

Minutes of the Tenth Meeting of the Asbestos Liaison Group, held on 25 September 2003, Conference Room, Edinburgh

Present

HSE

Anne Wilson, Chair, Head of Health Unit
Jim Skilling, Head of ALU
June Cairns, ALU
Martin Gibson, Scotland Specialist Group
Robbert Hermanns, Scotland Specialist Group
Ray Cooke, FOD, Birmingham
Bill Macdonald, CFPD2

TAs/TUs

Mike Keeligan, ACAD
Mike Wilkes, ACAD
Jean Prentice, ACAD
Terry Jago, ARCA
Grant Beglan, ARCA
Rob Blackburn, ATaC
Leonie Wingrove, TGWU
Neil Moore, GMB

1 Introductions, apologies, welcome etc

1.1 Ms Wilson welcomed everyone to the meeting and introduced Grant Beglan who had replaced Peter Dolan as one of the ARCA representatives. She tendered apologies for absence on behalf of Martin Stear, Liz Standen, and Tracy Phillips, HSE, Mick Balfour, GMB, who had been appointed as the new Director of Health and Environment and Tony Tynan, NFDC. The meeting noted that Tony Tynan would be standing down from the Group and would be replaced by John Wring. Thanks were expressed to Peter and Tony for their contributions to ALG over the last 3 years. Members also asked that their best wishes be sent to Liz Standen, who was currently undergoing medical treatment.

2 Minutes of the meeting held on 3 July 2003

2.1 The minutes were agreed.

3 Matters arising

3.1 **(3.1 – Protimeter devices)** Dr Gibson reported that HSL were continuing with the tests on this equipment, but that progress had been slower than expected. Hopefully more information would be available in time for the next meeting.

Action: Dr Gibson

3.2 **(3.2 – type 5 coveralls)** Mr Skilling confirmed that the new guidance (Licensed contractors guide) would contain reference to Type 5 (Type 5 class 3 - class advised by Mr Beglan) coveralls as being the preferred standard and he would confirm this with Mr Stear. Inspectors would be told about this at future refresher training courses.

Action: Mr Skilling

3.3 **(3.3 – soffits guidance)** Dr Gibson reported that following earlier consultation, the guidance was in the process of being revised and would soon be ready for further internal HSE consultation, after which it would be circulated amongst the Home Improvement Companies, licensed contractors, ALG for comment. There were a number of contentious issues (site clearance testing, clearance of DCUs, type of RPE; type of enclosure) which generated considerable discussion and concern. Members would have an opportunity to comment fully on the draft guidance, which would hopefully be available for external comment in time for the next ALG meeting.

In the meantime, Mr Skilling asked that if anyone had examples of other situations that could also qualify for application of similar standards, to inform him.

Action: Dr Gibson/TAs

3.4 **(3.4 – revised method statement aide memoire)** Ms Cairns thanked members for their comments, which had centred round issues of clarification and possible duplication. Because ALPIs had already reached agreement on the (identical) HSE version of the document and HSE's IT provider had already made changes to the computer system based on it, any further changes would need to be made at the next revision, otherwise substantial further delays would occur. This would not be acceptable to HSE. As such, ALG Memo 2/03 had now been issued and was available on the HSE website on the asbestos topic pages. Following discussion, it was agreed that ALU would write to licence holders about the revision.

Action: Ms Cairns

3.5 **(3.5 – effective laundering of towels/coveralls)** Ms Cairns reported that action to revise the draft ALG in the light of ALG members' comments was still ongoing.

Action: Ms Cairns

3.6 **(3.6 – BOHS)** The meeting between HSE and BOHS was scheduled for November. Discussion remitted to substantive item 5.

Item discharged

3.7 **(3.10 – revised guidance for HSE Appointed Doctors)** Discussion remitted to substantive item 6.

Item discharged

3.8 **(3.11 asbestos waste packaging issues)** Mr Skilling reported that the position with the Department for Transport (DFT) and the proposed application for an exemption to allow wrap and cut waste to be regarded as an approved package was unchanged. As HSE had no direct influence with DFT the matter would take some time to resolve.

Action: Mr Skilling

3.9 **(4.1.1 – comments by members on HSE Strategic Thinking paper)** Mr Jago confirmed that ARCA had commented directly on this paper about the low number of visits to licensed contractors.

