

Minutes of the Ninth Meeting of the Asbestos Liaison Group, held on 3 July 2003, Hope Room, Rose Court, London

Present

HSE

Stewart Campbell, HSE Director Scotland
Jim Skilling, Head of ALU
June Cairns, ALU
Martin Gibson, Scotland Specialist Group
Robert Hermanns, Scotland Specialist Group
Ray Cooke, FOD, Birmingham
Martin Stear, CSD3
Tracy Phillips, CFPD2
Bill Macdonald, CFPD2
Helen Smart, CFPD2, observer

TAs/TUs

Mike Keeligan, ACAD
Mike Wilkes, ACAD
Jean Prentice, ACAD
Terry Jago, ARCA
Peter Dolan, ARCA
Rob Blackburn, ATaC
Tony Tynan, NFDC
Leonie Wingrove TGWU

Graham Gwilliam, Asbestostrip Innovations UK Ltd and Jim Smith BSI attended for part of the meeting.

1 Introductions, apologies, welcome etc

1.1 Mr Campbell welcomed everyone to the meeting and thanked members for their co-operation in agreeing to re-schedule the date. He tendered apologies for absence on behalf of Anne Wilson, Liz Standen, HSE and Neil Moore, GMB and welcomed Helen Smart from the Asbestos Policy Section, who was attending as an observer.

2 Minutes of the meeting held on 21 January 2003

2.1 The minutes were agreed, subject to replacing "TGWU" after Neil Moore's name on the attendee list with "GMB".

3 Matters arising

3.1 (3.1 – Protimeter devices) Dr Gibson reported that HSL had found the Hydromaster unsuitable as it was more geared to measuring humidity in air cavities, whereas they believed the Surveymaster, which had a search and scan mode, to indicate moisture content, which when used with a probe, had the potential for establishing whether material was adequately wetted. HSL were now conducting saturation tests on lagging material to check the different readings before and after wetting and would have further discussions with the manufacturer when the results were available. A further update would follow in due course.

Action: Dr Gibson

3.2 (3.5 – Type 5 coveralls) Mr Stear referred to the discussion at the last meeting and the fact that there was no current standard. The industry view was that Type 5 coveralls were of a better quality and less likely to tear but that not all contractors used them, as there was no requirement to do so. As there was general agreement that it would improve standards if Type 5 coveralls were used, Mr Stear would arrange for this information to be included in the forthcoming contractor's guide and ALU would appraise inspectors.

**Action: Mr Stear/ALU –
then discharge item**

3.3 (3.6 soffits guidance) Dr Gibson reported that work was still ongoing to revise the guidance and that ALG would be kept informed of progress.

Action: Dr Gibson

3.4 (3.9 revised method statement aide memoire). Ms Cairns issued a draft ALG memo on this matter and requested comments by 30 July.

Action: TAs/TUs

3.5 (3.15 effective laundering of towels/coveralls). Ms Cairns reported that since the last meeting there had been two rounds of consultation on the draft ALG memo on this matter. Following further comments from members, she would revise the draft again and circulate to members for comment in August.

Action: Ms Cairns

3.6 (3.17 BIOH) Mr Macdonald reported that a meeting with BOHS (previously BIOH) was likely to take place before the next ALG meeting. He reminded the members that the purpose of the meeting was not specifically to deal with the issues raised by ALG but to establish a liaison forum and arrangements for some form of oversight mechanism.

Item discharged?

3.7 (3.18 – ELCI) Remitted to substantive agenda item.

3.8 (4.1.2 - 4 stage clearance procedure) Remitted to substantive agenda item.

3.9 (4.2.1 – use of PVA) Remitted to substantive agenda item.

3.10 (5.3 revised guidance for HSE Appointed Doctors) Dr Hermanns explained that the revised guidance had been finalised and would be issued to Appointed Drs soon. He would inform ALU when this occurred, so that ALG members would be informed. He confirmed that the revised guidance meant that chest x-rays would no longer be mandatory. However, if in the Dr's opinion it would be of "psychological benefit" to the individual to have an x-ray, then this would be done.

**Action: Dr Hermanns
/ALU**

3.11 (6.2 asbestos waste packing issues). Mr Skilling said that HSE were still looking into the possibility of applying for an exemption from the Department for Transport and would report on progress at the next meeting.

Action: Mr Skilling

4 ALU Update

4.1 End of year statistics 2002/03

4.1.1 The meeting noted ALG Memo 1/03, circulated previously, containing data about HSE's inspection activity on asbestos over the last year. Whilst visit numbers were lower than last year, they were now being targeted at priority contractors. It was also pointed out that more licence assessments had been undertaken in the last year and that time had also been spent on "Duty to manage" work. Mr Jago was disappointed that inspector visit numbers were lower than in previous years, although he acknowledged the resourcing difficulties. On this note, Mr Campbell mentioned a paper which was available on HSE's website "Strategic Thinking – Work in Progress" and urged the Trade Association and Trades Union representatives to comment if their opinion was that insufficient inspector resource was being devoted to asbestos work.

Action: TAs/TUs

4.2 "Commercial" licence holders – policy change

4.2.1 Ms Cairns referred to the note she had sent ALG on this matter in May and explained that following HSE Solicitors advice, ALU policy had now changed so that licences would no longer be granted to applicants, who although competent, had no intention of ever working with licensable asbestos material. Currently there were a number of licence holders who only ever worked with asbestos cement and who sub contracted any licensable work they encountered. In future such applicants would not get a licence. The licence application form had also been changed so that applicants now had to declare their intention to work with licensable material. Local authorities and the National Demolition Forum had been informed of the change.

4.3 Non release of medical, training etc records to new employers /employees

4.3.1 Ms Cairns said she's had a number of queries from inspectors and workers that employers appeared to be reluctant to release copies of records either to former employees or new employers. This often caused difficulties for individuals and inspectors and she asked whether the TAs could encourage their members to make this information available, especially in view of the problems with forged documentation. Mr Keeligan reported that ACAD were compiling a database with information about individuals' training, medicals and face fit tests and made this information available to their members and others. Mr Jago said that ARCA provided training information to other companies upon request and would liaise with ACAD about their new system.

Action: ARCA/ACAD

4.4 Disposable RPE – appropriate face fit test

4.4.1 In response to Mr Jago's query about the definition of a semi-quantitative test for lower performance RPE as mentioned in L28, paragraph 81, Dr Gibson explained that two face fit test options were available for half masks – either a quantitative or a suitable and validated qualitative test. He provided a handout, reproduced as an annex to the minutes, summarising the main points. He reminded members that all tight fitting respirators required a fit test and pointed out that the qualitative test was subjective and cumbersome and that the quantitative test (eg using Portacount equipment) has many advantages over the former. ALG Memo 4/02 on asbestos licensed scaffolders would be amended accordingly.

Action: Ms Cairns

4.4.2 Mr Dolan said that respirator manufacturers were advising contractors that for minor maintenance such as valve changes, a full re-test was required. Dr Gibson thought that for maintenance of a consumable item such as this, a re-test was unnecessary.

4.5 EC Asbestos conference – Dresden, September 2003

4.5.1 Mr Campbell gave an update on the forthcoming conference, which was a follow up to the asbestos workshops held in 2000. The Dresden event would involve EU candidate countries, ILO countries as well as EU member states. Countries were able to nominate 5 representatives (from government, trade associations and trade unions), although more places might be available later. ARCA and ACAD had already put forward nominations, which were accepted. Mr Campbell was also keen that a TU representative should attend and Ms Wingrove agreed to liaise with GMB on this. Mr Campbell hoped that if more places became available, an epidemiological representative might also attend. Although the event was being heavily subsidised by the EU, delegates would be charged 350 Euros per head conference fee and would have to pay their own travel expenses.

4.5.2 Mr Campbell had arranged for a questionnaire to be sent to all participating countries and would present the findings in a session at the conference. Mr Skilling would act as rapporteur for one of the workshop sessions. Mr Campbell hoped that one of the other non HSE representatives would be prepared to do a presentation on their industry's perspective of the industry in the UK and asked ARCA and ACAD to consider this.

