

Minutes of the Fifteenth meeting of the Asbestos Liaison Group, held on 22 September 2005, Fortune Room, Rose Court, London

Present

HSE

Anne Wilson, Chair, Head of Health Unit
Trevor Johnson, Head of ALU
June Cairns, ALU
Martin Gibson, Scotland Specialist Group
Rachel Russell, Asbestos Policy
Kevin Walkin, Asbestos Policy
Tom Slater, Asbestos Policy (observer)

TAs/TUs

Terry Jago, ARCA
Rob Blackburn, AtaC
Coll Johnson, ACAD
Mike Wilkes, ACAD
John Harris, NFDC
Richard Morgan, GMB

Mike Keeligan Guest speaker (Asbestos Training Providers WG)

1 Introductions, apologies, welcome, etc

1.1 Ms Wilson welcomed everyone and thanked members for their co-operation regarding the postponement of the May meeting. She tendered apologies for absence on behalf of Mr Williams, HSE, Miss Prentice, ACAD, Ms Murray, TGWU, who was undergoing medical treatment, and Mr Beglan, who was unable to attend due to bereavement. Members extended their best wishes and condolences to Ms Murray and Mr Beglan respectively. She introduced Mr Harris, the new NFDC representative, Ms Russell, who had replaced Bill Macdonald in HSE's Asbestos Policy team, and Mr Slater, also from Asbestos Policy, who attended as an observer. Thanking Mr Keeligan for his contributions to the Group as an ACAD representative, she welcomed him back, this time, as a visitor, to provide an update on the work of the Asbestos Training Providers WG. She also extended congratulations to Mr Walkin on his forthcoming transfer on promotion, and thanked him for his contribution to the Group.

2 Minutes of the meeting held on 21 January 2005

2.1 The minutes were agreed.

3 Matters arising from the minutes

3.1 **(4.2 Licensed Contractor's Guide)** Ms Wilson said that she had been advised that the guide was now with the publishers and would be available in November. She reminded members that due to the delay, the training guidance had been issued separately last year (ALG Memo 4/04) and that a summary of the significant changes had been issued as ALG Memo 5/05 in June 2005. Dr Gibson confirmed that he hoped to arrange for ALG members to receive complimentary copies of the guidance in due course.

Item discharged

3.2 **(5.1.3(ii) stakeholder analysis exercise)** Ms Cairns thanked members for their participation in this event held in April. The analysis had confirmed that many of the right stakeholders had already been identified and "engaged" as partners (eg the main Trade Associations and Trades Unions) but it also identified the gaps – viz client representation, independent training providers; and licensed contractors not belonging to a trade association. Further discussion about how this might be addressed was remitted to agenda item 5.

Item discharged

3.3 **(5.1.3(iii) ARCA posters)** Ms Cairns reported that the asbestos web community had not been informed about the availability of the ARCA posters, but this might be considered in the future, subject to HSE being satisfied with the caption content.

Item discharged

3.4 **(5.2.3 Step change event)** Ms Wilson thanked Trade Associations for their assistance. Further discussion would be remitted to substantive agenda item 8.

Item discharged

3.5 **(5.3.1 Moving ALG forward)** Table of issues updated and appended to the minutes of the January 2005 meeting. Further discussion remitted to agenda item 5.

Item discharged

3.6 **(6.4 AWPD – informal consultation with stakeholders)** As agreed, proposals had been circulated to stakeholders and a meeting was held on 11 August to “sound out” representative stakeholders prior to formal consultation.

Item discharged

3.7 **(7.2 draft ALG memos)** Ms Cairns thanked members for their comments and confirmed that ALG Memos 1/05 and 2/05 concerning asbestos containing arcshields used in electrical switchgear and notification of licensed asbestos work, respectively, had been issued and were available on HSE’s website.

