

The Relentless Construction of the Powerless State: 'social regulation' in the UK

*What is Justice? Re-imagining Penal Policy:
the Role of the State*

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Contexts

- Long term preoccupation with corporate crime and harm
- Focus on state (de/re-)regulation and (non/under) enforcement
- Theoretical (and empirical) recognition that the state and corporation are intimately linked – increasingly so
- Reflections upon post-crisis 'settlement'
- Current work on LA regulation of business: food safety, health and safety, pollution control

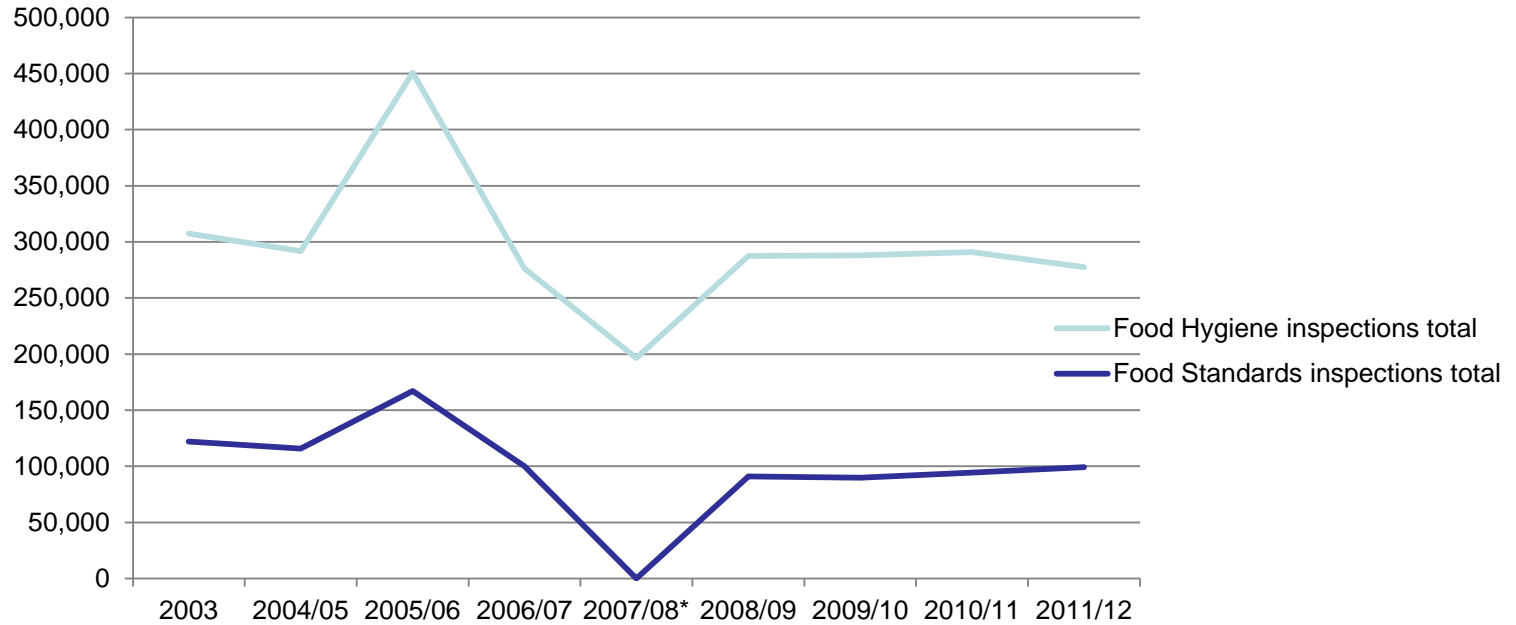
The Myth of the Powerless State

The diminution of state capacity: an idea that has long circulated in much social science – through neo-liberalism, globalisation, the current ‘fiscal crisis’, and most academic work on regulation

