

Sixteenth Meeting of the Asbestos Liaison Group

26 January 2006

Held at the Belford Menzies Hotel, Edinburgh

Minutes

Present

HSE

Anne Wilson, Chair, Head of Health Unit
Trevor Johnson, Head of ALU
Colin Seditas, ALU
Martin Gibson, HSE Specialist Group

TAs/TUs

Terry Jago, ARCA
Grant Beglan, ARCA
Rob Blackburn, AtaC
Mike Wilkes, ACAD
Jean Prentice, ACAD
Susan Murray, TGWU
Richard Morgan, GMB
Peter Wilson, UCATT

1. Introductions, apologies, welcome, etc (Anne Wilson)
 - 1.1. Apologies received on behalf of Mike Keeligan (Asbestos Training Providers Working Group) and Mike Williams (HSE) and Rachel Russell (HSE).
 - 1.2. The group expressed unanimous thanks and appreciation for June Cairns' work over recent years and wished her well in her new role.
2. Minutes of the meeting held on 22 September 2005 (Anne Wilson)
 - 2.1. The minutes were agreed.
3. Matters arising from the minutes (Anne Wilson to lead)
 - 3.1. (item 4.6: progress regarding wording on HSE 'training provider' web page)
To be covered by item 4.
 - 3.2. (item 5.3: ALG moving forward). Progress to be addressed at item 5.
 - 3.3. (item 5.4: representation for TPWG on ALG) In absence of Mike Keeligan, Mike Wilkes agreed to address this at item 4.
 - 3.4. (item 6.1.2: Non-licensed agencies supplying labour to contractors) Trevor Johnson was able to provide an update on the progress made by June Cairns. Legal advice had been taken from HSE's solicitor's office. To carry out licensed asbestos work, a licence must be held by the employment agency, the individual taking employment, **or** by the organisation the individual will be working for. Clearly current provisions can result in employees being caught 'in no man's land', and as Terry Jago pointed out, unfair competition for employers given the insurance costs associated with licensed work. Trevor Johnson confirmed that ALU would be seeking formal confirmation of the legal advice and were hoping to ensure that the wording of the new regulations would avoid such ambiguities.
 - 3.5. It was noted that the date of the September 2006 meeting (in Edinburgh) had been changed to 28 September.
 - 3.6. Martin Gibson provided an update on the status of the 'Contractor's Guide'. Although this item had been discharged at the last meeting, there had been further delays. The document was with the publishers but was being held up due to the progress of other HSE publications. The anticipated publication date was now March 2006.

4. Training Providers Working Group (TPWG) – update. (Mike Wilkes, in absence of Mike Keeligan) Mike Wilkes gave an update from the most recent TPWG meeting at the HSE offices in Leeds on 11 January.
 - 4.1. A framework for the TPWG has been agreed, with Mike Keeligan taking on the role of Secretary (for a 3 year period) and Mike Wilkes appointed Chair (for a 1 year period). Training providers will be invited to an annual meeting / seminar and the Chair for the year ahead will be decided at these meetings. The TPWG is to consist of representatives from ARCA, ACAD, NFDC, an in-house training provider, large and small-scale providers, the secretariat and an asbestos expert from the HSE. The meeting was felt to have been very constructive and much progress had been made. It was felt that a meaningful document was being produced (the ‘TP Code of Conduct’) which everyone was able to sign up to, which was auditable and that, hopefully, HSE could endorse. These sentiments were endorsed by Tony Tynan, who saw the draft code as an excellent source document that could be built on in the coming months.
 - 4.2. The main subject of the meeting had been the “TP Code of Conduct”.
 - 4.2.1. The group had previously agreed to work to Chapter 4 of the (draft) Contractor’s Guide. Mike Keeligan had drafted a proposal based on this and the broad majority of training providers were in consensus.
 - 4.2.2. Attempts were made to categorise the variety of training provided. The following 3 categories were suggested: (1) TP providing a full range of training to licensed contractors; (2) TP delivering training for those carrying out work which is not licensable and (3) TP delivering awareness training only.
 - 4.2.3. In order to show that TP were meeting the requirements of the code, all TP will agree to independent audits. Terry Jago endorsed the auditing of TP, but asked how the findings from such audits would be used (and, in particular, stressing that ‘poor performers’ should be appropriately dealt with. Mike Wilkes explained that the TPWG would deal with any audit findings. Initially, TP would be given ‘opportunities to improve’ but subject to ‘non-conformance’ action if the improvement was not seen.
 - 4.2.4. There was also an agreement that TP would recognise fellow members on the list. Before carrying out refresher training, TP would be required to see evidence of initial training.
 - 4.3. The TPWG had acknowledged that the code was a first draft and in need of fine-tuning. Mike Wilkes acknowledged that there were several questions arising requiring further discussion.
 - 4.3.1. The code had suggested that pre-qualification criteria for supervisors had included a requirement for ‘at least 2 years continuous experience’ as an operative. Was it possible to improve on this definition? A number of similar items were discussed further in an effort to provide clarification.
 - 4.3.2. Regarding ