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HEALTH AND SAFETY COMMISSION

Actions arising from the HSE Discussion Document; Revitalising Health and Safety in Construction

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Issue

1. HSE has analysed responses to the Discussion Document and from that developed the document at Annex A which surveys key areas for the industry to improve and sets out HSE's contribution to that improvement process.

Timing

2. Routine, but it is important to show that actions following the Discussion Document consultation are in hand.

Recommendation

3. That the Commission endorses the proposed HSE actions in Annex A, confirming in the process an earlier decision to review and revise the Construction (Design and Management) Regulations 1994 (CDM), and agrees to placing the document at Annex A in the public domain.

Background

4. Last September, HSE published a wide-ranging Discussion Document – *Revitalising Health and Safety in Construction*. It highlighted the construction industry's poor health and safety performance and posed a number of questions designed to identify new and innovative ways to improve the industry's health and safety record. The Discussion Document was agreed as an important element of the Construction Priority Programme, recognising that addressing the health and safety performance of the construction industry requires action on a broad range of fronts – many of which are outside HSE's normal focus and responsibility. It built upon the views of industry expressed at the Conference 'From concern to action' held in October 2001

following up the Construction Health and Safety Summit in February 2001. The closing date for responses was 31 December 2002. (See MISC/03/12 for a summary of recent health and safety developments in the construction industry).

5. In total, 10,000 copies of the Discussion Document were printed and distributed. In addition to this, about 8,000 copies were downloaded from the HSE website. We also distributed nearly 100,000 copies of a leaflet (aimed at Small and Medium sized Enterprises) promoting the Discussion Document. We received about 300 responses with comments running to over 675 pages. This represents a very substantial response for a document aimed at a single industry.

Argument

6. At the launch of the Discussion Document, HSE promised to review all the contributions, draw out conclusions and pursue promising ideas. Where we could not act in our own right, we promised to raise the conclusions with those we believed could.
7. Since the closing date, HSE has been analysing the comments received. Given the sheer volume of responses, this has been a slow process. We have compiled a factual summary of responses to the Discussion Document on a question by question basis. It runs to over 50 pages, so we have attached at Annex B the analysis of only the first two general questions, which focus on the key levers and barriers to change. The full analysis is being posted on the HSE website at www.hse.gov.uk/consult/2002.htm
8. It is fair to say that the responses have not revealed any really new levers or strategies for dealing with the industry's health and safety problems. This is reassuring in that it confirms that our strategic approach is sound but it also reaffirms the need to pursue that strategy with determination, particularly where it involves working with or through others. The replies have thrown forward some suggestions for actions to enhance progress within existing strategies. Equally important they have been useful in ruling out some approaches advocated by some stakeholders.
9. The factual analysis was presented to the Construction Industry Advisory Committee (CONIAC) meeting on 27 March. From there the document at Annex A has been developed which draws attention to the key areas for improvement and commits HSE to specific actions. This was discussed with the CONIAC Steering Group on 29 April and was broadly supported with some further amendment.
10. The actions include work to improve the industry's culture, as well as tackling areas such as competence, clients, occupational health and the informal economy. We see the actions as part of a long-term programme. Most are new but some actions are already part of an HSE-wide programme and are included because of their particular relevance to construction, e.g. issues relating to employee involvement and working with contractors. Other actions already in hand have been included because of their close alignment with the key areas for improvement. The actions will also need to be aligned further with existing HSE work plans (including the Construction Priority Programme), so we expect the document to develop over time.
11. HSE has already initiated a cross-Whitehall group to co-ordinate government policy regarding construction issues of mutual interest. Apart from HSE, the group comprises DTI (as the industry sponsor department), Office of the Deputy Prime Minister (because of their Building Regulations responsibility), Office of Government Commerce (in respect of Government as a Client or Client sponsor) and Rethinking Construction (a DTI sponsored initiative for improving industry quality and

performance). Among the items discussed at these meetings was the Discussion Document and Government collaboration in taking forward actions. One of the agreed actions was that the group would work together to ensure that the industry became more responsible for its own health and safety.