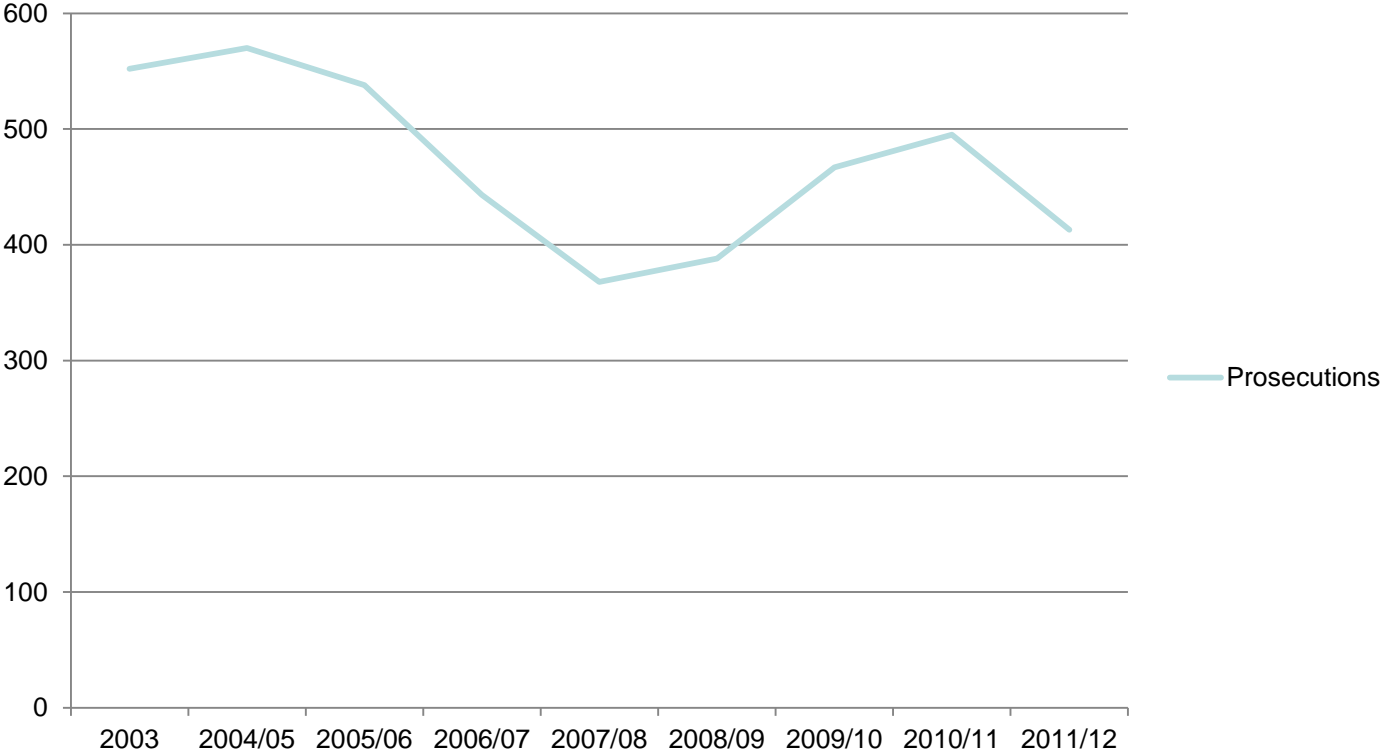
Seems borne out by the fact that ‘the State’ is complicit in corporate crime and harm production through a series of ‘failures’:

- to put into place more ‘effective’ legal regimes
- to enforce adequately existing laws
- to respond effectively to violations of such laws

