour, compliment the conditions required for learning, and some of them have the potential to be

counteractive. For example, timing has been identified as both an external factor affecting business operator behaviour and also as a condition required for learning. The inspectors willingness to act as an advisor is closely linked with their openness to learning. Understanding and responsiveness to small firms needs links in with the inspectors understanding of the business and their industry; and relationship with the business operator has been identified as an important factor for both behaviour and responsiveness and for learning.

What can be drawn from this is that two-way dialogue appears to be more heavily influenced by the internal factors of both individuals, although of the inspector to a higher degree, and the business operator to a lesser degree. The timing of, and type of intervention that is undertaken, is influenced more by the external factors such as external bodies and the organisational culture and enforcement style. This means that in order to increase the presence of the conditions required for learning, there needs to be a change both in terms of inspector training and also organisational implementation and procedures.

8.8 A new model that supports learning in small businesses for the future

The results of this study have contributed to academic knowledge and understanding by gaining the necessary insight to identify the key factors to maximise the potential for learning during regulatory interactions between business operators and inspectors. These factors are a combination of good timing and two-way dialogue and what that encompasses, with enforcement being a last resort and seen as a failure of the learning process.

In line with the 'Expert Model' discussed in chapter 3 (Morgan *et al.*, 2002) this study has looked at what the experts know (inspectors) and what the target audience knows (small firms) about the topic (Environmental Health regulatory requirements) and has mapped these against each other to identify where there are gaps and misconceptions. This has enabled a model to be developed which can be applied to tailor the intervention to the needs and knowledge gap of the situation.

The findings suggest that in an ideal world, separate visits would be made by inspectors to provide advice and support to businesses in addition to the inspection visits that are already made to assess compliance and protect public health. Whilst this may seem labour intensive, if the supportive visits are as successful as they can be and good learning outcomes are achieved, this would mean that there would be less resource required for inspection and enforcement visits because businesses would achieve better standards and less

contraventions would be identified during inspection visits. The result of this would mean less resource needed for enforcement and the frequency of programmed inspections would be reduced due to the risk-based system adopted in Environmental Health. That said, it must be recognised that LA's are not likely to be in a position to invest additional resources into a supportive visit regime in addition to maintaining the current inspection programmes they have a duty to provide. This means that the supportive visits would need to either be combined with an inspection visit initially, or targeted at certain businesses where the need for learning is greatest.

The supportive visit would need to be more than just an advice visit. It would need to ensure that it encompasses the conditions required for learning and not just involve the inspector giving advice to the business operator. For this reason, the researcher sees this as an interactive coaching visit that involves planning at a suitable time for the business operator and two-way dialogue.

To this end, the proposed model shown in figure 8.4 incorporates a balance between both planned interactive coaching visits alongside required inspection visits in an effort to enable both learning and regulatory functions to take place in harmony. The aim being that if the learning process can be maximised, then less resource should be required to be put into the regulatory regime because business operators will be better placed to self-regulate when the inspector is not there, inspection frequencies should be reduced as a result and less enforcement should be required.

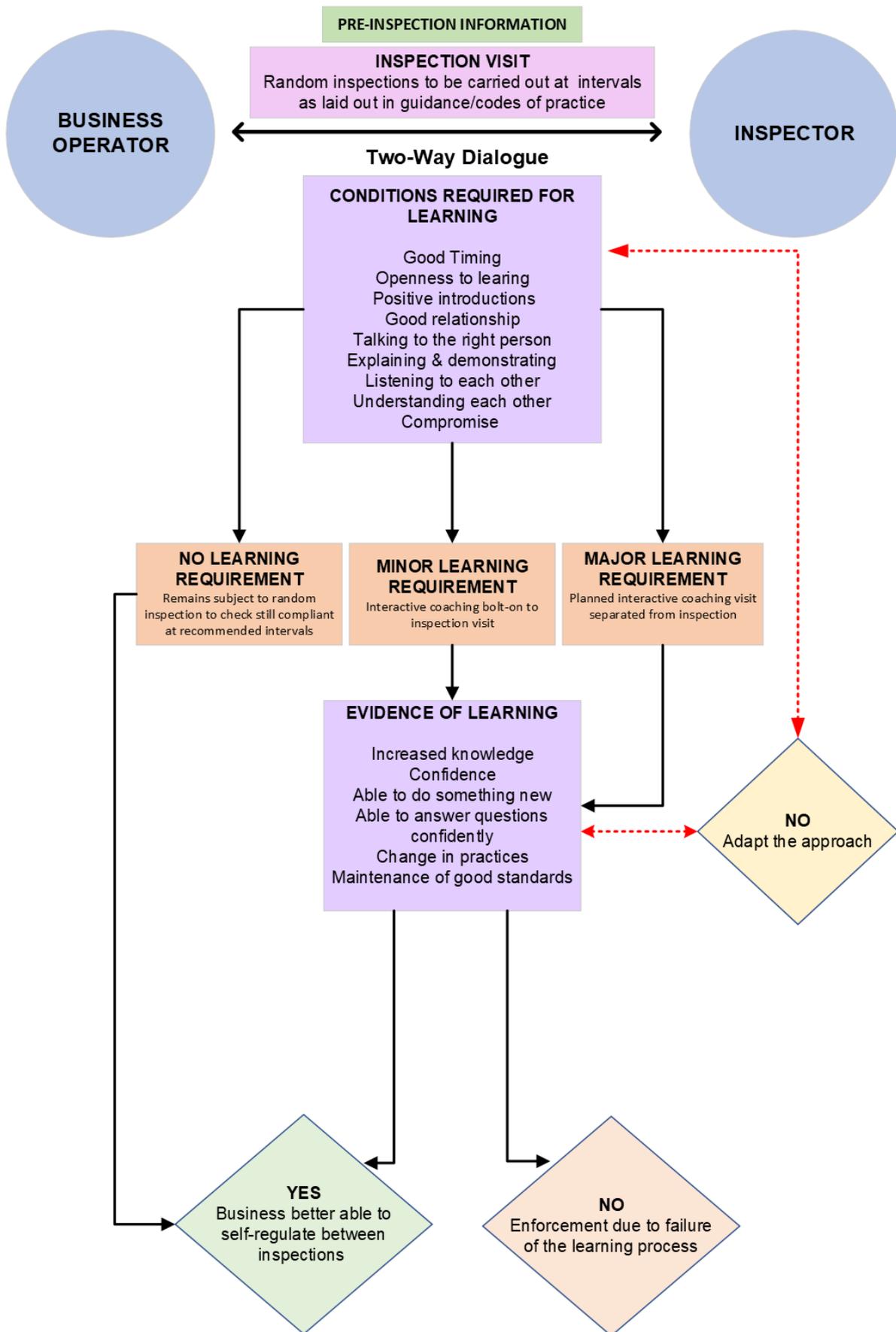


Figure 8.4: Environmental Health regulatory model for supporting learning in small businesses

