

Minutes of the Construction Industry Advisory Committee (CONIAC)

Minutes of the M3/2006 meeting of the Construction Industry Advisory Committee (CONIAC) held on 23 November 2006

Present

Stephen Williams – Chair
Richard Ash

Shelley Atkinson-Frost
Bill Belshaw
Bob Blackman
Kevin Fear
Paul Hayward
Clive Johnson
Peter Kent
Rob Miguel
Neil Moore
Bill Rabbetts
Carole Bonner

Phil Russell
Chris Tisi
Clive Young
Guy Bampton

Louise Brearey
Simon Pilling
Carole Lomax
Indira Patel

Representing

HSE
Engineering Construction Industry Association
Construction Confederation
Specialist Engineering Contractors Group
Transport and General Workers Union
CITB – ConstructionSkills
Association of British Insurers
National Specialist Contractors Council
Local Authorities
AMICUS
Construction Confederation
Construction Confederation
Union of Construction, Allied Trades and Technicians
Federation of Master Builders
House Builders' Federation
DTI
Department for Communities and Local Government
HSE
Secretary
Secretariat
Secretariat

Members of the public: 18

Apologies

Danny Carrigan
John Ioannou
John Tebbit
Alan Ritchie

James Preston Hood
Kevin Toner

HSC
OGC
Construction Products Association
Union of Construction, Allied Trades and Technicians
Construction Clients' Group
HSENI

Summary of Action agreed:

- 1. ACTION: Secretariat to advise Members of the position with revision of LOLER. [Item 2]**
- 2. ACTION: CONIAC to nominate volunteers to help test and develop the planned F10 e-notification. Nominations to be sent to CONIAC Secretariat. [Item 2]**

3. **ACTION: Members to advise the Secretariat how they feel CONIAC should involve itself with the ODA and Olympic matters in the future. [Item 7.]**
4. **ACTION: Secretariat to arrange for the questionnaire to be sent out so that Members may submit their responses to it before the end of the current financial year. [Item 8.]**
5. **ACTION: Members to send in their views to the CONIAC Secretariat on putting CONIAC's March meeting back and bringing its July meeting forward to June. [Item 10.]**

1. Welcome and apologies

1.1 Stephen Williams opened the meeting by welcoming Members and guests to this, CONIAC's first open meeting. He said that the Commission was committed to being open about what it does and this extended to its Advisory Committees. It wanted people to have the opportunity to see how decisions were reached.

1.2 He outlined emergency evacuation instructions.

1.3 He welcomed Shelley Atkinson-Frost (CC) who had been formally appointed as a CONIAC Observer and Carole Bonner who was substituting for Alan Ritchie (UCATT). He also welcomed Guy Bampton attending in place of Anne Hemming, the nominated DCLG representative on CONIAC, who had been tragically killed in a road accident last August. He expressed his condolences.

1.4 Cathy Kerby, (HSE CONIAC Secretariat) was currently on sick leave.

2. Chair's introduction and briefing on urgent business

Introduction

2.1 Stephen reported that from 1 December he would be taking up new and additional responsibilities as Director for London.

Briefing on urgent business

2.2 Stephen reported on the following issues:

(i) Publication of Workplace Health and Safety Statistics 2005/06 (2 November)

Steve Wright (Construction Sector) would be giving a presentation at the meeting (Item 8). The HSC booklet "Health and safety statistics 2005/06" had been tabled for each Member. **[Secretary's note.** The booklet has also been posted to those Members unable to attend the meeting.]

(ii) The Consultative Document (CD) “A stronger voice for health and safety: a CD on merging the Health and Safety Executive and the Health and Safety Commission”.

The draft CD was discussed at the HSC on the 7th November and was scheduled for publication on the HSE website on 5th December. HSC/E did not envisage that there would be an immediate impact for Advisory Committees, although they would continue to review the need for these standing committees as the opportunity arose. Stephen urged Members to send in their comments on what would be a very important consultation.

