

Health and Safety Commission Minutes		HSC/03/M11	
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Health and Safety Commission	
Minutes of a meeting of the Health and Safety Commission held on 11 November in the Globe Room, 2 Southwark Bridge, London SE1 9HS	
<p>Present Bill Callaghan – Chair Abdul Chowdry Joyce Edmond-Smith John Longworth Judith Hackitt George Brumwell Owen Tudor Elizabeth Snape</p> <p>Apologies Judith Donovan Margaret Burns</p>	<p>Officials Present Timothy Walker Kate Timms Justin McCracken Vivienne Dews Robert Humm Paul Kloss Mark Dempsey Paul Denman Sian Lewis Mike Nind Geoff Brown</p>
<p>Presenters Item 3 – Kate Timms, Tony Mulhall Item 4 – Sandra Caldwell, Jonathan Russell, Geoff Brown Item 5 – Allan Davies, Bill Myers, Nick O'Donnell Item 6 – Sandra Caldwell, Gwyneth Deakins, David King Item 7 – Sandra Caldwell, Elizabeth Gyngell, Neal Stone, Matthew Holder Item 8 – Sandra Caldwell, Bill Gillan, Jane Soloman, Damian Bethea Item 9 – Sandra Caldwell, Colleen Bowen, Monica Smith Item 10 – Roderick Allison, Richard Clifton, Terry Gates</p>	

1	Minutes of the meeting held on 10 October 2003
1.1	The minutes were agreed.
2	Urgent business not covered by items on the agenda
2.1	<ul style="list-style-type: none"> The Commission felt that the moratorium on HSE's published guidance had not been properly communicated to stakeholders. A public statement would be useful to ensure that everyone knew the terms of the moratorium. Kate Timms explained the current situation. The issue of bringing former US Navy ships to Teeside was still receiving press coverage. In July, HSC had raised concerns and the Commission now requested a chronological report of events and HSE's involvement. Justin McCracken explained the sequence of events to date and undertook to provide a note. Kate Timms updated the Commission on the implementation of the Framework Directive and the issue of SFARP. The Commission would observe the two minute silence at the 11th hour.
3	Delivering HSC/E's PSA Targets: Progress Report for 1st Half 2003-04: (HSC/03/150)

3.1	Kate Timms introduced the paper. The current HSC/E Public Service Agreement targets were agreed as part of the Spending Review 2000 and were based on the midpoint of the Revitalising Health and Safety targets. This paper (HSC/03/150) showed how HSC/E was progressing. A report would be made to the Minister about HSC/E's performance for first half of 2003-04 on 19 November. A "traffic-light" system had been developed to display information on delivery of targets. Red indicated areas of concern and green showed areas of success.
3.2	The Commission was encouraged by the paper. It showed good methodology and clear objectives. The presentation both internally (to staff) and externally (to stakeholders) was important. The use of improvement notices, as a target needed clarification since there was the potential for misinterpretation. The overall targets would enable HSC/E to gauge if their overall strategy was correct and the programme board would need feedback to test whether the strategic direction was delivering improvements. A lot of HSC/E's implicit knowledge was being built into achieving these targets. In time, levels of success would be measured. It might be that some areas will stand up to scrutiny and others will not. The Commission accepted that HSE was evaluating specific activities with the option to make changes where necessary.
3.3	The Chair thanked the presenters. The basis for measuring performance had been greatly improved. In summing up, the Commission noted the report and looked forward to future reports on progress.
4	Evaluation of the HSC Enforcement Policy Statement (HSC/03/118):
4.1	Sandra Caldwell introduced the paper. The Commission's Enforcement Policy Statement (EPS) applied to both HSE and Local Authorities (LA's). The proposals were forward looking in terms of innovative enforcement, penalties and justice. The Commission was informed that Bill Callaghan had agreed to act as HSC champion on the EPS issue.
4.2	In response to questions, the Commission was informed that: <ul style="list-style-type: none"> • The Enforcement Management Model (EMM) was a key project. FOD had developed a model and EMM would be revisited to ensure that it was working; • The EPS would apply across all sectors; • Industry Advisory Committees (IAC's) and HELA would be involved in the evaluation; • There was an on-going process to keep large numbers of stakeholders, including the TUC and the Centre for Corporate Accountability (CAA) informed of developments.
4.3	The Chair thanked the presenters. Overall, the approach to this review was welcomed and the Commission supported the programme proposed.
5	HELA Programme of Monitoring Local Authorities' Management of Health and Safety Enforcement – Annual Report (HSC/03/124):
5.1	Allan Davies introduced the paper. Auditing was undertaken through HELA on behalf of HSC. This paper was a report on the findings to date and improvements made as a result of HELA intervention. Local Authorities (LA's) should be encouraged to do as much as possible, without the intervention of HELA. A London Authority had been a particularly bad performer and they had not yet utilised their action plan. Further action from HELA would be required here.