8.8.1 Pre-inspection information

Prior to the first inspection, all new businesses should be provided with some pre-inspection information. This could be offered when registering or when first making an enquiry with the Environmental Health department. It is acknowledged that there are instances where new businesses start-up without registering and that there is not always an opportunity to do this, but where the opportunity is presented business operators could be provided with this. This would enable the business operator to be informed about the scope of the inspection(s) they are likely to receive, the length of time to expect it to take and a broad idea of the areas the inspector will be looking at. This will better prepare business operators for the visit and improve the likelihood of the conditions for learning being present during the visit.

8.8.2 Inspection visits

Programmed inspection visits take place at businesses which have either recently registered as a new business or at the frequency set by the relevant risk rating scheme. This visit is where the need for learning is first identified by the inspector. This is judged based on any contraventions found and gaps between benchmark guidance and the standards found at the business at the time of the inspection. A score is determined in areas such as risk to safety, risk to health, food hygiene, structure and confidence in management. The confidence in management score is a good indicator of the requirement for learning and can be used to determine whether there is a need for learning at all (high confidence in management), a minor learning requirement (medium confidence in management) or a major learning requirement (low confidence in management).

8.8.3 Conditions required for learning

During the inspection visit the degree of two-way dialogue that takes place will depend upon the strength of presence of the conditions for learning. The stronger this is, the more likely that effective two-way dialogue will take place and the potential for learning will be greater. The inspector will make a judgement based on their findings, interactions and dialogue with the business operator about the level of the learning need and will be assessed by looking at current compliance levels along with evidence of GLB's which will together be used to determine the learning need in that business. The level of learning need will then determine the next step that is required in order to improve learning.

8.8.4 No learning requirement

If the inspector determines at the initial inspection visit that the business is already operating safely and is compliant with relevant legislation and they have a high confidence in

management score, they can be satisfied that there is no learning requirement. Businesses that fall into this category do not need any further intervention and can be left to self-regulate in between inspections and inspectors can continue to carry out random unannounced inspections at the recommended intervals to verify that this is still the case. These are those businesses where the operator is likely to fall into the category of 'Proactive Learners' as identified previously by Vickers *et al.*, (2003, 2005).

8.8.5 Minor learning requirement

If the inspector determines from the initial inspection that there are some minor gaps between legislative requirements and benchmark guidance and the standards found at the business, there is likely to be a minor requirement for learning. These might be businesses where the confidence in management score is not the best it could possibly be but is still good as opposed to lacking. These are businesses where operators are likely to fall into the category of 'Positive Responders' as identified by Vickers *et al.*, (2003, 2005) and are likely to respond well to learning if the interaction with the inspector encompasses the conditions for learning. They are likely to be open to learning and be willing to engage if the timing is right. In these cases, it would be feasible to incorporate a part of the inspection at the end of the visit where the inspector changed their approach and facilitates a conversation based on interactive coaching to allow the opportunity for learning to take place within that visit. This is more likely to be possible when the inspection visit has been carried out at a quieter time when the business operator is available and would mean that the conditions for learning could be applied within the same visit, making the most of available resources, reducing the need for unnecessary unannounced revisits.

8.8.6 Major learning requirement

For those businesses where the inspector has highlighted a larger gap between the standards in the business and legislative requirements and benchmark guidance, a more significant need for learning is identified and requires a more intensive approach. This is likely to be in businesses where there is a low confidence in management and those who fall into the category of 'Minimalist' as identified by Vickers *et al.*, (2003, 2005). In these instances, the need for a separate, planned, interactive coaching visit can be justified in place of the traditional approach of an unannounced revisit. The benefit of this would be that the business operator knowing and agreeing to the visit would mean that they are more likely to be open to learning. The inspector also knowing the purpose of the visit being to provide advice and guidance would be more likely to be open to learning during this type of visit rather than trying to play the role of both coach and assessor at the same time. The fact that both parties will

have put the time aside on an agreed day and time and for a suggested length of time means that both parties are able to put the time aside to fully engage with each other, which would make the two-way dialogue process more likely. This type of visit would be more likely to lead to a learning outcome. If the business operator fails to agree to a booked appointment for the visit, it would demonstrate that they are an 'Avoider/Outsider' as identified by Vickers *et al.*, (2003, 2005) and not likely to be disposed to learning.

8.8.7 Evidence of learning

If the inspector identifies any of the indicators that learning has taken place, they will use this information to help them judge whether the business has improved, to what degree there is improvement and whether they are operating safely in accordance with relevant legal requirements and guidance. If there is evidence that learning has taken place the confidence in management has increased adequately, then a good learning outcome has been achieved and that business operator should be capable of self-regulation in that they can operate safely on their own with little or no need for intervention from the inspector in between programmed inspection. As a result of this learning the inspection frequency will be reduced thus taking up less resources from the LA.

8.8.8 Adapting the approach

It has already been established in chapter 3 that businesses sometimes need to be exposed to learning opportunities repeatedly before they recognise and taken them up (Caley *et al.*, 2002; Jacquemin and Janssen, 2015; Levitt and March, 1988). With this in mind, this model provides the opportunity for repeated exposure and opportunities. If the inspector determines that the business has not improved to an adequate level, is not operating safely and standards are not close enough to the relevant legal requirements or benchmark guidance, there is an opportunity at this point to adapt the approach and try again. The inspector may need to adapt, change and try a different tactic in order to encourage more of the conditions for learning to be present. The inspector can apply what they have learned about the business and the operator they are dealing with to change their approach. This may give a better opportunity for learning to take place and lead to evidence of learning at the next interaction whether that be a further revisit or next inspection.