Item discharged

4 Training Providers Working Group –update

4.1 Mr Keeligan reminded members about the original remit of the WG, which had resulted in the production of training guidance (Chapter 4 of the Licensed Contractor’s Guide). Having achieved this, the WG had reformed to take forward other training related issues. The revised WG comprised representatives from ACAD, ARCA, independent training providers (TPs), HSE, and Mr Keeligan (as secretariat). The WG met regularly and its revised role was to decide and prioritise on the next steps, and to put proposals forward to the wider group of known TPs for agreement (seminars for all of the known TPs providers were organised and delivered by the WG regularly). He felt that good progress was being made because the Trade Associations and key independent TPs were now working well together to raise standards. Key participants were not content with the status quo and were keen to set new improved benchmarks and standards, which would then be “enforced” by HSE and licence holders. To make this as effective as possible, HSE’s support was required.

4.2 The issues currently being addressed by the WG were course assessments; a Code of Conduct for TPs to sign up to; auditing; and a partnership message on HSE’s website. Almost all TPs were supportive of the work. On assessment, Mr Keeligan explained that the aim was to standardise it with a pass mark set at 80%, based on the delegate’s knowledge of the most important modules. To progress the work, TPs had been issued with a set of questions (~ 300), and asked to prioritise and weight these. The WG would then agree the final version and communicate this to TPs.

4.3 In relation to a Code of Conduct, Mr Keeligan explained that what was envisaged was that TPs would voluntarily sign up to a Code of Conduct by 1 January 2006 entailing:

- compliance with Chapter 4;
- co-operation amongst TPs (eg if a TP was unable to accommodate a customer's refresher training requirements in time, then they would direct the customer to get trained by another TP, rather than delay refresher training until they could deliver it);
- use of standard assessments; and
- independent auditing

4.4 Regarding auditing of TPs, Mr Keeligan confirmed that the WG would define the standards and set the audit protocols. Trade Association auditors, or Mr Keeligan himself might conduct the audits, in his independent role. In his view, the important thing was that TPs had all voluntarily agreed that they would be subjected to audits (and were willing to pay for them), rather than who should do it. Mr Keeligan accepted that accreditation of TPs might be a possibility in the future. However, he felt this was not the right time to pursue this avenue as he felt this might discourage TPs, when they had only just agreed voluntarily to sign up to the Code of Conduct, auditing, etc.

4.5 Mr Johnson confirmed that HSE fully intended to support the WG. The completion of the Chapter 4 training guidance had been a great achievement and he welcomed the latest proposals regarding the Code of Conduct. In response to Mr Jago's query about licensing TPs, he confirmed that this was unlikely (HSE only licensed a few high risk activities and in general the move was to licence/approve less activities, not more). Whilst it was not against the law to use a TP not on the HSE list, and it would, on its own, not be sufficient grounds to reject a licence application, Mr Johnson confirmed that training undertaken by another TP would be scrutinised very closely by HSE to ensure it met the standard required by Chapter 4. In answer to a query, he confirmed that a TP would be held responsible if they had led an employer to believe a delegate had passed the assessment, and was subsequently allowed to work, when in fact they had failed the assessment.

4.6 By use of appropriate wording on HSE's website in future, Mr Johnson hoped ALU would be able to convey to clients that using listed TPs should result in improved standards. He acknowledged Mr Wilkes' suggestion about producing an ALG memo in due course regarding the Code of Conduct and would follow this up with Mrs Standen.

Action: Mr Johnson

4.7 Regarding annual refresher training, Mr Johnson confirmed that this should be pre planned and that it would be acceptable to do this in advance of expiry (ie up to 2/4 weeks) in which case it would not prejudice the next annual date. (eg if a current training certificate expired on 30.9.05 it would be acceptable to do refresher training a week or so ahead of expiry eg 23.9.05 and for the new certificate to be effective for one year from 1.10.05).

4.8 Ms Wilson recorded her thanks for the all the work that had been achieved to date, which she felt would in the longer term bring about positive benefits in raising standards within the industry.

5 ALG Moving forward

5.1 Continuing on from the work undertaken in earlier meetings, Mr Johnson presented the paper (copy appended to the minutes) that had been circulated to members prior to the meeting.

