

Meeting Date:	17 January 2006	FOI Status:	To be advised
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Exemptions:			

**Minutes of a meeting of the Health and Safety Commission, held on
17 January 2006 in the Globe Room, 2 Southwark Bridge, London, SE1 9HS**

Present

Bill Callaghan – Chair
Danny Carrigan
Judith Donovan
Joyce Edmond-Smith
Sayed Khan
Hugh Robertson
Judith Hackitt
Elizabeth Snape

Apologies:

Margaret Burns
John Longworth

Officials Present

Geoffrey Podger
 Justin McCracken
 Jonathan Rees
 Alex Brett-Holt
 Colin Douglas
 Vivienne Dews
 Susan Mawer
 Neal Stone
 Lorraine Baker
 Ann Marie Farmer

1 Minutes of the meeting held on 6 December 2005 (HSC/M09/2005) and matters arising

1.1 The authors of the publication in para 2.1 were incorrect and should be amended to the Royal College of General Practitioners and Faculty of Occupational Medicine and Society of Occupational Health. Subject to this amendment the minutes were agreed.

2 Urgent Business

2.1 No urgent business

3 Chief Executive’s Report

3.1 Presenting his report Geoffrey Podger highlighted three issues

Buncefield Update – He and Bill Callaghan had visited the site where HSE and Environment Agency staff had worked hard, in spartan conditions, to ensure safety on site. The team had received excellent cooperation from the police, fire services and duty holders. The primary task now was securing and analysing the evidence: witness statements and computer and CCTV evidence. Great care was required but matters were proceeding well and it was hoped that results would be available shortly.

Following the Commission’s decision to direct HSE to carry out an investigation under S14 of the Health and Safety at Work Act, innovative arrangements had been made whereby the Rt Hon Lord Newton had been appointed to chair the investigation board; the investigation was being made in cooperation with the Environment Agency and a community relations manager had been appointed.

Bill Callaghan reported that he had met the local MP Mike Penning. It would be important to ensure he and other community leaders were kept informed.

	<p><u>Regulatory Reform Bill</u> - The Regulatory Reform Bill had been published on 11 January. HSC had responded to the consultation last year. Areas of interest for us were the future use of regulatory penalty regimes and other possible uses of regulatory reform orders.</p> <p><u>HSE Staff Survey</u> - The results of the HSE staff survey highlighted strengths such as improved communications and weaknesses including concerns over the management of change. The Board were determined to respond and make improvements.</p>
3.2	<p>The Commission formally agreed its direction and authorisation, under section 14(2)(a) of the Health and Safety at Work Act, whereby under the supervision of the Rt.Hon Lord Newton, HSE and the Environment Agency would carry out an investigation and make a special report. into the explosion at Buncefield.</p> <p>It recorded its thanks to the staff working on the Buncefield investigation.</p>
4	Chemical Industries presentation
4.1	<p>Kevin Myers, Director of HSE's Hazardous Installations Directorate, supported by Kevin Allars head of the Chemicals Industry Division described HSE's approach to its regulation of the Chemicals Industry Division. He explained and illustrated how the division's work took forward the Commission's strategy and was operating as a modern regulator.</p> <p>HSE's role in ensuring sites operated safely provided the industry with a licence to operate in terms of public confidence. The record was good but when incidents happened, as at Buncefield, the impact was significant. A key challenge was to develop effective leading precursors.</p> <p>He also referred to plans in hand to codify and transfer land use planning (LUP) advice to local planning authorities whilst maintaining central control.</p>
4.2	<p>The Commission congratulated HSE on its mature relationship with the industry, and particularly in exploring new types of interventions and partnership working where appropriate.</p> <p>The industry was changing, shifting from high volume commodities to specialist products and sites which produced different products every day. This complex situation created new challenges because of the ever-changing nature of the risk.</p> <p>It asked about the risks posed by storage, and also how the proposed changes to LUP advice would work. It stressed that the development of leading indicators was important. Developing site specific precursors was working well but it would be some time before this was mature enough to be able to be aggregated to provide generic information</p>
4.3	HSE described how, in full consultation with Local authorities, the database used to provide advice on land use planning would be made