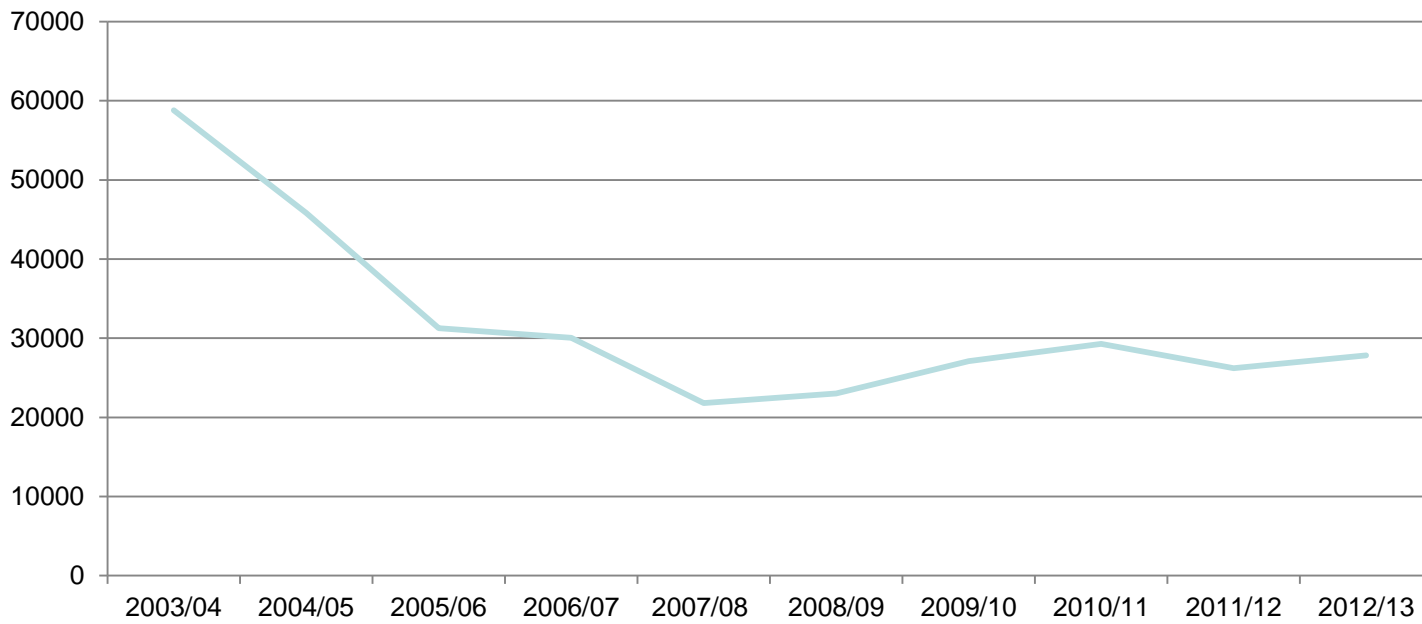
'Food' Inspections (EHOs, Local)