5.2 Following discussion, members agreed to:

- option 4 (ie to change the terms of reference of ALG so that the focus of the Group would be to develop management standards for the industry); continue to have meetings 3 times a year (frequency to be reviewed after 18 months); and extend ALG membership;
- accept that the proposed business improvement model (diagram included in paper) was along the right lines and could be improved upon in due course;
- prioritise the development of specific “products”;
- the setting up of small working groups to deliver the “products” (it was not possible to define what these WGs would be at the meeting but it was agreed to set up a WG to take the work forward. This WG would be represented by ARCA (Mr Jago); ACAD (Mr Wilkes); GMB (Mr Morgan); ATPWG (Mr Keeligan) and ALU (Mr Johnson).

5.3 It was agreed that the WG would arrange a meeting and would prepare proposals to be put to the next ALG meeting, clearing any necessary issues by correspondence before then as necessary.

Action: Mr Johnson

5.4 Regarding extending the membership of ALG, it was agreed that the ATPWG should be represented. Mr Keeligan was asked liaise with TPs so that a suitable representative was nominated.

Action: Mr Keeligan

6 Trade Association Issues

6.1 Unlicensed asbestos labour supply agencies

6.1.1 Mr Jago raised concerns expressed by some ARCA members about a number of organisations that had emerged which were supplying labour to licensed contractors but were not licensed or insured. He requested that ALU look into the matter.

6.1.2 Ms Cairns said that she was aware of this developing situation and had sought legal advice from HSE Solicitors and would be writing to one of the companies concerned soon. In another recent case, following an approach from ALU, the company concerned had confirmed that they would no longer supply labour to licensed contractors.

Action: Ms Cairns

6.2 Poorly performing supervisors

6.2.1 Mr Jago asked what could be done about poorly performing supervisors once they had been dismissed from a company, as at present there was nothing to prevent them being employed as an asbestos supervisor elsewhere. Mr Johnson

sympathised with the problem, for which there was no easy answer. Prospective employers needed to be robust in taking up references. He added that the work on management standards from the forthcoming ALG subgroups might help.

7 Asbestos Policy Group Update

7.1 Asbestos worker Protection Directive (AWPD) - Ms Russell reported that she had little to add to the AWPD discussion that had taken place with key stakeholders at the meeting on 11 August. The meeting had been very useful and at present her team were still on track to present the draft consultation proposals to the Health and Safety Commission (HSC) on 11 October 2005. If agreed by HSC, then the Consultative Document would be published in November, (available on HSE's website) with a 3 month consultation period, following which time the Regulations would be in place by 15 April 2006 deadline. She acknowledged that the timing was tight and that achievement of the April date would depend on the outcome of the consultation process. Ms Russell further explained that it was now Government policy to have a common commencement date for regulations viz April or October. Therefore if the April date slipped, then CAWR 2006 would be unlikely to commence until October 2006.

7.2 HSE's Disease Reduction Programme (DRP) – Ms Russell explained that as part of the DRP there were a lot of projects in place in relation to asbestos that went wider than licensing activity eg revitalising the DTM partnership network; removing barriers to awareness raising of maintenance trades etc. She hoped that as part of this work the expertise of ALG could be used to help improve standards in the unlicensed sector as part of the bigger asbestos picture.

7.3 Staffing – Ms Russell confirmed that the staff turnover in the team had been high, with the loss of Helen Smart, Pauline Nash and soon Kevin Walkin. Tom Slater and Bill Holman had however joined the team and were being quickly brought up to speed.

8 Asbestos Licensing Unit Issues

8.1 Licence leadership event – Wigan

8.1.1 Mr Johnson thanked ARCA and ACAD for their support in staging the event. Initial feedback received on the day had been good – ie the event had been well organised and had been well attended, etc. HSE were now in the process of contacting attendees to review progress with implementation of their action plans. The results so far had been mixed with some companies having taken positive steps to inform staff and to implement actions, whilst others had done nothing and could scarcely remember having attended! The evaluation would be complete in approximately a month's time. The intention was to have at least one – and possibly 3 - more events in the current work year; with a further 5 planned for each of the 06/07 and 07/08 work years.