	available for LAs to use. In 95% of all cases the decision was straightforward. There would be a care and support system and the more difficult cases would still come to HSE for advice.
4.4	The Commission thanked Kevin for his interesting presentation and congratulated HSE on its work as a modern regulator and working with the Environment Agency as joint competent authority.
5	Health Work & Wellbeing Strategy (HWWB) and pursuing our Health Agenda (HSC/06/18)
5.1	<p>Jonathan Rees presented the paper which provided an update on how the HSC agenda was being pursued through the Health Work and Well-Being strategy and sought a steer on the next steps.</p> <p>The Commission's strategy had stressed the importance of partnership in achieving progress with the health agenda and considerable work had been done with local administration, the devolved authorities and with Departments of Work and Pensions and of Health. The statistics published in November 2005 have been positive and the challenging revitalising targets on healthy probably met, and days lost possibly met. However there was still work to be done, particularly on the newer agenda, for example on stress, public services and absence management.</p> <p>It was important to ensure HSE staff understood the health agenda and the Annex was aimed at them. It did not cover important areas such as noise and asbestos where we were also engaged</p> <p>Activities included:</p> <ul style="list-style-type: none"> • A paper would be submitted in March setting out how we were using our own medical resource. • Adverts for a National Director for Occupational Health would be going out next month. • The Green Paper on Welfare Reform was likely to be launched this month (on 24 January) and would have a section on the prevention agenda. • The Workplace Health Connect team had worked hard to make progress on the contracts and the service would cover nearly 40% of the SME population. <p>In summary a lot had been done and achieved but there was a lot more still to do.</p>
5.2	<p>The Commission welcomed the paper and thought the well written annex provided a useful summary of its agenda and should be made available externally. This would help counter concerns it had that its agenda could get dragged into, and tarnished by, the political debate on incapacity benefit reform. It was important that it was not involved in that.</p> <p>They agreed the paper should make the link to our work on health issues such as noise, asbestos and cancer. It should also make it clear why we are working with DWP and DoH, the leverage that provides. The</p>

	<p>Commission asked for more detail on the 5 organisations appointed to deliver the Workplace Health Connect pathfinders. It also asked to be kept informed about all major conferences and events promoting the Commission's health agenda.</p>
5.3	<p>The Commission noted progress and agreed that the Annex should be made available on the web site.</p> <p>Details of the pathfinders would be sent to it.</p> <p>The Commission would return to this issue in light of developments including the appointment of the National Director and the Stakeholder Summit. The Commission hoped to meet the new director in the near future.</p>
6	<p>Two papers Brought forward from the December Meeting – An Information Note (HSC/06/1790)</p>
6a and 6b	<p>Linkages between the New European System for supply and Use of Chemicals (REACH) and Occupational Health Recommendations Following a review of HSC's Advisory Committee on Dangerous Substances (ACDS) (HSC/06/08)</p>
6a.1	<p>Giles Denham presented the papers, which the Commission had asked to be brought to the meeting. He did not intend to say much about ACDS as it was ACTS, HSC's Advisory Committee on Toxic Substances, which would be affected by the arrangements to implement REACH and it would remain in being until these were known.</p> <p>REACH was agreed by Member States in December. It was a directly acting European Regulation which came into force in 2007. REACH had transitional periods for existing substances with up to 11 years for low volume substances. It covered the health and safety and environmental effects of chemicals from their inception to disposal throughout the supply chain.</p> <p>Suppliers of chemicals would be responsible for establishing control measures to use chemicals safely, which users would be legally obliged to follow. COSHH would remain as a duty for 'users', who would have to implement the highest standards, whether the supplier's instructions or the results of a COSHH assessment. HSE believed that the conditions required by REACH were likely to be the same as, or higher than those for CSHH and that in time COSHH would play a less significant role. However, COSHH would remain relevant where the production or use of chemicals fell outside the scope of REACH.</p> <p>REACH required Member States to set up a Competent Authority and Defra (ho lead on REACH in the UK) aimed to consult on this in the spring and make a decision by the summer on the structure of the CA. The outcome would determine the expert advisory structure of the CA. At present there were no ready made committees covering both health and environmental risks. The CA would need to decide how best to bring these together. Given the uncertainty it was premature to make any</p>