Action: Ms Wingrove/Mr Jago/Mr Wilkes

5 Asbestos Training Working Group

5.1 Update on latest developments

5.1.1 Ms Cairns reported that she had attended the WG meeting on 1 May, in Mrs Standen's absence and that a lot of work had been undertaken by the group in compiling the draft training guidance that had now been submitted as part of the licensed contractor's guide. The WG intended to hold a seminar in September, in HSE's Leeds office to which all training providers would be invited to discuss the work undertaken so far, implications of the proposed guidance and other issues such as competency of trainers, assessment criteria, etc.

5.2 Training of new supervisors

5.2.1 Mr Wilkes was concerned that the current guidance allowed for a supervisor, coming new to asbestos work, to attend a new supervisor's course, and for them then to be deemed to be competent. He felt it was necessary for such individuals to have some prior experience, knowledge etc of working in the asbestos industry, eg work experience as an operative for a year, say. In general the meeting supported Mr Wilkes view. The difficulty was in determining the right length of time for individuals to have gained sufficient expertise in a range of work. Whilst this wasn't a problem for regular asbestos contractors, it could be more of a challenge for those companies going into the asbestos field for the first time, or for supervisory licence holders. Some members thought 2 years prior experience was reasonable, with

others preferring to use training needs analysis to determine the competency/experience levels.

5.2.2 Mr Campbell agreed that the draft guidance needed to cover this point and asked that the detailed discussion be remitted to the WG.

Action: ALU/ATWG

5.3 Definition of Supervisor under CAWR

5.3.1 Mr Wilkes explained that often the site supervisor was mobile and would have a number of sites to cover. He asked what qualifications HSE expected of the person left in charge during the supervisor's absence. Did they require supervisory training? He mentioned that some inspectors expected this and sought guidance on the matter.

5.3.2 Mr Skilling replied that HSE had to accept the concept of travelling supervision, but when inspectors visited they would want to be assured that the person left in charge in the supervisor's absence was competent to handle the work and deal with emergencies. This would not necessarily mean the individual had to have undergone supervisory training – the issue was one of competence. ALU would research previous correspondence on this issue.

Action: ALU

5.4 New operative/new supervisor training – duration period for courses pending publication of revised guidance

5.4.1 Mr Jago referred to the draft guidance, which stated 3 days was required for this training. Because of the concerns from ARCA members about the cost and length of the proposed new training, ARCA had only increased the duration time of its courses to 2 days, one day of which was practical training. He felt that the revised guidance should not stipulate a duration but that instead training should meet the requirements of L28.

5.4.2 Mr Skilling reminded the meeting that one of the reasons for the training project in the first place was to get consistency so he felt it important that duration times were included in the forthcoming guidance. The WG members had proposed 3 days for this training and HSE were surprised therefore when ARCA, who were represented on the WG, queried it. In previous discussions with Mr Jago, Mr Skilling had confirmed to him that practical training was compulsory from June 2003 and this must be incorporated into ARCA's training. He had also stated that he thought the draft guidance was unlikely to change, but that he was not in a position to insist that ARCA carried out 3 day events as the guidance hadn't been published. Whilst taking this stance might (in the short term) not present difficulties for ARCA, Mr Skilling acknowledged that it did present challenges for other training providers who were working to the spirit of the draft guidance and offering 3 day courses. As far as enforcement was concerned, until the guidance was published, inspectors would be checking training certificates for evidence that new operatives/supervisors had undergone practical training from June 2003.

5.4.3 Mr Keeligan said that ACAD were intending to separate the classroom based training, from the practical element, which they assumed would take 1 day, with the overall training taking 3 days. Mr Skilling acknowledged that some clients might want to carry out the practical training themselves, in which case he would want training

providers to oversee it to ensure it was done properly, using a clean DCU. He hoped that a lot of these issues would be ironed out at the September seminar.

Action: ALU/ATWG

6 Asbestos Guidance Update

6.1 Mr Stear advised that the draft Licensed Contractor's Guide (+200 pages) and the draft Analyst's Guide would be issued in mid July for consultation. The consultation would be staged to make the process less onerous, but because of its size, it was likely that the launch would be delayed till next year.