8.1.2 Mr Johnson added that as the venue had been expensive it was likely that next time exhibitors would be charged. Mr Jago had received positive feedback from ARCA members and some had taken quite innovative action as a result (eg PoWs translated into a bullet point summary format for operatives). He welcomed the inclusion of individual ALU performance reports in the delegates' packs and felt that for some delegates reading their companies' performance history had been an enlightening experience!

8.2 Feedback from the ALPI conference 20-21 September 2005

8.2.2 Ms Cairns reported that the main theme of the conference had been the forthcoming new regulations, licence leadership events and the recent revocation case. However from wider discussions with ALPIs, she thought the ALG might be interested to note the following:

- There had been discussion of a good example of pre planning to ensure minimum contamination of a MEWP used in an enclosure viz a specially designed curtain made of a nylon type material (mylar) which fitted round the scissor lift. Cost £435; **(NB not £750 as stated at the meeting JC)**
- BOHS were in the process of designing a new course (P406) for supervisory licence holders (this would of course need to comply with Chapter 4 training guidance);
- Profile of worker engagement was increasing in the construction sector and this would impinge on asbestos work too. Although the consequences were not clear, ALU would be seeking greater commitment to engage – possibly through the licence leadership summits;
- Training for new/renewal licence applicants –clarification that applicant's employees must have in date training before a licence is granted. If a new applicant has no employees, then normally an additional condition was added to the licence requiring them to produce copies of certification to the Head Office ALPI before carrying out the 1st job;
- Confirmation of the ALU line on operatives who have not been trained viz they could not work in the enclosure. In a recent incident 4 out of 6 operatives found working in an enclosure had received no training whatsoever. Enforcement action was taken and an investigation was ongoing. Operatives with no training could carry out "outside man" duties eg taking waste to the skip, but even then would be expected as a minimum to have received site induction/asbestos awareness training;
- HSE was concerned about the standards of asbestos surveyors and analysts, ranging from risk issues, where asbestos was not being identified when it should have been, to fraud and trading standards issues, where asbestos had been identified where none existed. In some cases, enforcement action (notices) had been served as a result of incompetence. In other cases, clients were pursuing civil action. A recent HSE project in the North West to visit 11 sites to check on the standard of clearance by analysts found problems with a high percentage, some of which were likely to involve legal action;
- ELCI from foreign based insurers – ALU had been made aware of that some licence holders had been offered cheap insurance from a Brunei based insurance syndicate. For this to be legal the insurance company would have to be registered with the FSA and authorised to carry out insurance business in GB. (Mr Jago confirmed that the company were not registered. An ARCA member, who had paid the Brunei based company for insurance, then had to pay a further premium to a GB insurer as the former transaction did not meet the legal requirements)

- SLIC – there would be a SLIC asbestos campaign in 2006/07, the precise details of which were still to be determined. Ms Wilson invited ALG to become involved in raising the profile of the issue once more information was forthcoming. Dr Gibson mentioned that SLIC were also developing a Best Practice Guide for working with asbestos and that the Institute of Occupational Medicine had won the contract to produce the guidance. Members were asked to send any previous guidance developed by the Trade Associations or Trade Unions direct to Dr Alan Jones at IOM HQ at Research Park North, Riccarton, Edinburgh EH14 4AP.

Action: TAs/TUs

8.3 Asbestos Licence Revocation

8.3.1 Mr Johnson reported that since the last ALG meeting, HSE had revoked a licence due to the continued poor performance of the licence holder.

8.4 Asbestos licence application – outright refusal

8.4.1 Mr Johnson confirmed that a licence had recently been refused outright because of the failure of the licence holder to improve. An appeal had been lodged with the Secretary of State.

Post Meeting Items – 8.5 and 8.6:

The following two items were not discussed at the meeting but have been included in the minutes as a means of circulating the information quickly:

8.5 Asbestos Waste Bags – prosecutions (post meeting item)

8.5.1 Following the ALG meeting, ALU had been informed of two recent HSE prosecutions, which involved plastic waste sacks used for asbestos. A sales agent was convicted of fraudulently producing a "certificate of packaging performance" and a distributor of bags was convicted after selling bags, which had not been tested and certified and were fined £2,500 and £1,000 plus costs respectively.