12. The Discussion Document also sought views about the development of construction legislation. There was general support for the CDM principles, but also evident concern that their complexity, coupled with the bureaucratic approach adopted by many obscured their underlying objectives. Respondents wanted us to improve or tighten the legislation, particularly regarding planning supervisors and clients. Some wanted more specific legislation so that everyone knew exactly what they needed to do, others wanted more freedom to act based on their assessment of the risks. Whilst respondents commended the recently revised CDM ACoP they acknowledged that it couldn't address shortcomings in the Regulations themselves.
13. These views support HSE's own view, reinforced during the development of the revised ACoP, that the regulations are, in places, flawed and ambiguous and therefore in need of thorough review. They also confirm the Commission's conclusions following the initial review of CDM (HSC/99/42) where the revision of the ACoP was seen as an interim measure until the regulations themselves could be fully reviewed. (It was agreed that this review should be deferred until two years after the revised ACoP came into force — i.e. 2003.) The timing is opportune as the planned Work at Height Regulations will result in extensive changes to the Construction (Health, Safety and Welfare) Regulations 1996. The review would provide an opportunity to tidy up the complete package.
14. Three key issues emerged from the responses which need to be addressed in the review of the regulations. They are:
 - **Clients** — *Clients were seen by respondents as being crucial to the delivery of improved health and safety standards, but CDM was seen as weak in this respect. This view was reinforced by the perceived limited enforcement under CDM.*
 - **Designers** — *There was a widespread view that designers were failing to design for health and safety but when they were addressing their responsibilities it was more in the way of provision of information which was seen as a waste of paper and a means of transfer of responsibility and avoiding blame. There was a strong conviction that integrated teams reduced risks and that we should encourage clients to adopt an integrated approach to construction, but there was little support for making the use of integrated teams mandatory. We believe that increased integration can improve designers understanding of the importance of their role in health and safety and that this can be facilitated by changes to the regulations.*
 - **Planning supervisors** — *There was general agreement that the role of planning supervisor is currently largely ineffective and will need to change, but there was no clear consensus as to how this should be addressed.*
15. There was widespread support for some demonstrable evidence of competence covering all disciplines at all levels, including company directors that they had reached some minimum standard. There was also clear support for the *Construction Skills Certification Scheme* approach of integrating health and safety with other skills that are needed for a particular job.
16. If the Commission confirms its previous conclusions to review CDM, we will prepare a draft Consultative Document proposing amendments to the regulations. We will consult CONIAC as we go, and then seek the Commission's consent for publication.

Consultation

17. Colleagues in the Policy Group, Construction Division and Planning, Efficiency and Finance Division have been consulted on this paper. We have also been consulting with other Government Departments on construction issues including actions arising from the Discussion Document.

Presentation

18. The Discussion Document was one of the most high profile consultations HSE has undertaken. For the first time, respondents were able to submit comments electronically via an on-line form and special efforts were made to reach SMEs and individual workers. Respondents will now expect HSE to match their efforts with action of our own. It is therefore important that HSE sets out its own contribution to the improvement process and that the document at Annex A is placed in the public domain.

Costs and Benefits

19. Improved health and safety in the construction industry will lead to a healthier, more efficient workforce resulting in less time lost through ill-health and accidents and greater profit margins for the industry.

Financial/Resource Implications for HSE

20. Existing HSE resources have been used to publish the Discussion Document, analyse comments and develop the Action Plan. The next stage will be to prioritise and set timetables for the new actions outlined in the Action Plan, which will improve targeting and manage effort behind delivery of the PSA targets. This process will be done so that the actions are also carried out using existing HSE resources, for instance through integration into Priority Programme workplans. Provision has already been made for the legislative project to revise the CDM Regulations.

Environmental Implications

21. None.

Other Implications

22. None.

Action

23. The Commission is asked to:

- (i) endorse the proposed HSE actions in Annex A;
- (ii) confirm starting the legislative programme to review and revise CDM; and
- (iii) agree placing of the document at Annex A in the public domain.