7 Publicly Available Specification (PAS) for Asbestos Stripping Equipment

7.1 Mr Campbell welcomed Graham Gwilliam from Asbestostrip Innovations UK Ltd and Jim Smith BSI. He explained that as part of the ALG's remit was to identify inconsistency and raise standards across the industry, it was relevant for members to hear about the work they were involved in and hopefully offer their support.

7.2 In summary, Mr Gwilliam explained that his company had striven to raise standards in the industry and produced wet injection equipment, which was acknowledged as being the best in the industry. However, in the absence of a defined standard, contractors invariably opted to use cheap, poor quality alternatives. His company were sponsoring the development of a PAS for wet stripping equipment as well as other equipment such as NPUs, type-H vacuum cleaners, etc. Mr Smith explained that a PAS was a standard below a British Standard, which could be developed quicker than a BS and could be amended more easily.

7.3 ALG agreed with the overall principle that there should be standards for certain asbestos stripping equipment, the priorities probably being wet injection equipment; negative pressure units; and type-H vacuum cleaners. HSE were supportive of backing the work as a way of defining the minimum standard of equipment supplied to the industry and hoped to refer to the standards in the new consolidated contractor's guide. Mr Campbell said that he was unable to commit HSE as far as financial backing was concerned and that he hoped the matter would be considered further.

8 ARCA/ATaC Issues

8.1 Employer's Liability Compulsory Insurance (ELCI)

8.1.1 Mr Jago referred to the very serious insurance situation facing employers – one ARCA member suffered a 240% increase in their insurance premium, which amounted to £0.75million for asbestos cover. The fact was that a number of licence holders would not be able to obtain insurance and so would work without it, especially if they thought that compliance would only be checked at licence renewal assessments every three years. He wanted ALU to require contractors to submit an annual return to prove their insurance cover was still current.

8.1.2 Mr Campbell recognised the difficulties but pointed out that ELCI was not a relevant statutory provision, which HSE enforced. It was not HSE's legislation, but through arrangements made with the lead Government Department HSE inspectors, in the course of their duties, could check up on compliance when they visited. If they found that an employer was operating without appropriate ELCI, then enforcement

action would ensue. Whilst we could ask to see proof of ELCI on site, we could not link it to the licensing system. He acknowledged that here were two parts of Government not working together – ie HSE could grant a licence knowing full well that the applicant might not be able to obtain insurance. Mr Skilling undertook to raise the issue again with HSE Solicitors. As far as appropriate ELCI cover for licensed agencies were concerned (ie primary or secondary cover), HSE were still waiting for a response from DWP solicitors, despite several reminders.

Action: ALU

8.2 Four Stage Clearance Procedure

8.2.1 Additional form covering stage 1 for the analyst – Mr Blackburn reported that the form was working well and that feedback had been good. Mr Stear said HSE were supportive of this additional form, providing that the information was an accurate reproduction of the Plan of Work. If the Plan of Work changed, then the analyst's form would need to be amended too.

8.2.2 Mr Stear added that he had seen ARCA's own version of the certificate of reoccupation and wasn't happy with it. He advised ARCA to consider instead the latest version of the form that had been circulated by HSE/HSL.

Action: ARCA

8.2.3 DCU clearance – it was confirmed that the DCU clearance was not part of the 4 stage clearance procedure. The 4 stage clearance and certificate of reoccupation was to certify that the area was clear for reoccupancy, whereas the DCU clearance was to ensure that the equipment was clean for re-use. Also, one job on a site might involve several clearances/certificates of re-occupation, whereas only one clearance was necessary for the DCU when the job ended.

8.2.4 Application of sealants – analyst's/contractor's responsibility? Mr Blackburn asked that when sealants were used under the analyst's direction whose responsibility was it to specify the type and suitability of the sealant? In Mr Stear's view it was the joint responsibility of the analyst and the contractor. The analyst would direct why the sealant was needed – eg temporary or permanent sealant, with the contractor providing further direction if more was required. Mr Blackburn disagreed with this view. It was agreed that further discussions on this matter would take place outside the meeting.