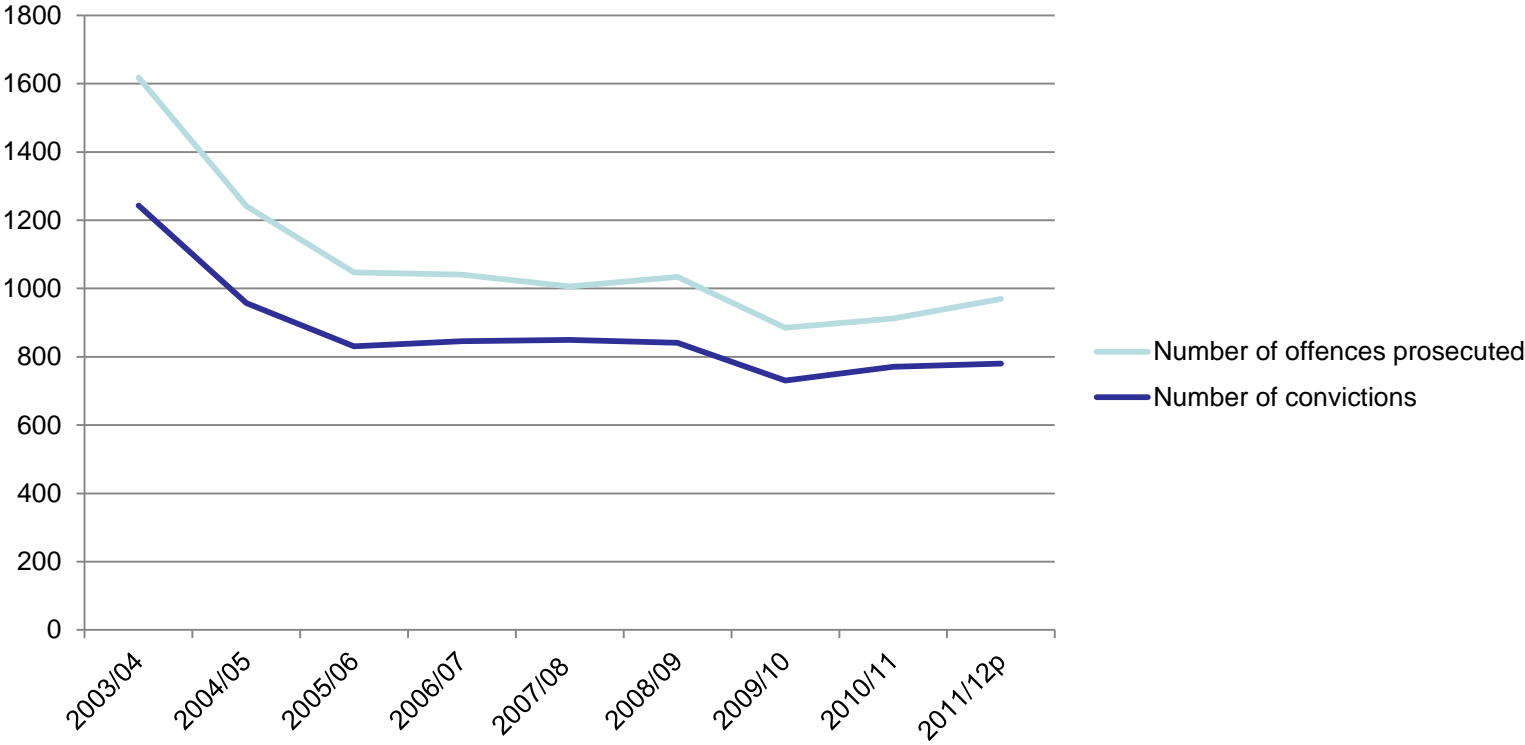
'Food' Establishments Prosecuted (EHOs, Local)