A further interactive coaching visit would offer another opportunity for learning to take place and the effectiveness of that could be reassessed at a later visit or inspection. The number of times that this loop could be followed would be for the LA to determine based on the available resources they have and may also depend on whether any incremental learning is seen. For

example, if some progress albeit small, is seen from this approach it may be worth repeating the loop. However, if no progress is seen then the resource may not be worthwhile.

8.8.9 Self-regulation

Those business operators that the inspector has a high confidence in management either after the initial inspection or after an interactive coaching visit and are operating safely independently of the inspector is able to self-regulate in between infrequent, unannounced inspections which are used to verify the business operators continued ability to do so. The more businesses that can be led into this category, the less LA resources will be required for regulatory interventions going forward. This would enable Environmental Health departments to maintain their inspection programme targets and, to divert resource to the areas where they are really needed such as with those business operators who have no desire to operate safely, to other work that may have a positive impact on health inequalities, and income generating work which will help to keep Environmental Health departments sustainable for the future. This is a significant contribution to knowledge because it has been previously argued that small firms are not able to self-regulate and this model has the potential to change that view.

8.8.10 Enforcement

If adapting the approach loop had been exhausted and learning has still not been achieved, then the inspector will be pushed towards the enforcement route due to failure of the learning process. This will happen sometimes. There will always be situations where the conditions required for learning cannot be achieved. This is not a failure of the inspector necessarily, just failure of the conditions being present which could be for a number of reasons beyond the inspector's control. However, if the proposed model is applied it is less likely that this will be the result of an interaction between a business operator and an inspector and enforcement action should be seen to reduce having a positive impact on LA resources and positive impact on businesses success. Some business operators who fall into the category of 'Avoiders/Outsiders' as identified in the literature review (Vickers *et al.*, 2003, 2005) are not disposed to learning at all.

8.9 Summary

The findings of this research have added to the existing literature and theory by identifying that learning can take place during Environmental Health regulatory visits and that this learning can be a two-way process if the conditions are right. Those conditions involve good timing and two-way dialogue which is made up of a number of contributory factors. The higher the presence of conditions required for learning, the more likely it is that GLB's will be evidenced

and improve. The theory that has emerged from the findings of this research have been used to develop a model which, if applied in Environmental Health regulatory settings, would improve learning outcomes in small businesses resulting in less need for intervention and better use of resources for LA's.

9 CONCLUSIONS

This chapter reflects on the research findings in relation to the original research questions, aims and objectives and how these have been met and the contribution to knowledge. It also suggests avenues for future research and makes recommendations for future practice.

9.1 Achieving the aims of the research

The main aim and over-arching research question set at the beginning of this research was:

To investigate the potential of the Environmental Health inspection process as a developmental influence on small business.

The research identified that inspectors tend to adopt a supportive and advisory strategy more often than using enforcement strategies and that this is generally their preferred approach. However, they are not always effective in how they do this and there are sometimes misunderstandings and misinterpretations between the inspector and the business operator. Inspectors generally felt that if they need to resort to enforcement that they have failed.

Small business operators behaviour and attitude and even past history has a significant impact on how the inspector approaches the interaction to the point that they may have a pre-conceived idea about how they will approach the interaction before they arrive. The first few minutes of introduction and response between the two parties is critical to how the interaction develops and if the inspector, who has the upper hand and more power of control of the situation, approaches with the pre-concept that the business operators attitude is going to be negative, or if they perceive them in a negative way during those first few minutes their choices of strategy and approach are less likely to be those which are conducive to learning.

The research has unfolded how dialogue is used and how it can be used most effectively to encourage learning. Two-way dialogue and the factors that contribute to that have been identified as the main conditions required for learning with both small business operators and inspectors learning through effective explaining, demonstration, active listening understanding each other and working together to reach compromise.

The conditions that are required for learning which this research has identified show that inspectors need to be open to learning; the ability to communicate positively with business operators; to keep an open mind, to be able to explain clearly and demonstrate to business

operators what they need to do; to be able to listen to business operators and take on board their points of view; to have an understanding of the business and its needs; to be willing and able to negotiate compromise and to talk to the right people within a business to effect change. An inspector may have a plethora of knowledge, experience and qualifications, but if they do not have these sociological capabilities and inter-personal skills, they are not going to be able to facilitate learning or be receptive to learning easily.

A model has been developed which encompasses, the conditions required for learning and the assessment of evidence of learning and is applied to different levels of business learning needs, which if implemented by LA's and their inspectors will result in greater learning for small business operators and inspectors.

In answering the overarching research question, the sub-questions that were set have also been able to be answered:

1. Is there a two-way process of learning that takes place during interactions between businesses and inspectors, whereby both parties can learn?

The findings have shown how learning can be a two-way process. This is dependent on both parties being open to learning, active listening in order to understand each other and being willing to compromise. Evidence was found that demonstrated learning from both the business operator and inspectors points of view and how this learning was taken forward to influence future behaviour.

2. How does learning occur and what is the role of various internal and external influences affecting each party?

The research has shown that the learning process is dependent upon a number of factors both internal and external influencing each party. In fact, it goes a step further by identifying the condition that are required to enable learning to take place during a regulatory intervention and how these link with each other. It has shown how the theory developed about these conditions for learning can be implemented in practice.

3. How does the nature of the regulatory relationship, the learning method used and the choice of compliance tool of the inspector influence the learning process and its outcomes?

The research has shown how the relationship between the small business operator and the inspector is critical to effective learning and how both parties openness to learning and the first few minutes of their interaction has a significant impact on the development of the interaction and how effective learning is likely to be. In terms of the choice of compliance tool, the research has shown that interactive coaching is more effective than any of the inspectors enforcement tools in those business where the operators are open to learning and how enforcement is seen as a failure of the learning process.

4. *What are the conditions for effective two-way learning that leads to improved compliance and also potential business benefits?*

The research has determined what the required conditions are to enable learning to take place and how effective two-way dialogue can lead to learning which has the potential to contribute to improved levels of compliance and higher confidence in management from the inspector's perspective. The potential benefits to small business operators of this are, less frequent regulatory intervention, a safer business and better reputation which in turn should have positive economic impact.