(iii) Construction in the Public Sector Client Workshop: 30 November

Included in the follow-up Programme after the “Buying for Life” event in March, was a workshop of senior public sector clients, chaired by Lord Hunt. Invitations had been sent to key stakeholders (Chairman/Chief Executive level (delegated down where appropriate to senior representatives)) covering the main areas of public sector procurement (Central Government Departments, public service providers, local authorities, registered social landlords and development organisations and authorities).

Neil Moore commented on the relatively poor attendance and lack of appropriate high-level representatives at the event in March and hoped that this would be rectified with the follow-up workshop. Stephen said that this was the intention; a letter had been sent from Lord Hunt which had targetted the largest spending Departments. Simon Pilling added that of the fourteen places allocated, ten had been filled to date, at a high level, and covering a good span of organisations representing hospitals, Local Authorities and Government. Arrangements were well under way and a meeting with the facilitator was planned for that afternoon.

(iv) Battersea and New Street Square/New Fetter Lane crane collapses: update:

Stephen reminded the meeting of the background to the Battersea crane collapse on 26 September 2006 when two men had died when a tower crane collapsed hitting a block of flats on a Barratt Homes’ construction site in Battersea. The victims were the crane operator and a member of the public.

This was a tragic event and everything would be done to determine the causes and learn the lessons. HSE is working in support of the Metropolitan Police investigation. The slewing ring assembly (the area where the crane had failed) was being dismantled by HSL in Buxton on 21st November. HSE had issued a general safety alert to provide simple guidance to those responsible for the operation of tower cranes.

No injuries were involved in the New Street Square/New Fetter Lane crane collapse on 19 October 2006. HSE Inspectors had attended the site soon after being notified on the same day, and an investigation into the incident was now ongoing. The HSE safety alert on the use of tower cranes was re-issued on HSE’s website.

Rob Miguel asked whether revision of the Lifting Operation and Lifting Equipment Regulations (LOLER) was planned. Stephen said that he would consult policy colleagues on the position and would advise on the outcome in due course. HSE would be looking closely at any issues which emerged as a result of the investigation into the Battersea crane collapse, and would act on them if necessary. For the moment, it was right that the investigation should take its course.

ACTION: Secretariat to advise Members of the position with revision of LOLER.

(v) F10 – development of web-based notification

Stephen reported on HSE's on-going work to develop an IT solution requiring F10 e-notification – adding that there would still be an option for submitting hard copies. CONIAC was asked to volunteer companies to help test and develop the new system. In answer to a question on the implementation timescales, Louise Brearey hoped that this would be April 2007 but said that there was much work to be done on the project.

ACTION: CONIAC to nominate volunteers to help test and develop the planned F10 e-notification. Nominations to be sent to CONIAC Secretariat.

(vi) CBH's Construction Occupational Health (OH) Support Scheme

The model was scheduled for completion by January 2007 with an expected implementation date of April 2007. The (HSE/DTI-funded) HSL scoping study on the feasibility of establishing an OH database (recording occupational health surveillance and fitness-for-work data) which will inform the CBH model, will be completed by mid-December.

(vii) September's Worker Engagement Conference

A Worker Engagement Conference, opened by Danny Carrigan (HSC), had been held in September in Rose Court. The aim of the event was to work with industry to achieve a step change in the health and safety culture of the construction industry and to encourage contractors to move beyond a minimum level of workforce consultation, to a point where the workforce is fully engaged in the process of health and safety management on site.

This had been a very successful day with over 120 delegates attending. A website was being developed to share knowledge eg the outcome of the workshops, and the final research report should be published on HSE's website by the end of November.

3. Agreement of Agenda, approval of Minutes of last meeting and matters arising

3.1 Members agreed the Agenda, formally approved the Minutes of the 20 July meeting, and agreed the Action Points update. Stephen commented that

it was important to press ahead with the SME Strategy work. There were no matters arising.