Item discharged

3.10 **(4.3.1 – non release of medical, training records, etc to new employers/past employees)** Mr Jago said that he had raised this matter at ARCA's regional meetings but that ARCA had no power to insist their members complied with this. The best way to achieve the desired result would be for employees to have their own smart card, which would contain relevant information about training, medicals etc and the dates undertaken. Mr Keeligan mentioned the ACAD database which was being compiled and which would contain information about individuals' training,

medicals, face fit tests. This information would be available to A CAD members and others.

Item discharged

3.11 **(4.4.1 – Disposable RPE – appropriate face fit test – amendment to ALG Memo 4/02 on licensed scaffolders)**. Ms Cairns reported that action to amend the ALG memo in the light of the revised L28 ACoP and the information provided by Dr Gibson at the last ALG was ongoing.

Action: Ms Cairns

3.12 **(4.5.2 – EC Asbestos Conference, Dresden September 2003)** Discussion on this item was remitted to agenda item 7.

Item discharged

3.13 **(5.2.2 – Training of new supervisors)** Mr Skilling asked members to make sure that any comments on the training chapter of the new guidance (such as the expectation that new supervisors would have sufficient experience of asbestos work before attending new supervisor's training) were sent to Mr Stear.

Action: Mr Wilkes/Mr Keeligan

3.14 **(5.3.2 – definition of supervisor under CAWR)** Mr Skilling had checked the internal guidance issued on this matter by ALU previously and confirmed that it agreed with the statement made at the July ALG meeting viz that HSE had accepted the concept of travelling supervision, but that supervisors should be on site for key stages of the job (L28 para 45(b) refers) and that 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. In response to Mr Wilkes' query about what HSE would accept as the appropriate level of competency for the person left in charge in the absence of the actual supervisor, Mr Skilling said that the individual (ie the charge hand) would require operative training, experience, a responsible attitude, and would know what was to be done in the supervisor's absence and in the event of an emergency. He pointed out that the individual was not there to do the supervisor's job and as such he didn't feel it was necessary for them to undergo supervisory training. Mr Wilkes reported that when this arrangement had been in place on one of his sites, HSE criticised it. Mr Cooke felt that this might have occurred if the inspection had thrown up other issues, which overall might have demonstrated a lack of supervision.

Item : discharged

3.15 **(5.4.3 – new operative/supervisor training – duration period for courses)** Discussion remitted to substantive agenda item 7.

Item discharged

3.16 **(8.1.2 – ELCI)** Ms Cairns reported that HSE Solicitors had been consulted again and they had confirmed that as ELCI is not a relevant statutory provision under HSWA, we cannot refuse a licence if the applicant does not have ELCI cover. ELCI cannot be linked to the licensing system. ALU have been "allowed" to amend the letter, which goes to licence applicants to strongly encourage them to check out the insurance position before they pay the fee and commit themselves to the licensing

process. A reply from DWP was still awaited about the appropriate level of cover for licensed asbestos agencies.

Mr Jago confirmed that there were now 3 Lloyds underwriters, and one broker willing to provide asbestos ELCI cover. He said that new businesses were being offered insurance but that it was very expensive.

Post meeting note – following the DDG's intervention, a reply has been received from DWP confirming that it is acceptable for licensed agencies to have "contingent" (ie secondary) asbestos ELCI cover. ALU have written to all licensed agencies about this.

Item discharged

3.17 **(8.2.2 – four-stage clearance procedure – draft HSE/HSL version of the certificate of reoccupation)** Mr Jago confirmed that ARCA would not be using their version of the form and would adopt the HSE/HSL version.

Item discharged

3.18 **(8.2.4 – application of sealants – contractor's or analyst's responsibility)** Discussion on this matter was remitted to substantive agenda item 4.

Item discharged

3.19 **(10.1 – shortage of P401/403/404 courses)** Discussion on this matter was remitted to substantive agenda item 5.

Item discharged

4 ARCA/ACAD Issues

4.1 CAWR Regulation 20 – Standards for Analysis

4.1.1 Ms Prentice felt that the regulation was too restrictive as it was geared to a laboratory accreditation and therefore ruled out the use of other bulk sampling methods eg use of a Raman Probe by surveyors on site to determine whether asbestos was present in materials. It was agreed that Mr Macdonald and Ms Prentice would discuss this further outside the meeting.