5.2	The Commission felt this audit had been successful. However, attention should be paid to the tone of the paper. Care was needed with what was collectively referred to as “the view of Local Government”. LA’s were not one single group and members would need to be got on board separately. If an LA was failing, an established, transparent process should be in place to reverse the trend. Work with both the LA’s and LACORS would be needed for this. The Commission felt that LA’s undertook a great number of audits and there were competing demands on LA’s as a result. Dialogue between auditors would be useful and HSE and LA’s needed to share more information between each other too.
5.3	The Commission noted the good progress since last year. Increased LACORS funding and the formation of the Regional Services Partnership had facilitated the involving of members. Where certain LA’s were failing, the use of default powers and the legal process should be considered in looking to improve matters. LA’s regulated a large employment sector and it was important for HSC/E to get this issue right. A clear press strategy was needed and HSC/E had to be sure what an intervention strategy would mean in the long term. HSC questioned whether the media strategy was about finding new approaches or about shaming poor performers. If funding was an issue, it could be brought to the attention of the Office of the Deputy Prime Minister.
5.4	<p>The Chair thanked the presenters. There were a detailed set of issues here and HSC would need more information. The top priority was informing a particular London Authority at both an official and political level. There were key considerations about the presentation of the work and the messages it contained. The Commission welcomed the audit work that had been done to drive standards up but would need to know the next stages of development. This was a difficult issue that the Commission would return to in December. In conclusion, the Commission:</p> <ul style="list-style-type: none"> • Endorsed the issues identified within paragraphs 5 to 11 of the report as those key to developing the partnership with local government; • Noted the successful outcomes and significant improvements in health and safety enforcement achieved as a result of the programme; • Commented on the summary of the audit findings; • Noted the progress report on the audits.
6	Temporary Work at Height Directive: Implementation Regulations (HSC/03/129):
6.1	At their meeting of 5 August 2003, the Commission considered a draft Consultative Document (CD) on regulations and supporting guidance to implement the Temporary Work at Height Directive (paper HSC/03/43). HSC asked for some changes to be made to the text of the CD and the Guidance. The CD had now been reworked and it was hoped that HSC’s concerns had been satisfied. Prior to the anticipated publication of the CD, a press briefing would be supplied to members of the Commission.
6.2	The Commission felt that there had been a good level of consultation and was pleased with the document that had been produced. A large number of fatalities resulted from falls from height and the proposed 10% reduction in deaths would make a real difference.
6.3	The Chair thanked the presenters. Publication was now a priority. In summary, the Commission agreed to the publication of the revised draft Consultative Document.
7	Draft Statement of Principle on Worker Involvement and Consultation on Occupational Health and Safety (HSC/03/143):