9.2 Contribution to knowledge

The contribution to academic knowledge that this research has made is a deeper understanding of what happens during the interactions between small business operators and inspectors and how their behaviour influences their responses towards each other. There are 7 main points that the research has added to existing knowledge:

1. Learning can take place during an Environmental Health regulatory visit setting if the conditions are right.
2. Learning in this context can be a two-way process.
3. Timing of the visit and the first few minutes of the interaction are a powerful influence on how likely the required condition for learning will be present.
4. Inspectors see themselves as having a role in supporting small businesses, but business operators do not necessarily see this in the same way.
5. Enforcement does not tend to support learning but indicates a failure of the learning process and a 'last resort' compliance tool.

6. Some inspectors are more likely to focus on two-way dialogue and learning than others, and effective learning outcomes depend on the inspector encouraging and facilitating these.
7. There is a gap in inspector training with a need for more focus on understanding small businesses and how they operate to better meet their learning needs.

The research has identified that learning can take place in an Environmental Health regulatory visit setting and that this learning can be a two-way process if the conditions during that interaction are right. The conditions required for learning in this context have been identified, and it has been shown that two-way dialogue, which is made up of several contributory factors, is the key concept that is required for learning. Inspectors see themselves as having a role in supporting small businesses, but this is not always perceived in the same way by business operators, meaning that the interaction is more reliant on the inspector encouraging and facilitating learning than the business operator. However, learning can be a two-way process whereby inspectors also learn from the interaction with the business operator and they can utilise that learning to have better interactions with other business operators, leading to better learning outcomes. It has been concluded that enforcement is not likely to support learning, rather it is an important tool that can help to drive compliance where the learning process has failed and if inspectors reach this stage with a business, it is an indication that the learning process has not been effective. Timing of the visit and the first few minutes of the interaction have been identified as having a powerful influence on the likelihood of two-way dialogue taking place which are again factors more within the control of the inspector than the business operator. The prevalence of the conditions for learning has an impact on the extent of which of GLB's are demonstrated and improved.

The findings have enabled a conceptual model to be developed over the course of the research to show what goes on in the space between the two parties which has added to existing theory, and this has resulted in the researcher being able to identify the conditions that are required for effective learning and how learning is evidenced. This has led to the development of a model which incorporates these findings into a process that can be applied to small businesses by LA's. This would result in more effective learning in small businesses and also by the inspectors having those interactions. The model has the potential for national impact for LA's delivering Environmental Health Services who are considering new ways of delivering services and also has the potential to be adopted by governing bodies such as the HSE and the FSA and implemented through their guidance to LA's. The FSA is currently undertaking a significant review of how food safety is delivered in the UK which is likely to have an impact on the current delivery model (FSA, 2021). This review was started in 2017

(FSA, 2017_a) and was expected to be completed by 2020, however the impact of the global Coronavirus pandemic has delayed its completion. There could be an opportunity for this model to be considered as part of this review or similar future reviews. This learning has the potential to lead to safer businesses that are subject to less regulatory intervention in the longer term, and better use of LA resources if implemented having economic benefits to both businesses and public services.

9.3 Limitations

The main limitation of this research is that it was a relatively small study. The study was focussed on 6 cases and within only 2 LA areas. However, a cross-section of businesses were included and the LA's chosen were very different in terms of demography, so these limitations were addressed as far as possible and practicable within the constraints of the researcher. The researcher undertook the data analysis herself with no assistance from anyone else, however, this was all conducted within Nvivo so the project and coding scheme are transparent and could be replicated by anyone else as far as qualitative data interpretation can be. It was acknowledged at the beginning of the research that there may be some biases and personal feelings from the researcher about the current role of EHP's due to her occupation. However, the study has been conducted in a transparent way, and conclusions have only been drawn where there has been sufficient evidence to back it up. The research process and the researchers integrity have been overseen by two separate supervisors.

9.4 Future research

This study has enabled a model to be developed, but the constraints of this research do not allow for it to be tested. A recommendation for future research would be to apply this model in a number of different LA settings and to evidence the results in terms of the number of businesses who demonstrate an improvement in GLB's over time. This could be measured along with their confidence in management score and risk rating category to demonstrate how effective learning has been. It would also be beneficial to map this against how the application of the model affects LA Environmental Health department's resources in terms of whether there is a reduction in the number of programmed inspections due, compliance revisits and enforcement action. Further research would also be beneficial on the required skills, capabilities and knowledge required by an inspector with a view to applying this to the relevant qualification curriculum for EHP's.

9.5 Recommendations

4 recommendations are made following the findings of this research:

1. Pre-inspection information should be offered to all new businesses made known to their LA to advise them of the scope of Environmental Health inspections they should expect the expected time they are likely to take and the main topic areas the inspector is likely to look at.
2. Consideration should be made to the timing of regulatory visits to small businesses and the impact a poorly timed visit may have on the potential for learning. Where possible busier times should be avoided.
3. Inspectors require a number of capabilities in addition to the knowledge, expertise and qualifications relevant for their job role. These capabilities are:
 - Openness to learning
 - The ability to keep an open mind
 - The ability to be respectful towards small business operators
 - The ability to explain ideas and concepts clearly
 - The ability to demonstrate and interact with a business operator
 - The ability to listen and understand a business operators point of view
 - Knowledge of operating a small business
 - The ability to negotiate and reach compromise

In order to ensure that inspectors have the above capabilities, training and coaching to assist in this should be incorporated into both academic and practical training. In particular, a period of practical training within a small business setting should either be built into practical training and competency assessment, or be a pre-requisite to enrolling onto an academic course.

4. The introduction of interactive coaching visits to the inspection process as set out in the recommended model should be adopted. This could be best achieved by dissemination via bodies such as the CIEH, HSE and FSA and incorporated into their Codes of Practice and guidance to LA's. However, it could be adopted by individual LA's on a pilot basis initially, whilst it is tested for its effectiveness prior to being implemented on a national level.

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11 APPENDICES

Appendix A: Focus Group Protocol

Focus group protocol: How can 'Good Learning Behaviours' be encouraged in business regulatees?

