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Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 15 May 2007 in the Globe Room, Rose Court London.

Present

Bill Callaghan – Chair
Sandy Blair
Danny Carrigan
Robin Dahlberg
Judith Donovan
Sayeed Khan
Hugh Robertson
Elizabeth Snape

Apologies: John Longworth, John Spanswick

Officials Present

Geoffrey Podger
Justin McCracken
Jonathan Rees
Alex Brett-Holt
Vivienne Dews
Colin Douglas
Neal Stone
Lorraine Cassell
Ann Marie Farmer
Apologies: René McTaggart

Phil Kemball – Item 4
Stuart Clark – Item 5
Giles Denham – Item 6 & 7
Len Creswell – Item 6
Jane Lumb – Item 7

Welcome/Introduction

The Chair welcomed everyone to the meeting, in particular Lorraine Cassell who was attending her first Commission meeting. He also congratulated Danny Carrigan on his election to North Lanarkshire Council and Robin Dahlberg on his appointment as a non-executive member of LBRO.

1 Minutes of the meetings held on 15 March 2007 (HSC/M03/2007) and 17 April 2007 (HSC/M04/2007)

1.1 The minutes of the 15 March were agreed.

Para 2.1 c of the minutes of the 17 April 2007 needed to be amended to make clear that concerns expressed during consultation about the possible loss of independence and accountability related to the new body compared to HSC and HSE currently. On this basis the minutes were agreed.

2 Urgent Business

2.1 None.

3 Chief Executive's Report

3.1 Presenting his report Geoffrey Podger highlighted the following issues:

Nuclear – On Friday afternoon HSE's Nuclear Installations Inspectorate had issued regulatory instruments agreeing to restart

	<p>the Reactor 4 units at both Hinkley Point B and Hunterston B nuclear power stations. Work is progressing on assessing the other two units.</p> <p>Construction (Design and Management) Regulations (CDM) – An Early Day Motion had been tabled in March calling for the annulment of the CDM. The prayer debate in the House of Commons was held on 10 May. In the event the Opposition withdrew the motion to have the CDM annulled. It was evident from the debate that there was widespread support for the regulations. HSE had been commended for the rigour and extent of its consultation with construction industry stakeholders, the integration of CDM and Building and Planning Regulations and the practical assistance for small business. The debate ended with agreement that the Regulations should stand.</p> <p>Better Regulation Executive (BRE) and National Audit Office (NAO) Hampton Implementation Reviews - These reviews had been announced by the Chancellor in December 2006 and would assess regulators adherence to the Hampton principles on effective enforcement and inspection. The reviews would be carried out by BRE, NAO and regulators to ensure consistency from the perspective of users/clients of the regulations. It would provide a qualitative overview using individual case studies. The HSE had volunteered to be the first regulatory body to be reviewed and the Commission would be kept informed of developments.</p>
<p>3.2</p>	<p>The Commission agreed that the CDM debate had been very constructive and had demonstrated wide-ranging support for the new regulations. It congratulated the HSE on its 'myth of the Month' feature on the website which was excellent and needed to continue.</p> <p>The Commission thanked the Chief Executive for his report.</p>
<p>4</p>	<p>A stronger Voice for Health and Safety – Next steps following consultation on the merging of HSC and HSE (HSC/07/42)</p>
<p>4.1</p>	<p>Jonathan Rees introduced the discussion, which was to enable the HSC to take a formal decision, in light of consultation, to proceed with the proposed merger of HSC and HSE and the consequences associated with that decision.</p> <p>The background was familiar to the Commission; there had been an extensive discussion at the closed meeting with the Executive and Board members on 17 April on the results of the consultation. The outcome of the discussion had been broadly positive but with two key areas of concern:</p> <ol style="list-style-type: none"> 1. What does the merger imply in practice and the need for a clear vision statement setting out the intended consequences of the merger. Judith Donovan was thanked for her work in formulating the high level statement, (set out in annex 3 to the paper), which set out the vision, mission and values intended to underpin the new merged body; and 2. The concerns of the local authorities on the implications of