7.1	<p>Sandra Caldwell introduced the paper. Following concerns voiced by the Commission at its meeting in July 2003 about the draft consultative proposals for new Regulations on worker involvement HSE was asked to formulate a new approach that met the needs of all workers and employers. HSE was a considerable way off producing draft regulatory proposals that would be acceptable to a wide range of stakeholders and ones that would contribute to the achievement of our goal of greater worker involvement and consultation. The Commission was now asked to agree a draft statement setting out the principles, evidence and measures considered vital to help HSC/E to achieve the goal of securing greater worker involvement and consultation on occupational health and safety. If agreed, the statement would then serve as a core document for a number of stakeholders to sign and make public. The approach adopted in the statement was founded on the belief that it would be better to concentrate efforts on non-regulatory measures to take forward the goal. The paper also set out emerging thinking concerning the creation of a Workplace Safety Advice Challenge Fund for extending workplace safety advice in small and medium size businesses announced by the Secretary of State for Work and Pensions on 2 October 2003.</p>
7.2	<p>The Commission noted that the language used in the draft statement was important. It should reflect that trade union membership had generally stabilised and that sound legal framework was seen as crucial. No matter how the language was changed, prejudices towards safety representatives would still exist. The £3million provided by Government for the WSA Challenge Fund was not the only answer to the lack of worker involvement in workplaces without trade union representation on health and safety. It would form part of the solution. It was not a substitute for what was already in place. Concentration in the first place on the Construction, Voluntary and the Retail sectors was the right approach. It was also essential to address problems surrounding the lack of worker involvement in SMEs. Solutions and tools were needed that tackled this problem. The Commission noted that the Workers Safety Advisor pilot had been aimed at small businesses which lacked arrangements for involving and consulting workers.. The DTI proposals to implement the EC Directive on information and consultation were currently being finalised. HSC/E's own strategy needed to fit clearly with wider approaches. These needed to be finalised before the draft statement could be agreed.</p>
7.3	<p>The Commission supported the need for a clear HSC statement on why employee involvement was a positive driver for better health and safety and that this should be put into the public domain. While the statement could make the case for legislation there remained strong arguments for non-regulatory measures too. There was a problem with employers who did not want to work together with safety representatives. On the Accident Book, the Commission noted developments to resolve problems being encountered by some safety representaives in getting access to the information the new book contained. Case studies should be sought which highlighted examples of where employers and trade unions had worked together to solve problems of disclosure.</p>

7.4	<p>The Chair thanked the presenter. It was important to note that this work was being done because of the vital importance of worker involvement and consultation. These issues were key aspects in taking forward the HSC/E strategy. The statement, when agreed, should be linked to the new HSC/E strategy. In summing up, the Commission:</p> <ul style="list-style-type: none"> • noted progress and the emerging issues concerning the development of the WSA Challenge Fund,; • that the approach in developing the WSA Challenge Fund needed to be flexible to allow the best possible options for rolling-out to emerge; • recommended that further work to harmonise existing Regulations should not proceed; • agreed that HSE should report back when problems surrounding the new Accident Book have been resolved; • agreed that the statement on worker involvement should be re-drafted to address issues raised and to make a clearer link to the HSC/E strategy. The statement should be re-drafted to take account of stakeholders' views and brought back for further consideration at the December meeting.
8	Review of the Workplace (Health Safety and Welfare) Regulations 1992 (HSC/03/123):
8.1	<p>Bill Gillan introduced the paper. In 2001 the Commission asked that a limited review be conducted of the Workplace (Health, Safety and Welfare) Regulations 1992 (WHSWR). Because of a number of factors, parts of the review had been delayed. This paper offered options on whether the remaining parts of the review together with new developments should be taken forward. These Regulations covered a wide range of topics and interacted widely with the legislation. A fresh steer from HSC would now be useful. Overall, the Regulations had stood the test of time and were well understood. Thermal comfort, and the possibility of setting a maximum workplace temperature, remained the most controversial issue, and stability and solidity of buildings had gained significance. The Commission was asked to consider three options:</p> <ol style="list-style-type: none"> I. Terminate the review; II. Carry forward a limited review; III. Carry forward a full review.
8.2	<p>The Commission felt that this was a difficult issue and noted the whole range of parameters around the issue of thermal comfort. Option two would not solve the problem and thermal comfort consultation would draw quite a large proportion of HSE resource in terms of staff years. Although the issue affected a large number of people, it had not been identified as one of HSC/E's priorities. The Commission felt that option one represented a clear way forward. A separate study of thermal comfort would be a better use of HSE resources, with the involvement of social partners. The Commission also noted that HSE had been involved in the investigation following the Pipers Row collapse in 1997, and was to produce a report on its findings, probably in Spring 2004. The Commission took the view that clear boundaries needed to be established to determine HSE's role in questions of structural stability where others were better placed to regulate and enforce. It was important that the publication of the report did not draw HSE any further into the issue.</p>
8.3	<p>The Chair thanked the presenters. In light of the HSC strategy for workplace health and safety, the first option should be pursued. Work would be taken forward again when the Commission determined it appropriate. HSE should ensure that the boundaries between its role on structural stability and that of other organisations who were better placed to regulate were clear.</p>
9	Occupational Health and Safety Support: Developing a National System (HSC/03/142):