3.2 One item was put forward for discussion under AOB: arrangements for the March 2007 CONIAC meeting.

4. Revised CDM package: Update [Oral report by Stephen Williams]

4.1 Stephen opened the item by thanking all CONIAC Members publicly for the significant work they had put in to developing the package and expressed his appreciation for the advice and support that had been offered throughout the period of the project.

4.2 He reported that on 17 October, the HSC had considered the proposed revised CDM Regulations, the ACoP and Regulatory Impact Assessment (RIA). All papers had been placed on the HSE website. There was a frank discussion, mainly based around concerns over perceived burdens on small and inexperienced clients. However, the HSC had approved the package (as submitted) for formal submission to the Minister.

4.3 Clear, simple guidance for SMEs was seen as crucial, and the HSC felt that HSE must continue to work with the industry - particularly SME representatives - to try to alleviate concerns about the perceived burdens on business arising from the enhanced client duties. It also felt that work already begun with the Department for Communities and Local Government (DCLG) in relation to the potential for integrating the Building Control, Planning and CDM regimes should be taken forward; and that early Local Authority involvement was important. HSE was committed to reporting back to the HSC in January with progress on both issues. [**Secretary's Note:** The report to the HSC has been rescheduled to February.]

4.4 Significant work was needed between now and April to get the right messages about the CDM Regulations across to the industry.

4.5 HSE was currently finalising the package and the letter of submission to the Minister, Lord Hunt, with a view to sending it to him at the turn of the month [**Secretary's Note:** Now expected to be early January]. HSE anticipated ensuing discussions with the Minister and, providing the Minister agreed the Regulations, they would be laid before Parliament for the requisite period before coming into force on the scheduled date of 6 April.

4.6 He thanked CONIAC again for their support.

5. CDM launch arrangements: Update [Paper M3/2006/1: Andrew East: Construction Sector]

5.1 Andrew East opened his presentation by stressing the importance of ensuring that HSC's clear objectives for the revision of CDM were realised and that the changes so many in industry signalled that they wanted were achieved.

5.2 He referred to the real challenges faced – for example changing attitudes and behaviour – both of which were not easy or automatic. The industry must take ownership of CDM and have a clear understanding of what it had to do and why and the benefits (not the burdens) of doing it.

5.3 HSE and stakeholders had developed a plan to realise the benefits. Key actions already underway included:

- the development of clear messages – effective communication is the key
- a new HSE web site which would include Frequently Asked Questions
- the development of a clear training package for inspectors. This would be available publicly on the HSE web site early in 2007 helping to ensure a consistent messages
- development of a press plan and press articles
- support of stakeholder events
- support to the CONIAC Industry Guidance Working Group
- development of a launch event.

5.4 There was no room for complacency - there were clear risks to the implementation programme, not least that some in the industry would continue to rely heavily on the old paper-based systems rather than turning to what was essentially the “sensible risk management” approach of CDM 2007.

5.5 Andrew sought CONIAC’s assistance with the selection of a suitable location for a press launch event in April 2007 and views on what the focus of the launch should be eg small site, design focus, large site etc. He also asked for views on the establishment of a Working Group to monitor the launch period and to highlight concerns at an early stage. In response to a question, Andrew confirmed that CONIAC should regard him as the single point of contact for enquires on launch-related issues.

5.6 In conclusion, Andrew said that change could sometimes be difficult, but the revision of CDM presented a clear opportunity to act as a catalyst to drive further improvement and integration of the industry. Implementation provided a unique window of opportunity to drive through the necessary changes but only by working in partnership would these goals to be achieved. He thanked CONIAC Members for their efforts and support to date.

5.7 Stephen Williams also thanked Members for their work to date, including the very positive discussions had at the last CDM Working Group. The inspectors training package would be available publicly and would include enforcement expectations.

6. Developments with CDM Industry Guidance [Oral Report by Kevin Fear (CITB-ConstructionSkills)]

6.1 Kevin provided a brief background of the history of the project. At its March 2006 meeting, CONIAC agreed to the formation of a Working Group (WG) under his Chairmanship, to co-ordinate the production of CDM industry guidance. Such guidance had been agreed to by the HSC in December 2005

to supplement the ACoP. The first meeting had been held on 24 April where Terms of Reference had been agreed¹: The WG, consisting of a number of different representatives, had since been developing the guidance.