Action: Mr Blackburn

8.2.5 Four stage clearance for asbestos cement work – in response to Mr Jago's query on this, Dr Gibson confirmed that if the work was done within a traditional enclosure, then a 4 stage clearance would be needed. Occasionally work with asbestos cement was done within an enclosure, if the risk required it and in these cases a 4 stage clearance would take place.

8.2.6 Four stage clearance – non compliance – liability issue – Mr Jago described a case of some local authorities on term contracts who were not requiring their appointed analysts to carry out 4 stage clearance. He asked which party was liable. Mr Cooke said that as the law had changed, all parties had to comply. If the contractor could demonstrate that they had told their client about the legal requirements and the client had failed to comply, then both the analyst and client would be liable.

9 Policy Group Update

9.1 **Duty to manage** - Mrs Phillips summarised the work that was ongoing on this following the conference in February. Activities included the publication of the joint HSE/RICS/FSB/ATaC leaflet; writing to Chief Executives of all Local Authorities; conducting awareness raising sessions for Local Authority inspectors; updating the "How are you to-day?" video; developing a best practice guide; updating the presenter's pack and involvement in European Week of Health and Safety in October, the theme of which was dangerous substances. The team had also written to the Minister for advice prior to progressing with the 12 month review undertaking that had been given by Baroness Hollis as part of the House of Lords debate last year. Members of ALG would be asked to contribute to the review once its format and content were clearer.

9.2 **ASLIC review** – Mr Macdonald said there were a number of issues that needed to be reviewed eg inclusion of decorative coatings, density testing for asbestos cement, etc but that rather than proceed with the review of ASLIC on its own, now that the Asbestos Worker Protection Directive had been adopted, it would make sense to consider the implications for CAWR at the same time. The directive also had implications for short duration work. Now that the review would involve substantial work, it was unlikely that public consultation would occur before mid 2004, with a view to implementing the changes by the end of 2005.

9.3 **Accreditation for 4 stage clearance** – Mr Macdonald reported that HSE had written to UKAS and had formally requested them to develop a system to accredit all 4 stages.

9.4 **The Asbestos (Prohibitions)(Amendment) Regulations 2003** - Mr Macdonald said that the regulations had been changed to fully meet the EU single market rules and would come into force in August 2003.

10 Any other business

10.1 **Shortage of P401/403/404 courses** – Mr Blackburn referred to the shortage in course providers. Mr Macdonald would raise this with BOHS, in due course.

Action: Mr Macdonald

11 Date, time, location of next meetings

11.1 The next meeting would take place at 10.00 on Thursday 25 September 2003 in Belford House, Edinburgh.

Annex

SUMMARY OF MAIN POINTS FOR RPE FIT TESTING

- For all tight fitting respirators a fit test is required (ACOP requirement)
- For half masks classified as P2 and P3 type (including disposable respirators ie FFP2 and FFP3) then test can be either a quantitative or a suitable and validated qualitative test (semi-quantitative term is not used in new guidance)
- Information on the definition of the tests is given in the HSE Information Document "Fit Testing of Respiratory Protective Equipment Facepieces, HSE 282/28 rev 2002". This is an open document.

Qualitative fit testing

Qualitative fit testing is a simple pass/fail test based on the wearer's subjective assessment of the leakage, via the face seal region, of a test agent. Test involves detecting a bitter or sweet tasting aerosol.

Quantitative fit testing

Quantitative fit testing provides a numerical measure of the fit which is called a fit factor. These tests give an objective measure of face fit.

- There is currently only one supplier of equipment which meets a validated standard. This is the 3M FT-10 Qualitative Fit Test Apparatus. It meets a US standard: "OSHA Standard for Respiratory Protection: 29 CFR 1910.134".
- There are currently no British or European Standards on Fit testing.
- The quantitative test (eg using Portacount equipment) has many advantages over the qualitative test. It is more reliable, precise, objective and informative, and the equipment readily provides a documented report on the test.
- The qualitative test is subjective and cumbersome. It is in two stages and requires a preliminary sensitivity test. The whole test will involve between 90 and 270 squeezes of the nebulizer. Studies have shown that a certain percentage of people (possibly around 10%) will not be able to detect the test agent and will need the quantitative test.