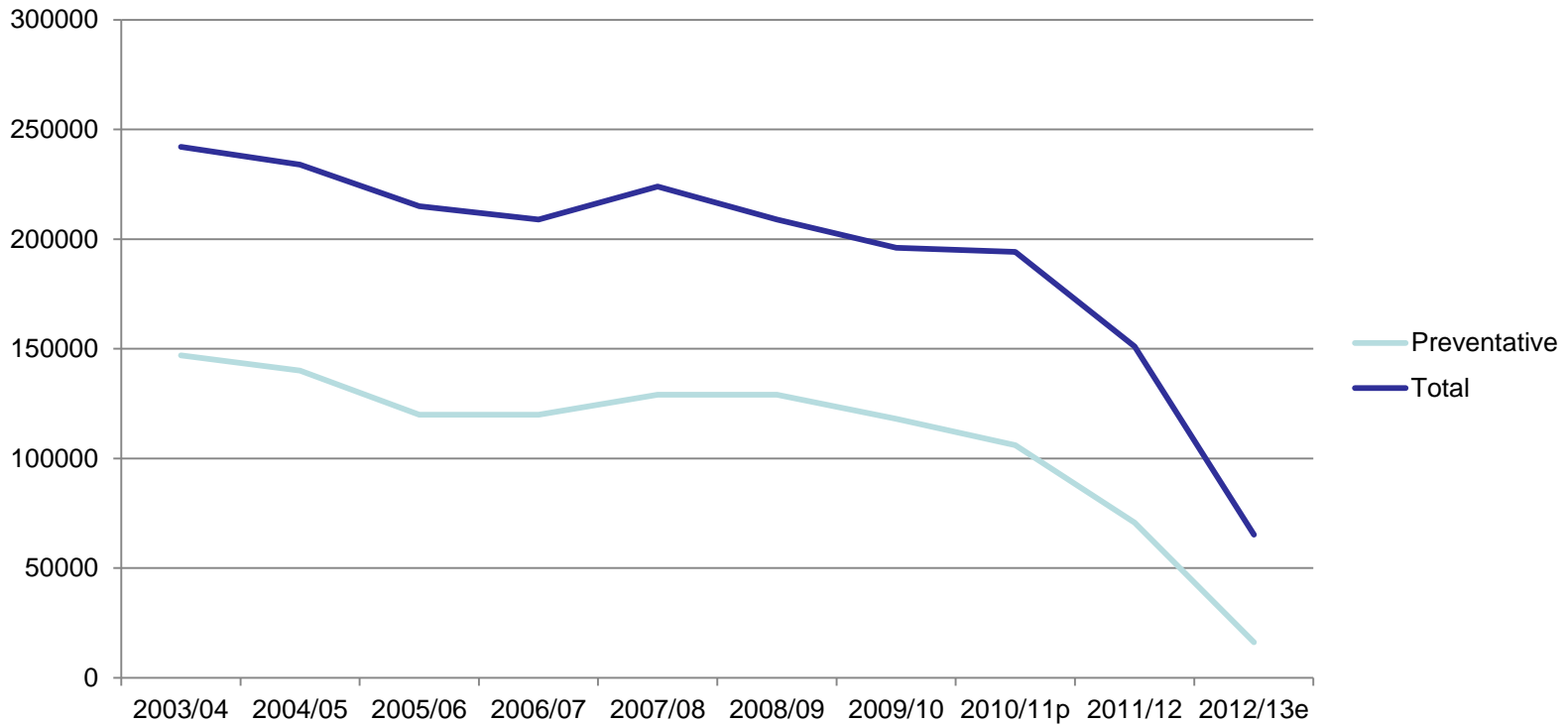
H&S Inspections (HSE, National)