1. Introduction to the research (10 minutes) – to be given by LB:

- My project is about learning in a regulatory setting.
- I am specifically looking at how learning takes place during regulatory interventions such as inspections, advice visits, revisits, complaint/accident visits for example.
- I am looking at whether learning is (or can be) a 2 way process.
- I am basing my methodology on a study that was carried out by Boyle (2011) in a classroom setting but applying it to a different setting. (Explain briefly what they did).
- The 'procedures' in my setting are the interventions (inspections, advice visits etc.)
- If I can identify a set of GLBs for businesses and inspectors I can observe these during the visits I will be studying.
- I will also be interviewing participants and businesses to explore this in more depth after the observations.
- I have invited you to this focus group to help me develop these GLB's.
- Go round table introductions
- Purpose of this focus group: to explore inspectors' understanding of:
 - (a) business learning behaviour in response to regulation (both positive and negative?);
 - (b) how good learning behaviour's (GLBs) can be encouraged;
 - (c) to reflect on the implications for regulatory policy and practice and whether learning is/can be reciprocated.

Main discussion (max 1.5 hours) – to be led by LB using prompts as needed

2. Firstly, do businesses learn during or as a result of our interventions – what has been your experience of this?

- Positive examples of learning and better compliance?
- What things does a business operator (owner/manager) do that tells you they have learned?
- Negative examples of resistance, not learning and even avoidance?

3. What are the behaviours people in businesses exhibit when they have learned?

- Do we see/hear/sense it in some other way? Explain?

- Is it tangible/measurable? How?
 - How do you know it has happened?
 - What does it look like?
4. Turning this around slightly - when you as inspectors observe those 'good learning behaviours' do you adjust your own behaviour with the hope of achieving learning?
- How do we respond to the businesses behaviour?
 - Can you talk about any examples where you have 'learned' from the business when you interact with them and how this affected your future practice?
5. How can good learning behaviours be further encouraged in different types of small business?
- What can we do individually, as inspectors?
 - What policy support do we need to do this better?

USE FLIP CHART TO WRITE DOWN IDEAS

6. Read through and finalise the good/bad learning behaviours the group has come up with (allow 20 minutes at the end for this).

If struggling to get anything out of people start some suggestions:

- Engaging with you in the conversation rather than half listening and half doing something else
- Asking questions rather than just nodding their head
- Challenges you when you tell them what they need to do
- Asks the reason why you are asking them to do something
- Offers alternative suggestions
- Talks about a personal experience e.g. a time they had food poisoning or had an accident and how it affected them
- Shows you what they have done when you go back
- Calls you up because they want you to come back and see what they have done

Appendix B: Observation Form

Observation sheet

Business participant number	
Inspector participant number	
Type of business	
Reason for visit	
Date/Time	

Good learning behaviours	1	2	3	Notes
Appears confident when talking to inspector about regulatory matters	high confidence	some confidence	low confidence	
Change in how business presents themselves to the inspector over course of visits	significant change	Some change	no change	
Owner/manager shows a forward thinking approach, using own initiative rather than waiting to be told what to do by inspector	strong evidence	some evidence	no evidence	
Co-operation between parties during intervention	full co-operation	some co-operation	No co-operation	
Solves a problem in a different way that inspector suggests	strong evidence	some evidence	no evidence	
The business has appraised the risk themselves (e.g. sensible HACCP/RA's)	strong evidence	some evidence	no evidence	
The business evidencing that they have 'learned their business' – (e.g. risk mitigation in place to cover for high turnover)	strong evidence	some evidence	no evidence	
Appropriately managing risk	over compliance	some compliance	under compliance	
Provides technical evidence e.g. data	strong evidence	some evidence	no evidence	
Sustained compliance – continued/improved over course of several visits	all areas	some areas	no areas	

Notes:

Appendix C: Participant Information Sheets

Focus Group:

PARTICIPANT INFORMATION SHEET

Study title

The role of the environmental health inspection process as a developmental influence on small businesses.

You are being invited to take part in a research study. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask me if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Thank you for reading this.

What is the purpose of the study?

The purpose of the study is to examine and understand the interactions that take place between inspectors and small firms. To find out whether or not learning takes place during interventions and if so, how this happens.

Why have I been chosen?

You have been chosen because you are an inspector who has had experience of dealing with the business during the course of carrying out environmental health interventions such as inspections, advisory visits, complaint visits and investigations.

Do I have to take part?

It is up to you to decide whether or not to take part. If you decide to take part you will be given this information sheet to keep. If you decide to take part you are still free to withdraw at any time and without giving a reason. There is no obligation to take part and you will not be penalised in any way if you choose not to take part.

What will happen to me if I take part?

You will be asked to take part in a focus group. The aim of this is to collect information to answer the research question through the use of open discussion about some topical questions in relation to your experiences of learning during or as a result of interventions. The methods being used for this study will be focus group, observations and an interview. You will be required to participate only for the duration of the focus group. This will involve the researcher audio recording the discussion and making some notes about what is discussed.

What do I have to do?

During the focus group you will be asked to participate in a group discussion about some pre-determined questions. The focus group will be made up of 10-12 participants who carry out similar roles to you. The researcher will ask the group to talk about some topics and allow you to talk freely about these topics. You can be as open and honest as you wish. The discussion will be quite informal and more about drawing information from you rather than asking a lot of structured questions. The length of time the focus group will take depends upon how much participants wish to talk about each topic but it is estimated that it will last no longer than 2 hours.

What are the possible disadvantages and risks of taking part?

There are no known disadvantages or risks to you involved with taking part in this study.

What are the possible benefits of taking part?

You will be informed of the findings of the study and will be provided with a copy of the report. This may help to identify areas where change or improvement could be made to service delivery in the future. The collective opinions of the participants could influence change on a local or national level in future.

Will my taking part in this study be kept confidential?

All information that is collected about you during the course of the research will be kept strictly confidential. Clearly, participants in the focus group will know who else has participated in that focus group but you will not be identified by name or address in the report as this information will not be recorded. All data will be stored, analysed and reported in compliance with the data protection legislation.

Who has reviewed the study?

Middlesex University, School of Science and Technology, Natural Sciences Ethics Sub-Committee.

Contact for Further Information

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Thank you very much for taking part in this study.

Observations and Interviews:

PARTICIPANT INFORMATION SHEET

Study title

The role of the environmental health inspection process as a developmental influence on small businesses.

You are being invited to take part in a research study. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask me if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Thank you for reading this.

What is the purpose of the study?