	<p>the merger. In this respect it was important to differentiate between the specific issues on governance and the broader debate on how to take forward the relationship. There would be an opportunity for the Commission to discuss this with the Local Government Panel that afternoon.</p> <p>If the Commission decided to proceed there were some immediate consequences:</p> <ol style="list-style-type: none"> 1. A letter to the Minister inviting him to initiate consultation on the detailed proposals – see draft at Annex 2; 2. Announce the decision externally and inform stakeholders – see drafts at annex 4 (Press release) and 5 (Letter to stakeholders). If the Commission was content the plan would be to issue the press release within a week. <p>The Commission needed to decide on the next stages of the process and the paper set out some issues of substance and handling. The issues of substance were set out in paragraphs 10-16. A definitive decision was not being sought today but the HSE would welcome a steer. The issues on handling were set out in paragraph 20 and the HSE would welcome the Commission’s views.</p> <p>In summary the Commission was asked to:</p> <ol style="list-style-type: none"> 1. Give a decision in principle on whether or not to go ahead; 2. Agree on the presentation issues set out in Annexes 2 to 5; and 3. Comment on some of the substantive handling issues, there would also be a need for the HSC Chair and HSE Chief Executive to discuss with Lord McKenzie as the Minister responsible.
<p>4.2</p>	<p>The Commission welcomed the opportunity to reflect on the results of the consultation in open session.</p> <p>The Commission welcomed the high level statement but thought the vision should be more inclusive with an emphasis on merging and strengthening rather than transferring and re-energising, which had negative connotations. The diagram of the new model should only refer to the Senior Management Team (SMT) not the HSE Executive Board. The diagram needs to make clear that the SMT is not an executive board parallel to the non-executive board. The high level statement also needed to include the importance of the local authorities and their relationship with the SMT.</p> <p>Local Government supported the decision to merge the HSC and HSE but was uncomfortable with the name of the new body, HSE, which in their view, did not accurately reflect the nature of the new body, as detailed in paragraph 10. There was also concern that the composition as detailed in paragraphs 12 and 16 only envisaged one member to represent the local authorities who considered there was a need for two.</p> <p>Some members agreed that there were merits in creating a new</p>

	<p>name with a new identity. Others thought that this aspect was less important and that there was merit in retaining a name with considerable brand recognition.</p> <p>There was a need to be clear on the number of Board members; the number of members should be set down within the Legislative Reform Order with a proposed upper limit of eleven (plus the Chair).</p>
<p>4.3</p>	<p>The Commission agreed:</p> <ul style="list-style-type: none"> • To proceed with the merger in principle and to proposed communications activity following an affirmative decision; • The draft high level statement as amended; and • To invite the Minister to initiate consultation on detailed proposals, as required by the Legislative and Regulatory Reform Act 2006.
<p>5</p>	<p>Delivering the PSA: Summary Performance Report for Quarter 4 (2006/07) (HSC/07/44)</p>
<p>5.1</p>	<p>Jonathan Rees presented the report on the quarter four performance covering January to March 2007. He invited the Commission to agree the report for onward transmission to Lord McKenzie and give a steer on points to underline.</p> <p>Overall the picture was rated as Amber Green with some good successes but clear signs of challenges ahead.</p> <p>Occupational Health and Safety- Overall this was amber green. HSE had now completed the second year of Fit3. There had been some excellent delivery on the ground with for instance good work with local authorities on Disease Reduction. A recent independent Office of Government review had given the Programme a “green” rating with praise for learning the lessons of year one. However there were still areas for concern:</p> <ul style="list-style-type: none"> • There was not yet a clear downward trend on injury reduction; • “Slips and Trips” remained flat; • Construction fatalities were up; and • There would be resource challenges ahead. <p>Major Hazards – again the picture is mixed with some major challenges ahead as energy picture continues to require extended life for some of our older technology e.g. offshore and nuclear, with increased demands on HSE as regulator. Onshore had moved from green to amber green and offshore from amber green to amber red on full year figures for hydrocarbon releases. Although last quarter was in practice the best of the year.</p> <p>Enforcement – The programme had made good progress, which was a credit to Sandra Caldwell, Director of HSE’s Field Operations. Paragraph 25 shows an increase in enforcement action to levels comparable with 2004/05.</p>