	decision on ACTS.
6a.2	<p>The Commissioners thanked the presenters for the further information. It remained concerned that there would be confusion about the application of the two pieces of legislation and which was in operation. It wanted to see how COSHH could be made more effective alongside REACH. HSE needed to identify how the two systems dovetailed so that the information supplied under REACH was more effectively used in the COSHH system.</p> <p>A risk assessment covering both environmental and health issues would mean trade offs and as yet there was no methodology for this. HSE should be involved in and influencing the REACH implementation projects in the European Commission.</p>
6a.3	<p>The Commissioners thanked the presenter. It noted the information but was worried about the implications if we didn't get this right. It would be important to keep in mind the people on the ground who would be affected by this. The Commission agreed to return to this issue at a later stage.</p>
7	Delivering the Better regulation agenda – HSE's Draft Simplification Plan (HSC/06/04)
7.1	<p>Jonathan Rees presented the paper which sought the Commission's approval of the updated draft simplification plan prior to its submission to the Cabinet Office.</p> <p>The plan was required by the Government. The first draft had been published on the HSE website at the end of November and had been well received.</p> <p>The plan took a wider view and promoted sensible risk not just regulatory reduction. The guiding principles were that there should be no diminution of protection or of effective enforcement.</p> <p>Following the Commission's comments the plan would be submitted to the Cabinet Office, who would then want it quantified. The HSC/E plan, with those of all other Government departments, would be published in Spring/Summer 2006.</p>
7.2	<p>The Commission thought the principle of simplification was a good one: simpler more effective regulations would benefit everyone. HSE had done an excellent job in producing the plan in difficult circumstances.</p> <p>However it felt that the plan did not sufficiently stress the underlying principle that there should be no diminution of protection. The emphasis of the plan needed to be changed. The driver should be more effective regulation, improving protection by having simpler rules to follow, and not reducing burdens.</p> <p>Other comments included: -</p> <ul style="list-style-type: none"> ○ Whether there was value in reviewing whether prescriptive legislation was sometimes more effective than goal setting legislation

	<ul style="list-style-type: none"> ○ What the target for reduction in forms meant in practice. ○ That the consultation had not been widely advertised and did not have a closing date.
7.3	The Commission agreed that the plan should be amended to take their views on board and circulated to them for comment. It could then be submitted to the Cabinet Office. It was important to keep all stakeholders on side as this progressed.
8	HSC Seminars on Key Issues (HSC/06/16)
8.1	Jonathan Rees presented the paper which reviewed the effectiveness of the seminars which had been held and put forward proposals for future seminars.
8.2	The Commission had found the seminars useful and agreed there should be about two per year. The first would be in February and would debate HSE's response to the Energy review. Other topics would be considered at a later stage.
9	Civil Liabilities on employees: A proposal to amend the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (HSC/06/11)
9.1	<p>Giles Denham presented the paper which put forward proposals to rectify a previous amendment that unintentionally created the possibility of employees being open to civil claims by third parties. At its meeting in October the Commission had asked that this be remedied as quickly as possible.</p> <p>He also asked that, if the Commission agreed the draft amending regulations, these should also be used to correct technical error in the Management and Storage of Explosives Regulations.</p> <p>The Commission had also asked HSE to explore the feasibility of a wider review of the role of civil liability in occupational health and safety. HSE was recommending that the Commission should feed into the wider Governmental review of the compensation system rather than proceed on a review of its own.</p>
9.2	The Commission explored the fact that the amendment would only remove third party liability. However the proposal met the Commission's wish to remove the unintended consequences of the 2003 amendment.
9.3	<p>The Commission agreed to:</p> <ul style="list-style-type: none"> • The proposal to amend the law to remove the unintended consequence from the 2003 Regulations; • Feed in to the wider Governmental review of the compensation system; • The technical amendment of the Explosives Regulations; • And that DCA be asked to consider the implications of REACH for civil liability issues.

	Below the line Papers
10	Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2006 (HSC/06/03)
10.1	The Commission noted the main points from the consultation exercise and approved the draft regulations for submission to the Minister.
→11	(Fully Closed) Energy Policy (HSC/06/10)
11.1	The Commission noted HSE's arrangements for handling the request from DTI. ←
12	Health and Safety Commission annual Report (HSC/06/12)
12.1	The Commission agreed the proposed format for the Annual Report.
13	Communications Update (HSC/06/15)
13.1	The Commission noted the developments in the report.
14	HSC Stakeholder Conference 2005 evaluation and findings and options for 2006 Conference (HSC/06/14)
14.1	The Commission noted the findings and evaluation of the 2005 conference and agreed to provide a steer on the aims and objectives of the 2006 conference.
	Miscellaneous Papers
15	Rail Safety: Withdrawal of Mark 1 Rolling Stock (MISC/05/20)
15.1	The Commission noted the Information in the paper.
16	Draft Service Directive: Recent Progress (MISC/06/01)
16.1	The Commission noted the progress made and the expected next steps.
17	UK Presidency of the EU – Report on HSE's Programme (MISC/05/24)
17.1	The Commission noted the report. .