The purpose of the study is to examine and understand the interactions that take place between inspectors and small firms. To find out whether or not learning takes place during interventions and if so, how this happens.

Why have I been chosen?

If you are a business participant, you have been chosen because you are a small firm within XXXXXXXX Council's area and you are currently regulated by them for Food Safety and/or Health and Safety legislation and you meet the criteria for inclusion. There will be 6 business

participants studied in total. You have been selected because you are the person within the business who is responsible for food safety and/or health and safety and have had experience of dealing with regulatory visits from inspectors. If you are an inspector participant, you have been chosen because you are the inspector who has had experience of dealing with the business that has been selected in this study.

Do I have to take part?

It is up to you to decide whether or not to take part. If you decide to take part you will be given this information sheet to keep. If you decide to take part you are still free to withdraw at any time and without giving a reason. There is no obligation to take part and you will not be penalised in any way if you choose not to take part.

What will happen to me if I take part?

You will be asked to take part in a case study. The aim of this is to collect information to answer the research question through the use of observations and interviews over a period of time. The methods being used for this case study will be observations and an interview. You will be required to participate only for the duration of the visits and the interview. This will involve the researcher making some notes about what she observes during the visit made by the inspector and speaking to the researcher about some pre-determined topics.

What do I have to do?

During the visits you are not required to do anything differently to what you would normally do. The researcher will simply observe and make notes. You will be asked a few questions after the observation about how your experience was. You will later be asked to take part in a semi-

structured interview. The interview will be between you and the researcher and nobody else will be there. The interviewer will ask you to talk about some topics and allow you to talk freely about these topics. You can be as open and honest as you wish. The semi-structured interview will be quite informal and more about drawing information from you rather than asking a lot of structured questions. The length of time the interview will take depends upon how much you wish to talk about each topic but it is estimated that it will last no longer than 1 hour.

What are the possible disadvantages and risks of taking part?

There are no known disadvantages or risks to you involved with taking part in this study.

What are the possible benefits of taking part?

You will be informed of the findings of the study and will be provided with a copy of the report. This may help to identify areas where change or improvement could be made to service delivery in the future. The collective opinions of the participants could influence change on a local or national level in future.

Will my taking part in this study be kept confidential?

All information that is collected about you during the course of the research will be kept strictly confidential. You will not be identified by name or address in the report as this information will not be recorded. All data will be stored, analysed and reported in compliance with the data protection legislation.

Who has reviewed the study?

Middlesex University, School of Science and Technology, Natural Sciences Ethics Sub-Committee.

Contact for Further Information

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Thank you very much for taking part in this study.

Appendix D: Consent Form

CONSENT FORM



Participant Identification Number:

Title of Project: The role of the environmental health inspection process as a developmental influence on small businesses.

Name of Researcher: Lisa Borley

1. I confirm that I have read and understand the information sheet datedfor the above study and have had the opportunity to ask questions.
2. I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason.
3. I agree that this form that bears my name and signature may be seen by a designated auditor.
4. I agree that my non-identifiable research data may be stored in National Archives and be used anonymously by others for future research. I am assured that the confidentiality of my personal data will be upheld through the removal of any identifiers.
5. I understand that my interview may be taped and subsequently transcribed.
6. I agree to take part in the above study.

_____	_____	_____
Name of participant	Date	Signature
_____	_____	_____
Name of person taking consent (if different from researcher)	Date	Signature
_____	_____	_____
Researcher	Date	Signature

1 copy for participant; 1 copy for researcher;

Appendix E: Interview Protocols

INTERVIEW PROTOCOL - Business

DATE:	TIME:
No OF EMPLOYEES:	PARTICIPANT:
DATE OF VISIT(s):	CATEGORY:
QUESTIONS:	
	Introduction: I am looking to explore the views of small and medium sized businesses around regulatory interventions and learning.
1.	<p>Brief background about business and person talking to:</p> <ul style="list-style-type: none"> • Micro/SME? • How long been operating? • Person's role within business? • Members of any business associations/trade bodies?
Notes:	
2.	<p>How would you assess the performance of the business during the last year? Probe for:</p> <ul style="list-style-type: none"> • Did the business make a profit, loss or breakeven in the last year? • Is the business growing, e.g. in terms of turnover, staff recruitment? • Any particular problems or difficulties – if so, how are these being addressed? • Has any downturn in business affected time to look into compliance, barriers to investment etc?
Notes:	
3.	<p>What has been your past experience in general of Environmental health visits? Probe for both positive/negative experiences and reasons, including</p> <ul style="list-style-type: none"> • Experience of being helped with provision of information useful? • Being guided / coached – get examples? • Examples of any positive impacts on business – get details? • More negative experiences/perceptions and reasons why? • Have you learned from inspectors before? <p>Probe for: experience/examples; how did they learn and how was this learning applied/implemented? What did the inspector do that helped them learn? Did they really learn or did they just do what they were told to do? Did they trust the inspector?</p>

Notes:

4. Do you think that learning can be a two-way process during a regulatory visit?
- Do you think inspectors learn from you?
- Probe for: experiences/examples; willingness to learn; how does it happen; how do they know it has happened; are inspectors receptive to them; do all inspectors learn or just some; do you want to help the inspector learn; what changes their mind about this.**

Notes:

5. You have just experienced a regulatory visit. I am interested in understanding your experience - can you talk me through how you felt during the visit and how you think it went?
- How did you find the initial introduction?
 - Did this affect response and reactions - explain?
 - Moments where feeling about how it was going changed for better/worse?

Notes:

6. I am investigating the experiences of businesses like yours to better understand how regulatory visits could be more useful and a better experience for you. We want to get a better understanding of this and learn from your experiences. What was your expectation of the visit before it took place?
- Did that expectation meet the reality?
 - What did you get/take away from it?
 - What did you learn from the visit, if anything?
 - Will you be taking any specific actions as a result – if yes, what action?
 - How did you get that learning? Was it straight away? Afterwards? Verbal? Showing?
 - Did you feel that the inspector understood your business and listened to your concerns?
 - Did anything get in the way of you being able to listen/understand?