	<p>Reporting – this would be the last of quarterly performance reports in the present format. Lord McKenzie was very interested in HSC/Es performance and keen to know more about measures of success. Discussions had taken place with the Minister and future reports would have a different format covering more aspects of HSC/Es work as set out in the 2007/08 business plan. HSE would be preparing a report in a new format for the first quarter of 2007/08.</p>
5.2	<p>The Commission asked which targets referred to in paragraph 8 represented a challenge for the Fit3 programme. The Executive responded that there had been good progress on falls from height but areas for concern related to slips and trips and fatalities in some (but not all) sectors.</p> <p>The Commission was pleased that the enforcement action had increased. This should be publicised because there had been criticism in the media of the spending review and the impact of the cuts on enforcement.</p> <p>The outcome of HSC/E's discussion with the offshore industry in Aberdeen in March 2007 had been positive and helped stakeholders understand the challenges in dealing with an ageing infrastructure. The Commission was concerned that the number of fatalities in construction had increased. It wondered if this was due to lower activity or was it linked to the increase in migrant labour in the industry. It was important to analyse the facts and figures and take appropriate action. The fatalities in the Agricultural sector, again where there were significant numbers of migrant workers, were also a concern.</p> <p>The Executive agreed that it was important to analyse the developments in the construction sector over the last 12 months and that a paper on activity levels would be provided in the Autumn.</p> <p>The Commission welcomed the planned introduction of new FIT3 reporting arrangements for FOD and LAs in 2007/8 and the intended improvements in linking inputs and outcomes. The contribution of LAs to this work was appreciated.</p> <p>The Commission asked why there was a wide range of possibilities, set out in Annex 1, in the confidence interval of the outturn figures for ill health and days lost in 2005/6.</p>
5.3	<p>The Commission agreed that the summary report be submitted to the Minister.</p>
6	<p>Generic Design Assessments of New Nuclear Reactors: Direction to HSE and Means of Cost Recovery (HSC/07/45)</p>
6.1	<p>Giles Denham presented the paper, which asked the Commission to direct HSE to undertake generic design assessments of new nuclear reactors.</p>

	<p>In HSE's report to last year's Government energy review HSE had proposed an alternative process for licensing new power plants, starting with a generic design assessment. Further consultation was now due on nuclear new build alongside an Energy White Paper later this month. HSE had been approached by industry to begin design specific assessments on four designs. The paper set out the case for moving ahead with the first stage and the process to do so. The paper addressed both why HSE was asking the Commission to direct it to undertake generic design assessments and why a direction was needed.</p> <p>A direction was required to secure the legal position for the work and cost recovery under the fees regulations. It was important to secure payment or this would impact adversely on the rest of HSE's work. Considering the issue in public session added the benefit of transparency for an independent regulator in a sensitive area.</p> <p>Len Creswell explained that the direction was needed at this time to assist HSE in the planning and management of the workflow and allow the effective deployment of scarce skills. Without it there was a greater risk that resource would have to be diverted from HSE's other front line activity. In the medium term the work plan was predicated on success in recruiting expertise from outside HSE.</p>
<p>6.2</p>	<p>The Commission noted the urgency with which the Government appeared to be pressing ahead with nuclear new build. It was important HSE remain neutral on the issue as there were public concerns. The Commission asked about the resource implications of this work and its impact on HSE's ability to deliver its business plan more generally. Confirmation was sought that the costs of all HSE's work on generic design assessment was recoverable.</p> <p>The Chair confirmed that the fees charged would fund the work and overheads. It was important to ensure the fees regulations were put in place quickly to recover the costs of activities associated with generic design assessment. The Executive confirmed that fees would be accounted for in the year the work was done under the accruals system of accounting. The Executive assured the Commission that it would keep resourcing and associated issues under review.</p> <p>The Commission asked whether the direction would enable HSE to complete the generic design assessment process or just the initial assessment (step 2). The Chair confirmed that the direction would apply to the whole process. However, at the Chief Executive's suggestion, he asked the HSE to report to the Commission in the Autumn on developments regarding the assessment process, and before work moved beyond step 2.</p>
<p>6.3</p>	<p>The Commission agreed:</p> <ul style="list-style-type: none"> • To direct HSE under s11 (4) of the HSWA to undertake

	<p>nuclear power station generic design assessments;</p> <ul style="list-style-type: none"> • To recommend to DWP Ministers that the 2007 Fees Regulations be amended to introduce a provision allowing charging for nuclear design assessment work; and • That the HSE should report back to the Commission at the end of step 2.
	Below the Line
8	Managing Transport Hazards – A Route Map for Workplace Transport and Work Related Road Risks (HSC/07/05)
8.1	The Commission noted the results of the consultation and the final Regulatory Impact Assessment and agreed the recommendation to develop the Route Map for launch in September 2007.
9	UK Report to the European Commission on Council Recommendation 2003/134/EC concerning the self-employed (HSC/07/28)
9.1	<p>The Commission was concerned that the SBTF had not been consulted or involved in the compilation of this report</p> <p>The Commission agreed the report should be sent to the Minister for clearance before transmission to the European Commission by UKREP.</p>