6.2 Reporting on the current position, Kevin said that draft guidance had been prepared by each duty-holder (although the guidance pack for workers had still to be developed) and was in the process of being peer-reviewed. Each piece of guidance was at different stages of development and one of the key pieces of work now was to ensure consistency with the Regulations and the ACoP, to fill any remaining gaps and to ensure that the different documents worked together.

6.3 Stephen Williams said that good progress had been made to date but recognised that challenges remained with the timescales. It was important that this guidance provided practical advice for the industry and was not simply a re-write of the Regulations or the ACoP.

6.4 Neil Moore asked whether CONIAC could support the project in any way, bearing in mind the tight timescales. Kevin thanked the Committee for this offer of help and, whilst appreciating fully that Members of the Working Group had a number of other priorities including their full time work, and had been willing to co-operate, he would appreciate any efforts to apply urgency to the matter. He was not optimistic of meeting a January deadline for publication but every effort was being put into developing the website on which the guidance would be published. Stephen concluded by saying that it was important not to lose any impetus at this stage.

7. 2012 Olympics update [Presentation by Lawrence Waterman: Head of Health and Safety:Olympic Delivery Authority].

7.1 Lawrence explained the difficulties involved in remediating the brownfield site in east London that would eventually contain the key 2012 Olympic structures. He identified the priorities identified by the Olympic Development Authority (ODA) in carrying out this work and health and safety was key among these.

7.2 He went on to describe how the ODA were seeking to address their health and safety responsibilities by adopting best practice, particularly in the area of occupational health. Current work to bury power lines underground was being taken forward in line with the Authorities health and safety standard and, future work, particularly in the area of design, would reflect the standards.

7.3 The scope of the challenge to get health and safety right for 2012 was not underestimated and the need to be realistic about what could be achieved

¹ (i) to co-ordinate the production of industry produced guidance in support of the CDM Regulations 2007; (ii) to provide a clearing mechanism for the endorsement of such guidance by HSE and CONIAC and to ensure that such guidance is of a high quality, consistent and compatible with the Regulation and ACoP.

was highlighted. Consulting and working with partners would be the key to a successful outcome.

7.4 Lawrence initiated a discussion by explaining the willingness of the ODA to work with CONIAC and he was able to assure members that sub-contractors would be included in communications from the ODA down the supply chain. He was also able to give an assurance that, through the provision of initiatives by the London Development Agency (LDA) who were taking the lead on skills and employment (such as those for literacy and language teaching), the ODA was seeking to develop local representation within its workforce for the Games.

7.5 Other members commented on the lessons to be gained from the successful Commonwealth Games held in Manchester and the legacy benefit of instilling good health and safety practices into those firms working on the Olympic structures. It was hoped that those firms responsible for maintaining the structures in the future would demonstrate these.

ACTION: Members to advise the Secretariat how they feel CONIAC should involve itself with the ODA and Olympic matters in the future.

8. Construction health and safety statistics 2005/06: [Paper M3/2006/2: Steven Wright: Construction Division]

8.1 Stephen Wright's presentation consisted of a variety of statistical slides which included numerous pie charts and graphs depicting accident and ill health trends in the construction sector. Key points made were:

- Good progress had been made against the various targets but there was no room for complacency when 59 workers and 5 Members of the public had lost their lives through construction work injuries;
- there were nearly 13,000 reported injuries and about as many again that should have been reported;
- falls from height now accounted for about 40% of all fatalities; the next biggest groups included struck by vehicle and struck by object (typically suspended/falling load);
- Good progress had been made over the years in reducing the number of major injuries from falls, struck by dropping, struck by vehicle; but the picture was less good for slips and trips, or handling injuries. For the first time, the number of slips & trips major injuries had overtaken the number of injuries due to falls. It was important to try to understand the reasons for this trend;
- So far, the overall number of major injuries had decreased each year in recent years, but we may miss the PSA targets if they continued to rise;
- More workers had had their lives cut short or blighted by health problems due to their work in the industry than those injured at work. We appeared to be making progress, but it was hard to be sure and the construction health record was still worse than other industries;