Notes:

7.	<p>During the observations I saw.....[enter details about something specific to the case study from the observations]</p> <ul style="list-style-type: none"> • What made you choose this response? • What makes you decide how to respond to an inspector? • How did you feel when the inspector responded in this way? (+ve/-ve?) • Did you notice anything that made you think the inspector learned from you? What was it? • Did you learn anything from the inspector during the visit? What did you learn? How will you use this knowledge going forward? • Did you feel you learned anything during the visit? • What did you learn? • How did you learn it? • Did you know much about it before the visit? • How would you have learned it if there was no visit? • Would you know you needed to do it? • Where would you have looked/gone to, to find out? Why? How did you know about there? • How will you use this knowledge going forward? Can you do it on your own now?
Notes:	
8.	<p>Talking about the thing that you learned (if there is anything?)</p> <ul style="list-style-type: none"> • Did you know much about it before the visit? • Would you have known you needed to do it? • Where would you have looked/gone to, to find out? Why? How did you know about there? • Can you do this thing on your own now? • How will you use this knowledge going forward?
Notes:	
9.	<p>Would you like to make any suggestions about how inspectors can help you learn during visits in future?</p> <ul style="list-style-type: none"> • What can they do to help you more? • How can the visit be more useful to you?
Notes	

INTERVIEW PROTOCOL - Inspector

DATE:	TIME:
No OF EMPLOYEES:	PARTICIPANT:
DATE OF VISIT(s):	CATEGORY:
QUESTIONS:	
	<p>Introduction: briefly outline the research project, the purpose of the interview and main topics that we would like to cover:</p> <p>To investigate:</p> <ul style="list-style-type: none"> • the experience of regulatory visits from the point of view of both inspectors and businesses/regulatees; • Whether or not learning takes place during regulatory visits, how it happens and the extent to which it can be a two--way process whereby both businesses and inspectors are able to learn. <p>I am seeking your views and experienced as an inspector to understand this better and try to improve the effectiveness of interventions by using this knowledge.</p>
1.	<p>Brief background details of inspector:</p> <ul style="list-style-type: none"> • Education/training • Ethnic group and languages spoken • How long in the job? • Previous work experience
Notes:	
2.	<p>What do you see as being the main purpose of your regulatory visit? Probe for any tensions in policy and practice....?</p> <ul style="list-style-type: none"> • Is it just about compliance? • Protecting the public? • Helping the business? • Growth agenda?
Notes:	

3.	<p>What are the main difficulties you have in getting across food/health and safety messages to small firms during your visits?</p> <p>Probe for:</p> <p>Tactics adopted (persuasion/education/enforcement)?</p> <p>Empathy with owner/managers – appreciation of emotional investment?</p> <p>Cultural/language barriers?</p>
Notes:	
4.	<p>The main focus of my research project is around the learning process that may take place during a regulatory intervention.</p> <ul style="list-style-type: none"> • Can you talk about any examples where you have experienced learning during or as a result of a regulatory visit? • Who did the learning? You or the business? • Can you give any examples of how such learning has been implemented in practice? • Why do you think that learning happened? (probe for motivations, rapport/understanding between business owner and inspector) <p>Probe for: experience/examples</p>
Notes:	
5.	<p>How do you encourage businesses to learn?</p> <p>Probe for: behaviours/skills used – examples;</p>
Notes:	
6.	<p>Thinking about how businesses learn from you during interventions....</p> <p>How do you know a business has learned?</p> <p>What evidence do you look for?</p> <p>Probe for: before/after intervention; behaviours displayed; when do you know; why do some learn and others don't; what do you do if they don't learn; do you always want to help them learn; what changes your mind.</p>

Notes:

7. Do you think learning is or can be a two-way process? Is it just about the business learning or can inspectors learn from businesses too?

Probe for: examples / openness to this/vulnerability/gap in knowledge/weakness/barriers

How has this learning affected your professional practice as an inspector?

Notes:

8. I want to talk more specifically about your recent visit to business X (**name of business to have been identified at start without recording for anonymity**). Can you talk me through how you felt during the visit and how you think it went?

- How did you find the initial introductions and how did this affect your response/initial reactions to the business operator?
- Were there any moments where you're feeling about how was going changed for the better or worse?
- Did you observe anything that told you the business had learned?
- What was it?
- What did this tell you?
- What made you think this?

Notes:

9. Did you learn anything from the business during the visit?

- What did you learn?
- How did you learn it?
- Did you know much about it before the visit?
- How will you use this knowledge going forward?
- Did you learn anything about their financial position/trading environment?

Notes:

10. During the observations I saw..... [enter details about something specific to the case study from the observations] What made you respond to the business in this way?
- Was it how the business responded to you?
 - How did that make you feel?
 - Did that determine your behaviour?
 - Positive/negative?
- DISCUSS MORE THAN ONE EXAMPLE IF APPROPRIATE**

Notes:

11. Reflecting on the experiences you have spoken about today; do you have any suggestions or ideas about how policy/practice could change to better enable learning to take place during interventions?

Notes:

Appendix F: Coding Framework

Coding Framework

Nodes

Name	Description	Files	References
Barriers to learning as seen through the business lens	Things businesses said that prevent learning or make it difficult	0	0
Attitude of the inspector		4	9
Bad timing		4	9
Business does not feel trusted		2	2
Business doesn't understand why (being marked down, asked to do it, see benefit of it)		3	6
Business not feeling supported		1	2
Business thinks they know everything		2	2
Fear		2	3

Name	Description	Files	References
Financial pressures		3	7
First 5 mins		2	3
Inconsistency		4	6
Inspector not being open to learning		4	5
Inspectors not understanding the business		5	12
Personal circumstances		1	1
Time pressures		2	5
Too paperwork orientated		2	5
Barriers to learning as seen through the inspector lens	What inspectors say prevents learning or makes it difficult	7	112
Attitude of business		5	13
Bad Timing		2	2

Name	Description	Files	References
Business not being open to learning		6	13
Business not taking responsibility		1	1
Business not understanding what the inspector wants or why		5	13
Inspectors say the business doesn't understand but do not question why		2	4
Business perception of visit as red tape		2	4
Cost		4	5
Fear		1	1
First 5 mins		5	7
Inspector less likely to try to help the business if poor history or attitude		6	13