Action: Mr Macdonald/Ms Prentice

4.2 PVA use in enclosures

4.2.1 Mr Keeligan raised the problem of the potential for workers to be exposed to asbestos fibres trapped in the folds of the enclosure when they dismantled it. Ms Prentice acknowledged that whilst stage 4 of the clearance procedure would deal with any debris that remained, there was a potential problem with trapped dust and she asked whether PVA could be used after stage 3 of the clearance procedure to protect the workers (who were unlikely to wear RPE) in these situations. Dr Gibson agreed that it was acceptable to use PVA to avoid workers being exposed during preparatory and dismantling operations, when people were often not protected. Mr Skilling asked that ACAD submit these comments to Martin Stear for the consolidated guidance.

Action: Mr Keeligan

4.2.2 Mr Blackburn referred to the previous discussion about whose responsibility it was to decide the correct type of PVA to be used – the contractor or the analyst. Dr Gibson said that this issue fell into 2 categories viz

(i) the use of a **temporary** sealant such as PVA to lock down non asbestos fibres in the enclosure, which otherwise would lead to a failure of the clearance test. In such situations, it would be the responsibility of the contractor to apply the PVA under the direction of the analyst;

(ii) the use of a more **permanent** solution (not PVA) to encapsulate remaining asbestos material, which otherwise would lead to a failure of the clearance test. This situation would require consultation and agreement of all parties (client/contractor/analyst) and would be viewed as a long(er) term means of dealing with the issue. The presence of asbestos in these circumstances would be recorded in the (Duty to manage) asbestos register.

4.2.3 Ms Prentice mentioned that at the HSL seminars held earlier in the year she had got the impression that it was acceptable to apply PVA when working in small enclosures on broken AIB. Dr Gibson agreed that it would be permissible to spray the back of AIB boards as part of the removal process but was uncertain about what had been said at the seminars regarding this more general application and would discuss this with Mr Stear.

Action: Dr Gibson

4.3 Accidental exposure – no reference limit

4.3.1 Mr Jago drew attention to the fact that whereas the previous versions of L27 and L28 used the control limit as the level above which action needed to be taken when accidental exposure occurred, the revised (4th) editions make no such reference. As such, he wanted to know when employees should be informed and their records noted eg if reassurance testing in an occupied area measured >0.01f/ml?

4.3.2 Mr Macdonald said that as health records were linked to action levels this didn't really help in a one-off exposure situation. As far as the control limit was concerned, as there would be no way of knowing the actual levels obtained in an accidental exposure situation, this could only be an estimate. In his view, this was not a big issue and the practical way around the problem would be to record the type of asbestos, the exposure time, and a rough estimate of the potential exposure. He agreed that it would be helpful if this was clarified further in the guidance and agreed to consider the issue in due course. Ms Wingrove felt that details of the insurers should also be recorded in the event of a claim being made at some future date.

Action: Mr Macdonald idc

4.4 Responsibility for Type 3 surveys prior to demolition/refurbishment

4.4.1 In response to Mr Jago's query from demolition contractors about whose responsibility it was to provide Type 3 surveys, Mr Skilling confirmed that it was a **current** requirement (ie irrespective of CAWR Reg 4) for these to be undertaken before demolition or major refurbishment works and that the initial responsibility rested with the client. Mr Cooke added that Reg 11 of CDM (para 85 of CDM A CoP)

required clients to supply relevant information (eg survey reports) and not to leave it to contractors to discover hazards. If the client had not arranged a survey, then the contractor would need to liaise with them and agree how this would be done (eg contractor to arrange survey and pass on costs to client). Members were reminded that there was an ongoing duty on the contractor to stop work if they encountered suspect material.

4.5 Certificate of Reoccupation

4.5.1 In response to Mr Jago's enquiries, Mr Skilling confirmed that a certificate of reoccupation was required if a building was going to be demolished (so that the building was safe for people to go back in) and that the standards of removal should be the same as for buildings that would be reoccupied – ie that ACMs should be removed so far as is reasonably practicable.