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**Acting on responses to HSE's
Discussion Document:**

Revitalising Health and Safety in Construction

May 2003

Introduction

HSE has prepared a summary of the comments received in response to its Discussion Document (DD) and this can be viewed on our website www.hse.gov.uk/consult/2002.htm. This summary contains a wide range of ideas and food for thought for all parts of the industry. HSE in launching the DD said that once the discussion period was over we would review all the contributions, draw out conclusions and pursue promising ideas. To do this we need to prioritise. So we have concentrated particularly on the categories that have featured most prominently in the answers to Questions 1 & 2 – what offers the greatest potential for improvements and what creates the greatest barriers. Areas that stand out are:

- Culture
- Education, training and competence
- Clients
- Integrated teams and management
- Workers
- HSE and the law

Encouragingly, many of these areas are also key themes for other initiatives within the construction industry. For example Rethinking Construction, the OGC Achieving Excellence initiative and, in particular the Strategic Forum for Construction. HSE has been working closely with the Forum, pursuing a policy of embedding health and safety into the business objectives of the industry. We all believe, as did the majority of respondents, that if projects are well planned and managed for delivery to time, quality and budget, then they are also likely to achieve good standards of health and safety.

Below we look first at these key areas. Then we detail what HSE can contribute to delivering change through the delivery mechanisms at its disposal. This is a preliminary response on HSE's part because further work is needed to align it with activities already occurring or in hand. Construction is one of the Health and Safety Commission's priority programmes and the HSE Construction Division has recently published its work plan for 2003/04 outlining key workstreams in delivering the Construction Priority Programme. So we see this as an agenda/programme that needs to be developed over time, not a once-and-for-all response.

Key areas for improvement

Culture

The industry's culture topped the list of the greatest barriers to change, with inertia and complacency as the most frequently cited characteristics. No one suggested any way to directly address the culture and we agree that it is not feasible to tackle culture as an isolated or freestanding issue. The Construction Priority Programme targets key areas which will, if successful, gradually erode the negative cultural attitudes in parts of the industry and engender a greater willingness to embrace change. We will continue to work in partnership with the industry to target attitudes that underpin the culture as well as through our general educational and publicity initiatives.

Education, training and competence

Respondents attached the highest importance to this general area of activity, both for what it could positively offer and as a barrier to change when absent or done poorly. Respondents believed that every person in the industry, be they site workers, trades people, managers or designers, should be competent within their own sphere of activity, and specifically in relation to health & safety, and be able to demonstrate that competence. HSE totally supports that objective.

Much good work is going on which needs to be followed through. However, much more still needs to be done, especially to integrate health and safety into the training and development of construction professionals. In particular, *Accelerating Change* has one headline target on higher and further education and one on the drive towards a fully trained, qualified and competent workforce. This illustrates the fact that many of the key actions in this field lie with others, but HSE can and will facilitate advancement of this agenda in terms of its impact on health and safety.

Clients

Clients feature prominently both as a force for improvement in 'best value' mode and as a brake on progress in more traditional 'cheapest and quickest' mode. It is also noticeable that the role of clients is a frequent aspect of many of the responses to the other more specific questions in the DD.

The role of clients is not confined to health and safety, but is a key aspect of the Strategic Forum agenda and one of six headline targets set out in *Accelerating Change*. HSE will work in particular with the Strategic Forum, the emerging new representative body for clients and with the Office of Government Commerce to ensure that health and safety becomes an increasingly important aspect of the client agenda. It will also work with industry stakeholders to sell better the business case for clients.

Integrated teams and management

These two categories featured relatively highly as levers for improvement. Increasing the take-up of integrated teams (and hence improving the management of projects) is another key aspect of the Strategic Forum agenda and the subject of a headline target in *Accelerating Change*. Looking at the responses to the specific questions on integrated teams (Qs12 & 13), it is clear that the impact of integrated teams is overwhelmingly seen to be beneficial and to embrace improved health and safety performance. But HSE's role was largely seen to be one of encouragement through its various avenues of influence by linking design to construction, but not imposition

through law with all the attendant difficulties of definition, bureaucracy and lack of ownership. HSE intends to follow this route, working as necessary with the Strategic Forum and other industry bodies.

Engaging the workforce

Fewer comments were specifically directed to this issue, and those that were tended to approach it from a negative angle. But effective involvement of the workforce is widely recognised as important in itself and a prerequisite for progress on other issues (the Respect for People agenda), and it is an issue to which HSE attaches the highest importance. While this agenda is principally for industry to take forward with its workforce, HSE is developing an expanding programme of initiatives to promote effective worker engagement.