8.6 Carriage of asbestos waste in vans – enforcement action (post meeting item)

8.6.1 A licensed asbestos contractor was served a prohibition notice earlier this year to prohibit the use of their van to transport asbestos waste. The van was properly divided to separate passengers from cargo, but the cargo area was full of tools and equipment that could not be sufficiently secured to ensure that sacks of asbestos waste would not be punctured. As such there was a risk of asbestos fibres being spread and subsequent potential exposure.

9 Date, time, location of next meetings

9.1 The next meetings would take place at 10.00am on:

Thursday 26 January 2006, in Edinburgh

Thursday 25 May 2006, in London

Thursday 21 September 2006, in Edinburgh

**Action: All to note;
Ms Cairns (venue booking)**

ANNEX

Developing the Asbestos Liaison Group (ALG)

Introduction

The first ALG meeting took place in December 2000, with HSE, Trade Associations and Trade Unions represented. Since its formation it has met approximately 3 times a year and has provided a useful means in ensuring that the industry has a clear understanding of legislation guidance etc. An obvious example of the success of the group was the setting up of the Training Provider's subgroup and the development of improved training standards. The industry has also benefited from other initiatives e.g. ARCAs site inspection scheme, HSE's leadership summit, etc.

The consolidated guidance for asbestos contractors should further clarify the appropriate standards for work with asbestos and this will soon be published.

Over the past two years ALG has considered how it can best develop to enable the industry to continue to make improvements to enable compliance and reduce exposure to asbestos. This paper aims to draw together this work and make recommendations for the group's future work.

Options

- a. Maintain the status quo of having 3 meetings per year to provide a forum mainly for information exchange, with technical issues dealt with via a (virtual) technical sub group but to widen the membership of the group. The recent stakeholder engagement meeting suggested that the group could include representatives of clients. Representations have also been made from training providers, analysts and pressure groups e.g. Watchdog.
- b. Stop having meetings and produce a (regular?) ALG newsletter, to inform industry of matters of interest.
- c. To reduce the number of meetings to one per year and supplement with a (regular?) ALG newsletter.
- d. To change the terms of reference of the ALG to the development of management standards for the industry; continue to meet 2/3 times a year, with extended membership.