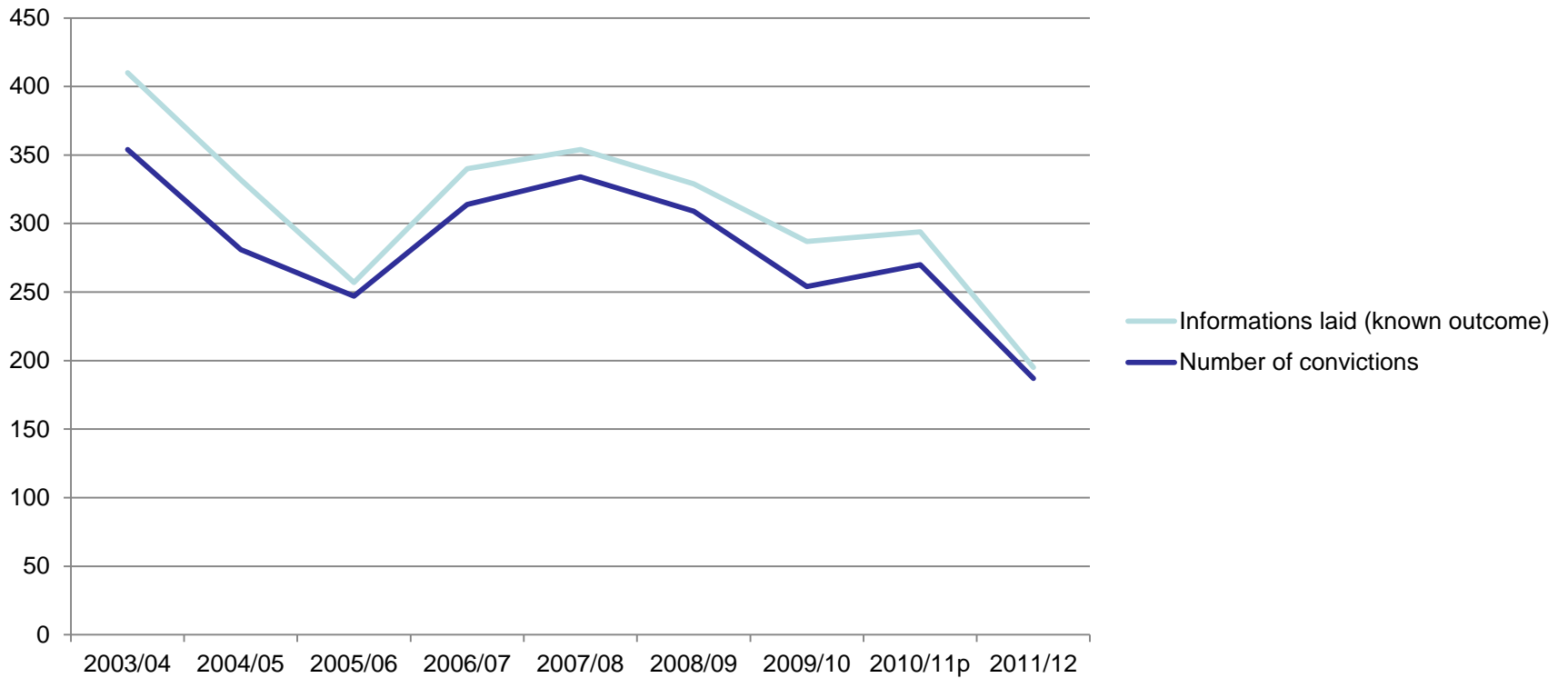
OH&S Offences Prosecuted and Convictions Secured (HSE, National)



OH&S Inspections (EHOs, Local)