4.6 Asbestos queries – email facility

4.6.1 In reply to Mr Jago's request for an HSE e-mail or website facility to be set up for asbestos queries, Ms Cairns confirmed that this was available via HSE's Infoline, either by phone (Tel 08701 545500) or by sending an e-mail enquiry direct to hseinformationservices@natbrit.com. If the Infoline were unable to deal with the enquiry, then they would refer it to the relevant member of HSE staff.

5 Policy Group Issues

5.1 Duty to Manage

5.1.1 Mr Macdonald reported on ongoing progress with the DTM campaign – seminars for EHOs, representing over 200 LAs have taken place; the presenter's pack has been updated; a new version of the video is in hand; a good practice guide is being developed (any examples of good practice from SMEs would be welcome); a Q&A for safety representatives has been compiled to enable them to ask the duty holder pertinent questions; in conjunction with TUC, a training package is to be developed for safety reps to improve their confidence in dealing with the subject; GMB presentation in Manchester and events during European Week of Health and Safety.

5.1.2 He also referred to the one-year review by HSE to find out how well duty holders were progressing and whether there were any barriers to success. A questionnaire had been issued to duty holders on this. (copies issued to ALG at the meeting).

5.2 Asbestos (Prohibitions)(Amendment) Regulations 2003

5.2.1 Mr Macdonald confirmed that an exemption certificate had been issued under these regulations to allow a number of asbestos containing ex US naval supply vessels to be imported into the UK. This was necessary as ships were regarded as asbestos products. The decision to agree to the importation had involved many Government Departments and agencies (eg Dept for Transport, Environment Agency, etc) and had resulted in considerable political and media interest.

5.3 UKAS

5.3.1 Mr Macdonald said that HSE were negotiating a contract with UKAS to develop accreditation to cover all four stages of the four-stage clearance process.

UKAS planned to conduct a pilot scheme using 10-12 laboratories first. Then following the pilot evaluation they would take all participating labs through the system and accredit everyone at the same time. Timescale for completion was likely to be September 2005. In due course, CAWR would be amended to make accreditation compulsory for each of the four stages.

5.3.2 He confirmed that approximately 50 organisations were now accredited to do asbestos surveys with a further 50 going through the process. Individual certification schemes, however, had been unsuccessful so far.

5.4 **BOHS**

5.4.1 Mr Macdonald confirmed that a meeting with HSE, HSL and UKAS was planned for November. The meeting would cover general oversight of the P 400 series of courses; current syllabi and their possible modernisation (eg to include WHO counting method, 4-stage clearance, etc); shortage of course providers and inclusion of other health risks (eg dermal) besides respiratory ones.

6 **Revised Appointed Doctors (AD) Guidance**

6.1 Dr Hermanns gave a presentation about the above, highlighting the fact that the current CAWR medical certificate of examination only confirmed that a particular individual had been examined on a particular date and that this was not a fitness for work certificate (although many employees/ers assumed it was). As a result, the AD might uncover a condition that could make it unsuitable for the individual to do asbestos work eg inability to work in confined spaces, wear RPE, etc yet this information could not be reflected in the medical certificate.

6.2 He explained that HSE planned to introduce a 2 stage approach to medicals for its own nominated asbestos personnel by (a) providing them with a fitness for work assessment before they start asbestos inspection duties and at least every 2 years thereafter or when a change in their health has occurred; and (b) if exposed above the action level (which for HSE personnel would be rare) requiring them to undergo a CAWR medical.

6.3 There was a general discussion about the purpose of the CAWR medical and whether it could be changed to become a fitness for work medical, like other regulations (eg COSHH, CLAW, etc). Members could see the benefits of this as it would be good occupational health practice but were concerned about unfit verdicts that might then be used as a means of getting rid of people. Dr Hermanns pointed out that irrespective of CAWR, employers needed to consider the fitness of their employees for work in enclosures wearing RPE.

6.4 Ms Wilson asked members to consider what the purpose of the CAWR medical should be, particularly in relation to fitness for work, and to provide this information to June Cairns in time for further discussion at the next meeting.