9.1	Colleen Bowen introduced the paper. A considerable amount of work had been undertaken. It was timely to consider this issue now. The HSC/E submission for SR2004 was being prepared and the Safe and Healthy Working Occupational Health scheme in Scotland was already providing evidence that the model could work in practise across a defined geographical area. The ultimate goal was to develop a comprehensive support service with national coverage.
9.2	<p>The presentation outlined a generic model which could be adapted to suit specific circumstances. The core of the scheme was occupational health and safety support. The service would be able to:</p> <ul style="list-style-type: none"> • provide specific advice, calling on highly skilled individuals who have relevant qualification and experience of problem solving in the workplace; • identify the right level of expertise needed; • conduct risk assessments. • the service could be accessed via telephone, website, personal contact e.g. project worker in a GP surgery, industry/trade association or e.g. through ethnic community networks. However, success of the scheme would depend on active marketing to raise awareness of occupational health and safety to create the demand for the information and advice necessary to control risks and prevent ill health.
9.4	A National Centre for Excellence would set the brand for the service and be responsible for: overall management and facilitation of the service; marketing and awareness raising; development of standards and bench marking; quality assurance; collection and sharing of best practice examples; competencies, training and development; research and evaluation.
9.5	The Commission welcomed the presentation. The Commission noted that the costs of the Scottish occupational health and safety support scheme for SMEs, “Safe and Healthy Working”, had been funded by the Scottish Executive. However, the scheme had been designed around an existing infrastructure so costs were marginal. The costs of a support service with national coverage was likely to be higher than £25m; more detailed work would be required to scope the costs. w. The Commission felt that option 4 (local/regional/sector services) would engage stakeholders and appeared to be a good way forward. However, a national system remained the ultimate goal.
9.6	<p>The Chair thanked the presenters. A comprehensive service with national coverage was the vision and option 4 was a way to try and achieve this. Stakeholders would need to be involved. Ministers at both the Department for Work and Pensions and the Department of Health had shown a lot of interest in this issue. Summing up, the Commission:</p> <ul style="list-style-type: none"> • agreed the overarching model for an occupational health and safety support service; • noted existing evidence and experience of OH&S support activities and what this meant for the shape of any future provision; • considered options for progressing wider access to occupational health support; • gave a steer on the preferred option for HSC/E’s SR2004 submission.
10	The Channel Tunnel Safety Authority (CTSA) Annual Report