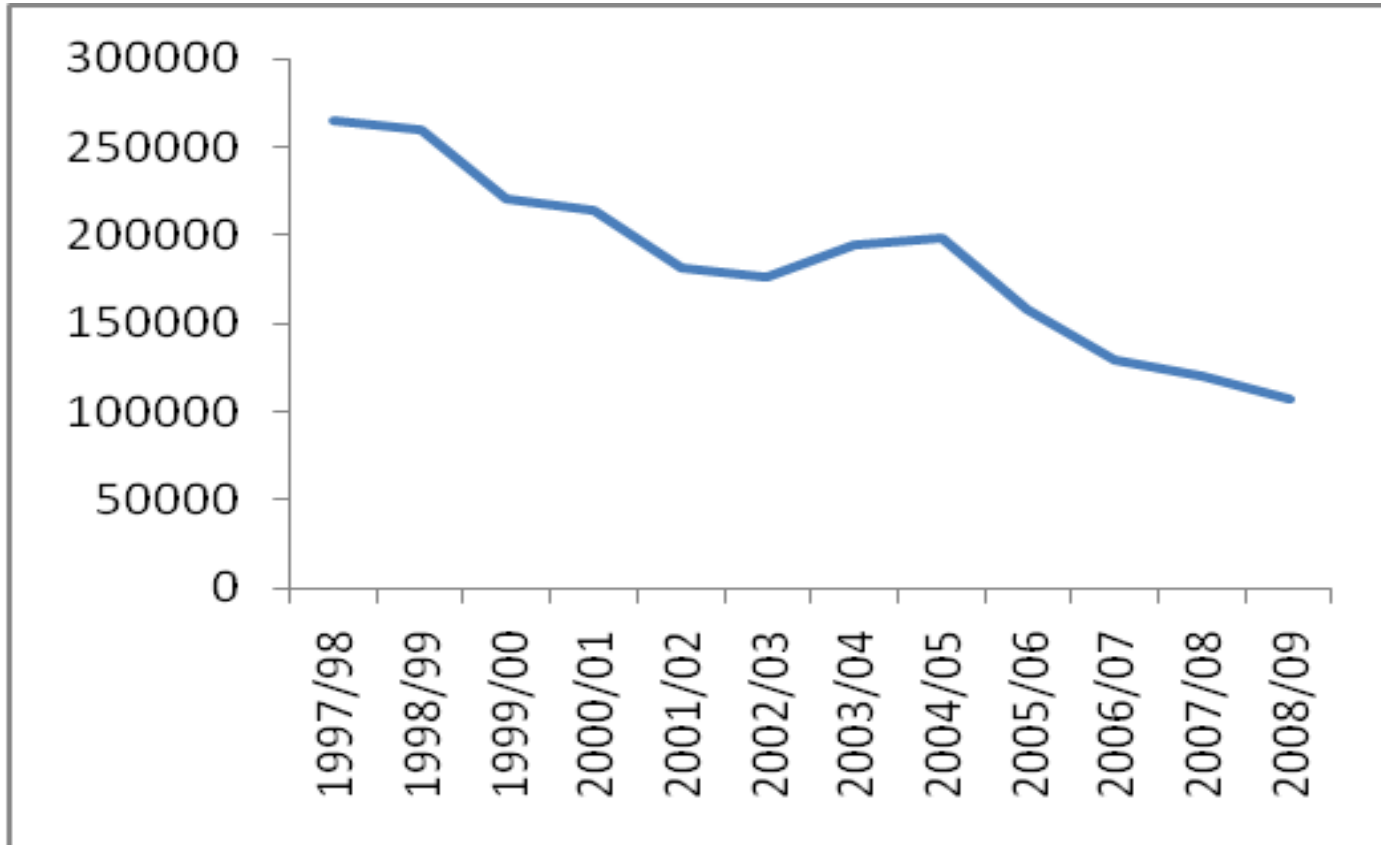


OH&S Offences Prosecuted and Convictions Secured (EHOs, Local)