Action: TAs/TUs

7 **ALU Update**

7.1 **ALPI conference 2003 Feedback**

7.1.1 Ms Cairns reported on a few of the issues discussed:

- (a) asbestos contaminated skips about which ALU would liaise with HSE's Waste Industry Safety and Health forum;
- (b) outside man – HSE's view was that this was the preferred option (for security, enclosure integrity, communications, etc) other than on simple jobs but the perception was that it was no longer common practice. ARCA and ACAD members said that on larger jobs, there would almost always be an outside man but that for smaller jobs the commercial constraints might affect the decision to have another individual on site;
- (c) contamination in wooden structures left in place following AIB tile removal. ACAD/ARCA members felt that on the whole they would prefer to remove the timber at the same time as the asbestos removal because of the problems with effective decontamination. Failing that then the timber should be encapsulated and the residual asbestos presence recorded in the DTM register;
- (d) HSE priorities for inspection of licensed work in 2004/05 (new 1-year licence holders; 1-year renewal licence holders; priority visit contractors; 3-year licence holders if not seen in last 12 months) and flexible inspection patterns (eg cross unit and out of hours working, entry into enclosures when warranted etc);
- (e) different removal techniques – grit blasting system and dry ice method. Members were aware of these systems but had experienced problems with them. In the latter case, the method has been abandoned due to high carbon dioxide emissions.

7.2 Asbestos Training Providers WG Seminar 23.9.03

7.2.1 Mr Skilling provided feedback on the seminar that had taken place in Leeds for training providers to bring them up to date with latest developments. The seminar had been well attended (23 delegates) and a number of issues had been discussed eg auditing of training providers; competency of trainers; no uncoupling of theoretical and practical training (ideally training providers to do it all); assessment of practical training. The vacancy (previously held by ARCA) on the WG had been filled by ACAD. The WG would consider ARCA's position once their Governing Council had convened and discussed their stance on the matter. Duration of courses was still an issue. However overall there was a good consensus amongst members, who were still committed to keep the WG going.

7.3 Publicly Available Standard

7.3.1 Mr Skilling confirmed that HSE hoped to proceed with the development of the standard (initially wet injection equipment) that had been discussed at the previous ALG meeting, but HSE would prefer to do this in conjunction with the Trade Associations, which now seemed a possibility. He asked Mr Jago and Mr Keeligan to discuss this directly with Mr Stear.

Action: Mr Jago/Mr Keeligan

7.4 EC Asbestos Conference – Dresden

7.4.1 Mr Skilling reported that the conference was not just for EC members but for EC accession states as well as ILO members. Six delegates from the UK attended and he congratulated Mr Jago on being the only non-Governmental delegate to deliver a presentation. As far as the UK was concerned, it appeared that we were in the lead in many respects – eg licensing, face fit testing, training, although there were some good systems in other countries eg continuance of medical surveillance after

exposure, whereas the position was much worse in some other delegate countries (eg Thailand, Brazil) where they still manufactured asbestos products. The "Dresden Declaration" (previously circulated to ALG) had been accepted by the conference, although quite how the issues would be taken forward was unclear.

7.5 Current Issues of Concern

7.5.1 Mr Skilling was disappointed to inform the meeting that in the last few weeks reports from inspectors and others demonstrated that very poor standards were being applied by the industry. He quoted various examples ranging from uncontrolled dry stripping of limpet asbestos witnessed by inspectors on entering the enclosure, to an unnotified job resulting in wholesale contamination of a school (as a result of which it will be closed at least until Christmas) to an analyst who was abused and threatened not least for refusing to conduct the visual stage of the clearance test in the dark. The most worrying aspect was that all of the incidents involved licensed contractors. Last year 60 enforcement notices had been served on licensed contractors, so far this year 12 notices have been served and 3 licensed contractors had been prosecuted.

7.5.2 Mr Jago felt that from the information obtained from ARCA's auditing scheme, whereby each ARCA member is audited 3 times a year, overall, standards on site were improving and he was very concerned to hear otherwise. He acknowledged that although the ARCA audits were planned, it at least demonstrated that contractors were capable of meeting the required standards and there was therefore no excuse if they failed to apply them on other jobs.

7.5.3 Mr Skilling would consider whether ALG could make more of an impact and would write to members on the matter.

Action: Mr Skilling

8 Date, time, location of future meetings

8.1 The next meeting will take place on 15 January 2004, Rose Court, London. Proposed future dates of 20 May 2004 (Edinburgh) and 23 September 2004 (Rose Court, London) were confirmed.