Name	Description	Files	References
Inspector unsure of what motivates the business		1	1
Lack of advice or proactive visits		2	2
Language barriers		5	11
One-way dialogue		1	1
Previous history of non-compliance		3	3
Resource pressures		4	10
Spends time regardless in order to do a 'proper job'		1	1
Time pressures		4	12
Evidence that learning has taken place as seen through business lens	Things businesses said that indicated to them either they had learned, or the inspector had learned.	0	0
Business feels inspector understands their business		1	1

Name	Description	Files	References
Business feels they are able to use the learning in future		2	2
Business level of knowledge about what has been learned has increased		4	6
Now knows how to do the particular thing on their own		1	2
Evidence that learning has taken place as seen through inspector lens		6	56
Business able to explain or repeat back		3	4
Business able to take knowledge a step further		1	2
Business is able to answer inspectors questions		3	3
Business is able to demonstrate		4	5

Name	Description	Files	References
Confidence or gut feeling		5	12
Has maintained compliance at the next inspection		1	2
Inspector observes a change in practices		1	1
Inspector tries a different tactic with the business (inspector learning)		3	7
Inspector's knowledge about what has been learned has increased		6	15
Maintains good food hygiene rating		3	3
Takes time to know		2	2
Experiences of current visit	Accounts given about the visits observed in this study	10	22
Examples of learning		9	14
Examples of not learning		4	6

Name	Description	Files	References
Overall view of the visit by the business		0	0
Balanced		2	2
Negative		1	2
Positive		2	3
Overall view of the visit by the inspector		2	2
Balanced		0	0
Negative		1	1
Positive		1	1
Experiences of previous or historical visits	Accounts given about historical visits prior to this study	0	0
Examples of learning		8	15
Examples of not learning		5	6
Overall view of the visit by the business		0	0

Name	Description	Files	References
Balanced		3	3
Negative		1	1
Positive		3	4
Overall view of the visit by the inspector		0	0
Balanced		0	0
Negative		0	0
Positive		1	1
Factors that support learning as seen through the business lens	Things businesses said that have a positive influence in terms of learning.	6	32
Good timing		4	4
Learn by doing it wrong		2	2
Two-way dialogue		6	26

Name	Description	Files	References
Compromise on what to do to comply		2	3
First 5 mins		3	4
Inspector explaining things well		2	2
Inspector is open to learning		2	2
Inspector listening to the business		4	6
Showing how to do it		1	1
Factors that support learning as seen through the inspector's lens	Things inspectors said that had a positive influence in terms of enabling learning.	6	79
Advice visits		2	4
Good timing		2	2
Getting an 'in' at an early stage		1	3

Name	Description	Files	References
Inspector sees a business with poor history or attitude as a challenge		1	2
Other social pressures eg reputation, customer expectations, FHRS, Just Eat etc		2	3
Two-way dialogue		6	68
Business is open to learning		4	4
Explaining to business what is in it for them		3	4
Good rapport and relationship		4	8
Inspector has understanding of industry		3	9
Inspector is open to learning		4	5

Name	Description	Files	References
Listening to the business point of view and ideas		4	7
Positive introductions		4	4
Showing how to do it		2	6
Talking to the right person in the business		3	5
Ideas that could help encourage more learning	Suggestions made that could support more learning in future	12	30
Advice visits		7	15
Announced		3	4
Before first inspection for new businesses		2	4
Free		3	3

Name	Description	Files	References
Engagement with businesses to find out what they need		3	3
More information available on LA websites for businesses to access		1	1
Poor performers projects		1	1
Proactive H&S visits		1	2
Training v Inspections		2	2
Inspectors need training in people skills		1	1
Visits by appointment		3	6
Purpose of the visit as perceived by the business	What businesses said about their understanding of what the purpose of the visit was	0	0
Catching out		2	8
To assess compliance		3	3

Name	Description	Files	References
To educate		2	2
Purpose of the visit as perceived by the inspector	What businesses said about their understanding of what the purpose of the visit was	6	27
Learning		0	0
To assess compliance		4	7
To protect the public		4	5
To support business		6	15
Tactics used by inspectors to encourage learning	Things inspectors describes about the strategies they use to try and help businesses to learn	5	34
Adapting approach to the person you are dealing with		4	9
Compromise		3	7
Discussion and sharing with wider team		1	1

Name	Description	Files	References
Enforcement		2	2
Enforcement does not always lead to learning		3	5
Enforcement is last resort and failure		2	3
Threat of enforcement rather than actual enforcement action		2	3
Explaining exactly how to do it		3	5
Making themselves available and contactable		1	1
Passing on knowledge without them knowing they are learning		1	1
Providing information or signposting		3	4
Reflect and re-think		1	1

Name	Description	Files	References
Sharing experiences and examples of what has worked elsewhere		2	3

Appendix G: Ethical Approval Letter



Natural Science REC

The Burroughs
Hendon
London NW4 4BT

Main Switchboard: 0208 411 5000

26/02/2018

APPLICATION NUMBER: 3153

Dear Lisa Anne Borley

Re your application title: Lisa Borley Environmental Health and Learning

Supervisor: Alan Page Ian Vickers

Co-investigators/collaborators:

Thank you for submitting your application. I can confirm that your application has been given approval from the date of this letter by the Natural Science REC.

Although your application has been approved, the reviewers of your application may have made some useful comments on your application. Please look at your online application again to check whether the reviewers have added any comments for you to look at.

Also, please note the following:

1. Please ensure that you contact your supervisor/research ethics committee (REC) if any changes are made to the research project which could affect your ethics approval. There is an Amendment sub-form on MORE that can be completed and submitted to your REC for further review.
2. You must notify your supervisor/REC if there is a breach in data protection management or any issues that arise that may lead to a health and safety concerns or conflict of interests.

3. If you require more time to complete your research, i.e., beyond the date specified in your application, please complete the Extension sub-form on MORE and submit it your REC for review.
4. Please quote the application number in any correspondence.
5. It is important that you retain this document as evidence of research ethics approval, as it may be required for submission to external bodies (e.g., NHS, grant awarding bodies) or as part of your research report, dissemination (e.g., journal articles) and data management plan.
6. Also, please forward any other information that would be helpful in enhancing our application form and procedures - please contact MOREsupport@mdx.ac.uk to provide feedback.

Good luck with your research.

Yours sincerely

Chair Mr Adam Choonara

Natural Science REC