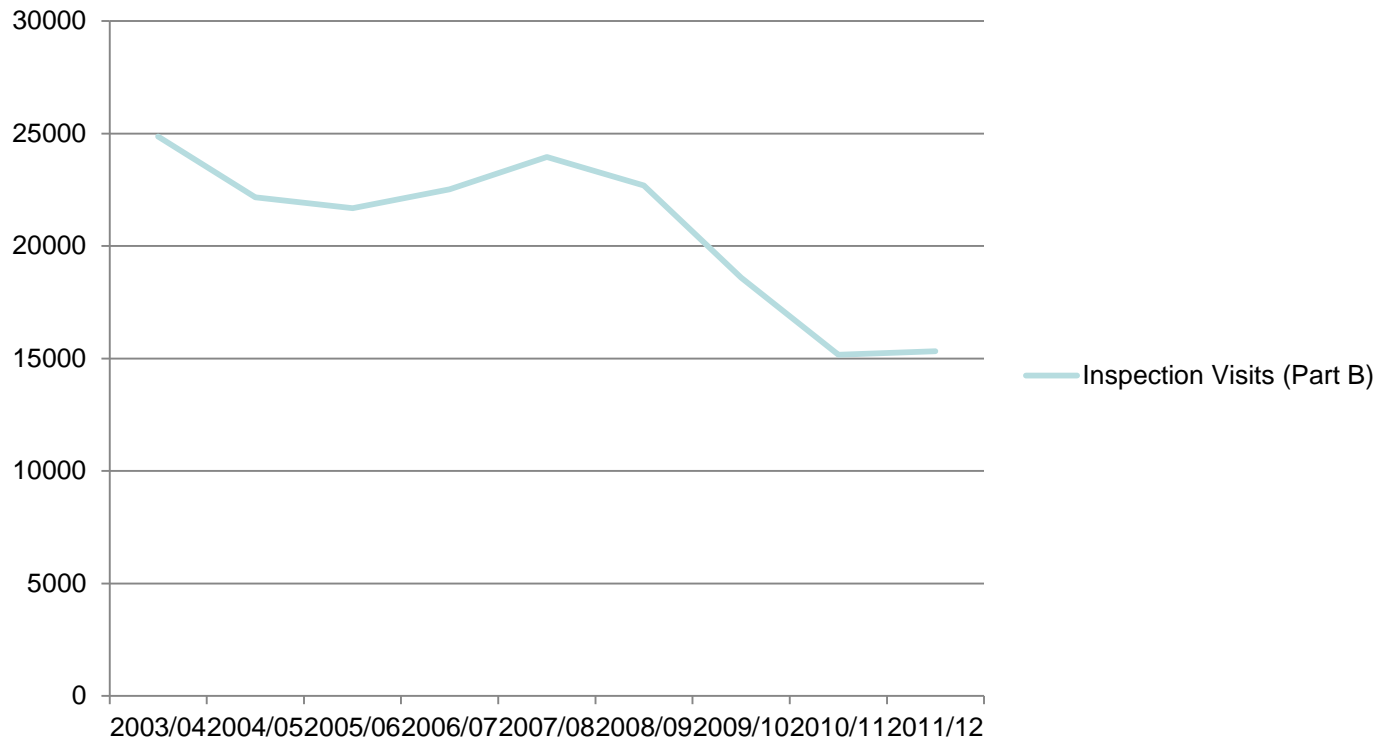
Pollution Control Inspections (EA, National)

(from Whyte, 2010)



Pollution Control Inspections, Part B installations (EHOs, local)

Inspection Visits (Part B)



In Summary, 2003/04 – 2011/12...

NATIONAL

HSE, H&S

- FoD Inspections declined by 53%
- Offences Prosecute: declined by 40%, Convictions (Offences): declined by 37%

Environment Agency, Pollution Control

- Inspections declined by 60% (1997/98-2008/09)

LOCAL

EHOs, Food

- Food Hygiene inspections declined by 10%, Food Standards inspections declined by 19%
- FSA prosecutions declined by 25%

EHOs, H&S

- H&S Preventative Inspections declined by 89%, H&S Total Inspections declined by 73% (to 12/13)
- Informations Laid declined by 52%, Successful Convictions by 47% (to 12/13)

EHOs, Pollution Control

- Part B Inspection Visits declined by 38%
- Part B Notices (other than variations) declined by 22%

The State's Relentless *Construction* of the Powerless State

Note that above data / trends are not indices of *mere omission*....

- Better Regulation Unit, BRE, BRTF, Reducing Regulation Committee
 - Hampton, Rogers, Young Review, Lofstedt
 - Legislative & Regulatory Reform Act (RIAs), Regulators Compliance Code(s)
 - Hampton Compliance and Triennial Reviews
 - LBRO, BRDO
 - The 'Growth Duty'
-
- Red tape, burdens on business, entrepreneurship and 'freedom' for business to do business

... Long-term material and ideological work

In Conclusion: the 'Powerless' State at Work

'The state' refashioning itself as joint partner, out-sourcer, contractor, 'co'- and 'meta'-regulator – albeit in different ways in different contexts - but in any case though intense, ongoing activity ...

... while it constantly creates, recreates and maintains new markets for private capital; and these diminished roles for 'the state' are the product of a great deal of work by 'the state'

An increasingly complex set of inter-dependences between apparently separate sets of entities - the corporation as both 'inside' and 'outside' of the state

Social *regulation-as-law-enforcement* has been undermined through ideological, political and economic means - and the principal actor has been the state