10.1	<p>Roderick Allison gave a presentation to the Commission. The CTSA was set up under the Treaty of Canterbury and operated under legal powers separate from the Health and Safety at Work etc Act 1974. It was an independent Anglo/French binational body. The functions of the CTSA were to:</p> <ul style="list-style-type: none"> • advise and report to the Intergovernmental Commission on Channel Tunnel (IGC) on all safety matters; • ensure enforcement of safety legislation and monitor it's implementation; • examine reports on any incident affecting safety and make necessary investigations.
10.2	<p>Issues in the "new style" annual report included:</p> <ul style="list-style-type: none"> • optimisation of HGV Protection in the Running Tunnels; • examination of Safety Cases of Eurotunnel and the Train Operating Companies using the Channel Tunnel –the Safety Authority had developed a monitoring plan to ensure implementation of, and compliance with, the accepted safety case; • Channel Tunnel Rail Link (CTRL) – EU interoperability directive. (The new interface between the CTRL and the Channel Tunnel was the first interoperability project to directly affect the Eurotunnel Concession Area). • industrial action by UK firefighters; • dangerous goods and the need to ensure that Eurotunnel's rules regarding their carriage through the Tunnel were observed; • clandestines – it was noted that the problem of asylum seekers had reduced since the Sangatte refugee camp had been closed; • openness – There had been two steps forward here; <ul style="list-style-type: none"> I. a public version of Eurotunnel's safety case had been prepared and would soon be available ; II. the annual report was now free of charge.
10.3	<p>Issues to be considered for the future included:</p> <ul style="list-style-type: none"> • the need for continuing good safety performance in the tunnels – The encouragingly low number of incidents for 2002/2003 was noted; • the commercial pressures on Eurotunnel – Eurotunnel's difficult financial position was well known. A group of French shareholders was currently seeking to dismiss the present Board. Eurotunnel was desperate for revenue but safety must not be compromised and continued vigilance would be necessary. • changes in the UK and French delegations – There were to be changes on both sides at around the same time. The French Head of Delegation who had been involved int the work of the Safety Authority for over ten years would leave at the end of the year. He would be replaced by someone with no previous experience of the Channel Tunnel. On the British side, Roderick Allison had been replaced by Richard Clifton. These changes would result in a considerable loss of experience.
10.4	<p>The Chair thanked the Roderick Allison for his presentation and for all the work he had done as Head of the UK Delegation. In summing up the Chair noted that the incidents reported on page 20 of the CTSA annual report all referred to contractors. Roderick Allison said that this reinforced the Safety Authority's decision to undertake a cross-cutting inspection of Eurotunnel's management of contractors.</p>
	<p>Below the Line Items:</p>
11	<p>Draft Regulations, AcoP and Guidance on the manufacture and storage of explosives (HSC/03/131)</p>

11.1	The Commission endorsed the proposed Regulations and ACoP and agreed to their submission to HSC/E's Minister under cover of the letter at Annex D.
12	Temporary Speed Restrictions (HSC/03/132)
12.1	The Commission noted the paper.
13	Deep Mined Coal Committee Industry Advisory Committee (HSC/03/144)
13.1	The Commission noted the change of status of the DMCIAC
14	HSC/E Annual Rail Report (HSC/03/148)
14.1	The Commission noted the contents of the report and the proposed publication date
	Miscellaneous Papers
15	HSC/E's Public Service Agreement for the 2004 Spending Review (MISC/03/29)
15.1	The Commission noted: <ul style="list-style-type: none"> • the proposed PSA target: "To secure further improvement in the control of risks to health and safety from the workplace"; and • The approach to developing new indicators
16	New Teleworking Guidance Launched by the DTI (MISC/03/30)
16.1	The Commission noted the paper
17	Update on the EC Strategy for Chemical Policy – REACH (MISC/03/31)
17.1	The Commission noted: <ul style="list-style-type: none"> • the imminent publication of the adopted text. • the practical arrangements for handling including the role of the chair in clearance and the use of the Advisory Committee on Toxic Substances (ACTS) and its subgroup SCHIP.
18	HSE Offences and Penalties Report 2002/03 (HSC/03/32)
18.1	The Commission noted the paper

**Commission Secretary
November 2003**