- Comparisons with fatalities since 1999 with those from 2005/06 showed that the proportion of fatalities in:
 - refurbishment and maintenance had decreased from 49% overall to 40% in 2005/06;
 - New build remained at around the same level ie 27% in 2005/06p cp 26%;
 - Roadworks had increased from 10% to 14% in 2005/06p. (Not because the number of fatal accidents associated with roadworks had increased but because the number has stayed static while the total number of fatalities has fallen.)
- Fatalities to the self-employed or those working for a small contractor (<15 employed) accounted for around two thirds of the total each year. This proportion had declined over the last few years and this may be linked with the reduction in fatalities during refurbishment/repair, which are typically associated with smaller firms and smaller sites. The proportion of fatalities on smaller sites has increased from half to $\frac{3}{4}$.
- Taken together these showed that we need to target:
 - Refurbishment rather than new build
 - Small sites rather than large sites
 - Slips and trips rather than falls.

8.2.1 Two HSE-commissioned surveys were expected to help fill gaps in knowledge: (i) *The Omnibus construction workers survey which had dealt with a range of construction health and safety issues including self-employment, migrant workers, high-risk project types, and CSCS take-up, as well as accident/ill health levels.* Work was continuing on the analysis of the huge amount of data. And (ii) a *new, complementary survey* designed to obtain an up to date insight and information into the way health and safety risks were controlled on construction sites and to provide a benchmark against which future changes across the industry can be measured.

8.3 Stephen closed his presentation by asking CONIAC Members if they would agree to completing a brief questionnaire to be sent in March, reminding them of the need for feedback and statistics, although they would be welcome at any time.

ACTION: Secretariat to arrange for the questionnaire to be sent out so that Members may submit their responses to it before the end of the current financial year.

9 Report on evidence-based review of the decision not to include the '2 Metre Rule' in the Work at Height Regulations:[Paper M3/2006/3: John Holland: Falls from Height Programme.]

9.1 Stephen opened the item by saying that the HSC would welcome CONIAC's views on the review of the decision not to include the '2 Metre Rule' in the Work at Height Regulations and invited John Holland to present. The Stakeholder Group had considered the issue on 27 October and concluded, on the balance of the evidence, to unanimously recommend that the 2 Metre Rule should not be reintroduced.

9.2 John took Members through the background paper **M3/2006/3** and described the review process (the objectives, the make-up of the Stakeholder Group who had facilitated delivery (the Group's membership had been drawn from the Construction industry and those who had previously demonstrated a strong interest in the subject)). In particular, HSE had invited Members to improve its knowledge about the practical impact of the revocation of the 2 Metre Rule through seeking the views of their constituencies.

9.3 A number of evidence streams had informed the decision. The first of these had been Stakeholder Group survey work where organisations had been invited to use the questionnaires (one for employers and one for employee) to survey their members. 370 completed questionnaires were received (313 employers; 57 employees including three safety representatives). The most notable findings had been:

- A high level of awareness among employers of the WAHR (93%) and the revocation of the 2 Metre Rule (78%)
- Around 60% of employers reported that the introduction of the WAHR had changed the way they managed risks from low falls characterised by better planning and work practices, and more positive attitude and behaviours. By contrast, few opportunities for savings were identified.
- For employees, less awareness of WAHR (68%). Around half of respondents reported safety benefits.

9.4 The second evidence stream had referred to an independent, qualitative evaluation undertaken through two 'snapshots' surveys: one immediately before the WAHR came into force (March/April 2005) and a second between March – June this year. Specific questions had been asked about the 2 Metre Rule. The findings were similar to those of the Stakeholder Group surveys and in addition, the application of new equipment was reflected by many manufacturers and suppliers who had reported an increase in demand for a range of access equipment.