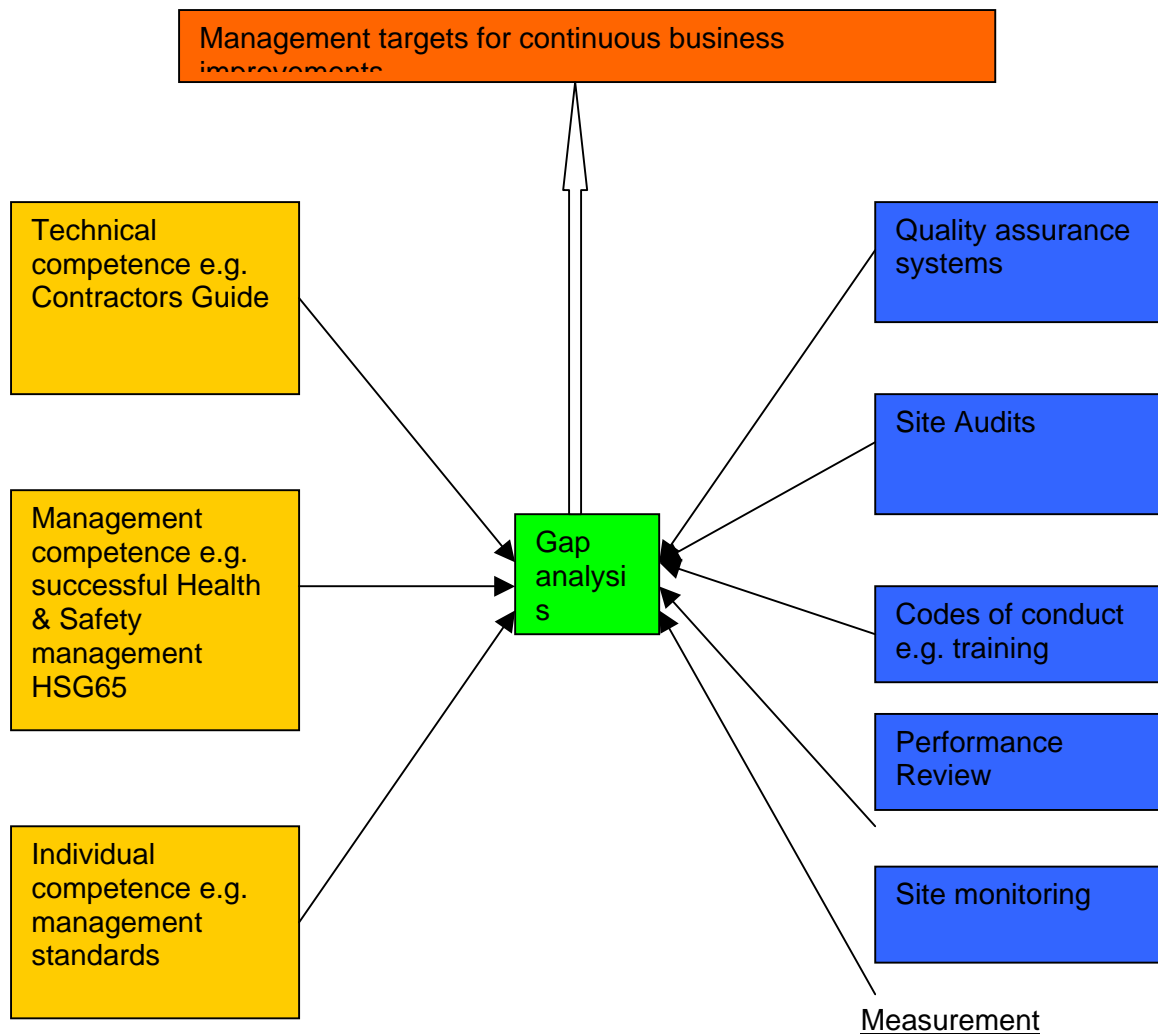
ALU Recommendation

The ALU recommend the development of option d.

A proposed model

Diagram number 1 is a proposed model to bring about improvement.

Diagram 1



Tools

Explanation of Diagram

The three yellow boxes on the left hand side of the diagram represent three important areas for a company to be successful in ensuring good standards for health and safety, which are technical, management and individual competence. Currently there is either industry specific guidance or more generic guidance in these three areas, which form the benchmarks to which an individual licence holder should compare to determine whether they are performing adequately.

The blue boxes on the right hand side of the diagram represent a number of tools, which if used can enable an individual licence holder to measure performance.

The green box, the gap analysis should be carried out on a periodic basis to enable the licence holder to determine areas for improvement. This information could then be used to develop an action plan, which when implemented would enable the individual licence holder to develop targets for business improvements.

Current Situation

Some of the boxes are already populated with products that can be used. Of the yellow boxes (benchmarks) there is sufficient technical information available to the industry, which will soon be improved by the consolidated Licensed Contractor's Guide and Analyst's Guide. HSG65 "Effective Health & Safety Management" provides a proven methodology, but the group may wish to consider whether there is a need to adapt it to the asbestos industry needs. Products exist for the individual competence box (e.g. Employment National Training Organisation standards) but these would need to be developed for the asbestos industry.

Many licence holders are accredited to the relevant ISO standards. ARCA have developed their site audit scheme, which is carried out by independent auditors. The training providers group are in the initial stages of developing a code of conduct; similar could be developed for the licensed contractors. Products are available for performance review and site monitoring. Consideration should be given to determine their suitability to the industry.

Proposal

The ALG is asked to consider the following:

- a. To agree to option 4.
- b. To consider whether diagram 1 is appropriate or could be improved.
- c. To prioritise the development of suitable products. (NB some of these may possibly have already been identified as a result of previous work undertaken about the changing role of ALG). For example we could develop the ENTO standards to be specific to the asbestos removal industry or develop a site-monitoring scheme.
- d. The setting up of small working groups to develop the products. See comment above
- e. The working groups to report back to ALG.

Trevor Johnson
12 September 2005