HSE, the law and its enforcement

Many responses to both the general questions and the later, more focused, ones highlighted the role HSE can play in preparing new or revised legislation and in its enforcement. This is a specific mechanism by which HSE can contribute to improvement in the industry and as such is dealt with below.

HSE's contribution to delivering change

Without diminishing the central role of industry in managing the risks it creates and delivering change, HSE contributes to the process and engages with the industry in three distinct but complementary ways:

- *The law and its enforcement.* HSE develops proposals for new or revised legislation, submitting them to the Health and Safety Commission and thence to Ministers. This is often supported by Approved Codes of Practice and/or non-statutory guidance documents. HSE through its inspection activities seeks to achieve compliance with this body of health and safety law by contact with the relevant duty holders offering encouragement and advice and, where necessary, taking enforcement action. This is probably HSE's most widely recognised role.
- *Working with stakeholders.* HSE seeks to add value to its work by engaging with a wide range of stakeholders, organisations, institutions or representative bodies. Working collaboratively with such stakeholders can spread key messages far beyond the bounds of what HSE could achieve on its own account, though obviously the impact is less direct.
- *Influencing small firms and occasional clients.* The industry is characterised by a very large number of small and micro firms, who undoubtedly contribute to the poor health and safety performance of the industry, some would say disproportionately so. A significant proportion will rarely receive the individual attention of an HSE Inspector. Also they are overwhelmingly not members of trade bodies and will not therefore be reached through the conventional stakeholder networks. Any successful strategy will need to influence this sector of the industry and different techniques are needed to reach out to them. HSE has a strategy to address this through, for example, Working Well Together, the Safety and Health Awareness days, Publicity and Publications and Blitzes. But given the target audience this is under continuous review and development.

HSE will deploy these forms of engagement as appropriate in pressing for improvement in key areas. Set out below is a series of action points grouped under relevant headings. These action points may be new ones or summarise work already in hand. The actions may be directed specifically at the construction industry or they may be part of an HSE-wide initiative but with likely impact on construction.

Education, training and competence

- Support CSCS initiative as an important contribution – consider how HSE can encourage further take-up and improved standards.
- Sign up to the principle of an entire workforce that is certificated as competent – continue to work with others to identify best ways to drive this forward, including options in the planned revision of the legislation and guidance.
- Explore ways of incentivising training, and making it more relevant to the needs of small firms.
- Continue to promote work to integrate risk management into the design process, in particular through further and higher education in conjunction with the Construction Industry Council.

Clients

- Work with the Strategic Forum and the Construction Clients Group (the new clients' body) in promoting the principles of the Clients' Charter and developing guidance and the business case for more proactive client role including re h&s.
- Promote wider use of OGC Guidance No. 10 through initiatives with Government and other public sector clients.
- Develop clients' legal duties as part of review of CDM
- Raise domestic clients awareness and engagement through Quality Mark.

Integrated teams and management

- Promote the health and safety benefits of the Integrated Team approach and consider how to encourage its adoption in appropriate circumstances through guidance and advice.
- Promote more integration of the supply chain as a means of improving co-operation, co-ordination and communication in the review of CDM.
- Commission research to test conclusion of responses that suggests that work with a major accident potential is generally well managed.
- Explore further the influence contracts have on health & safety standards and performance.
- Support cross government initiatives aimed at ensuring corporate competence, for quality and customer protection to ensure h&s is embedded in those initiatives.
- Work with CONIAC on developing an Action Plan to enable designers to make a full contribution towards realising their potential to eliminate, reduce or control risks.