9.5 The third evidence stream reflected the views of HSE's Construction Division. Its view had not changed over the last 18 months and it continued to support a goal-setting approach, based on risk assessment that is sensible, pragmatic, and providing the flexibility to accommodate technical change and stimulate innovation. Conversely, it considered rigid, prescriptive rules, such as the 2 Metre Rule militated against innovation such as the use of podium steps. Importantly, operational inspectors believe that the WAHR had aided confident enforcement, where this proves necessary.

9.6 The RIDDOR accident figures 2005/06 had been a crucial evidence stream for the Stakeholder Group - the earlier evidence streams having been

important in gauging attitudes, behaviours and actions - and key in identifying if the changes were reflected in improved health and safety. They showed a 12% reduction in accidents arising from falls across all sectors, and a 13% reduction in accidents arising from falls in the Construction industry when compared with the previous year. More specifically, the figures show a 23% reduction in high falls (20% for Construction), and an 8% reduction in low falls (9% for Construction) compared with the previous year.

9.7 In conclusion, John reported that the findings from the evidence streams were broadly complementary. They showed an emerging picture of positive action to minimise the risks of working at height. Importantly, the accident statistics showed the trend of year on year reductions in falls injuries in the Construction industry has been maintained - and indeed accelerated in 2005/06.

9.8 CONIAC endorsed the unanimous recommendation of the Stakeholder Group not to reintroduce the '2 Metre Rule'. Rob Miguel sought assurances on certain related issues including the maintenance of the provision of guidance – specifically the “Question and answer brief for the construction industry on the Work at Height Regulations 2005” on HSE’s website <http://www.hse.gov.uk/construction/live.htm>. The guidance was crucial, providing as it did extensive advice on controlling risks. He also asked that WAHR be reviewed after five years, as well as the decision not to include the '2 Metre Rule' in the Work at Height Regulations. He questioned the relationship between the accident statistics and the WAHR/revocation of the 2 Metre Rule and speculated whether the publicity surrounding the introduction of WAHR, had had more of an effect.

9.9 Neil Moore was not convinced that the conclusions could be fully substantiated and felt that the accident figures were likely to reflect more industry’s efforts over recent years rather than the loss of the “2 Metre rule”. Richard Ash reported that ECIA was now more relaxed about the loss of the rule and endorsed the guidance described.

9.10 John Holland advised that HSE was obliged to undertake a wider review of the WAHR as it originated from the EU and officials there would expect the Temporary Work at Height Directive to be reviewed in 2009.

9.11 Stephen concluded by saying that the risk assessment-based approach had much improved standards, evidence of which he had witnessed recently whilst out on a construction site where procedures were being carried out which would not necessarily have been so under the previous WAHR.

10 Other Business

10.1 Stephen reminded Members that the next two CONIAC meetings were scheduled for 29 March 2007 and 26 July 2007. The anticipated pressure of the CDM launch work in the preparatory months leading up to the March meeting meant that HSE would be hard pressed to arrange the March meeting. In addition, although the July date had already been agreed, it did fall in what was generally regarded as the height of the holiday season and the school holidays. He invited Member's views on putting CONIAC's March meeting back and bringing its July meeting forward to June.

10.2 Members' initial thoughts were concern with the possible detrimental effect on the impetus required to ensure that the new CDM Regulations were launched properly and that all related issues were dealt with. At the very least, established means of communication between HSE and CONIAC Members should be set up.

10.3 Stephen asked Members not to cancel the arranged meetings for March and July at this stage and invited them to send in their views to the CONIAC Secretariat following which a decision would be advised. A possible compromise might be that the March 2007 meeting could be solely devoted to discussion (i.e. no papers) of CDM launch and related issues.

ACTION: Members to send in their views to the CONIAC Secretariat on putting CONIAC's March meeting back and bringing its July meeting forward to June.