Engaging the workforce

- Support *Respect for People* initiative.
- Discuss with MCG the effectiveness and evaluation of their *Consultation Principles*.
- Ensure workforce engagement is an important element of the Construction Division's workplan
- Pursue the HSE-wide programme on employee involvement and consultation, including:
 - Learning any lessons for approaches in other counties eg recent legislation in the Republic of Ireland.
 - Consulting on proposals to harmonise the 1977 'Safety Representatives' regulations and 1996 'Consultation' regulations
 - Making recommendations to Ministers following evaluation of the Worker Safety Adviser pilot.
 - Developing proposals from research being conducted on identifying obstacles to greater employee involvement

- Exploring non-regulatory levers to promote and explore employee involvement, such as publicity, awards for safety representatives and the integration of the safety representative's role with enforcement activity.
- Develop proposals for tackling language/literacy issues.
- Consider the role that labour agencies and other forms of labour supply can have on health & safety

Directors and financial levers

- Continue to engage strategically with senior directors and managers of large construction companies, encouraging them to motivate their management teams, partners and supply chains; and to set targets in line with the industry objectives.
- Pursue the HSE-wide programme to promote greater corporate responsibility for health and safety, including:
 - Maintain pressure for appointment of an individual Director for health and safety.
 - Continue researching the level of public reporting by large businesses and public bodies on health and safety issues and maintain pressure for increasing the quality and quantity of such reporting.
 - Develop simple, uniform health and safety performance measures for the purposes of public reporting and external assessment.
 - Identify, document and publicise case studies that demonstrate the business benefit of effective health and safety management.
- Maintain engagement with DWP's review of Employers Liability insurance and continue to argue for changes that create financial incentives for good health and safety performance.
- To explore the potential for developing a system similar to the Building Research Establishments 'Energy Assessment' Method to assure purchasers that structures have been designed to facilitate safe, and hence economical, construction and maintenance.

Influencing small firms

- Work with OGDs and industry to see what can be done to marginalise the informal sector and encourage domestic clients to use reputable contractors.
- Develop links with financiers of construction work to ensure that good practice/risk management is better communicated.
- Discuss further with LA Planning and Building Control departments how we can work better together to improve communication or develop joint initiatives.
- Continue to develop Working Well Together campaign.
- Develop HSE programmes for communication with small firms (eg Safety and Health Awareness Days).
- Develop links with producers of TV programs like *Property Ladder* and *Grand Designs* so that good practice is demonstrated.

Occupational health

- Proceed to seek industry funding for the Occupational Health Support pilot scheme, given the clear support shown for its development.
- Mainstream health issues into all of the other proposals.
- Produce simple guidance for SMEs and designers about what they need to do in practice regarding health risks.
- Organise designer initiatives focusing on health issues.
- Organise health focused blitzes to raise profile of occupational health.

Developing construction legislation and guidance

- Develop Consultative Document setting out the way forward for CDM and the remains of CHSW taking account of the comments received.
- Develop clients' and designers legal duties as part of review of CDM.
- Take account of views expressed in responses when considering how to develop the Planning Supervisor role.
- Promote more integration of the supply chain as a means of improving co-operation, co-ordination and communication in the review of CDM and the associated ACoP/guidance.
- Consider how to simplify CDM competence/resource assessment – perhaps commissioning research to identify best practice.
- Develop joint projects and guidance with ODPM and LAs.
- Discuss what could be included in future developments in the Building Regulations to reduce risks during construction, maintenance or use of buildings through better design.
- Develop a *One Stop Shop* for guidance on construction issues across Government – *Construction Direct*.

Legislation & compliance

- Carry forward the many facets of the Construction Priority Programme and Construction Division's 2003/04 workplan.
- Develop enforcement initiatives to focus attention on CDM duties relating to consulting the workforce
- Feed comments about demarcation between HSE and LAs into the pending review of the Enforcing Authority Regulations.

Conclusion

This document has surveyed some of the key areas for improvement identified by respondents to the DD. It is an important principle that those who create risk should properly manage that risk to the benefit both of the business and those who work for it or under its control.

Nonetheless HSE has an important contribution to make and is keen to do so. We instigated this discussion process, and have a vested interest in extracting the maximum from the collective wisdom embodied in the various responses. This document is a preliminary articulation of this contribution, setting out a range of action points gathered under a series of headings. Many of these actions are about engaging with others for particular ends, because often we are not in a position to deliver directly ourselves.

The actions should be seen as an evolving programme, not least because we need to ensure alignment with other work programmes in HSE or elsewhere and in some cases more detailed definition of the action required. Still we hope it is a useful pointer to HSE's contribution to achieving the shared goal of radically improving the health and safety performance of the construction industry.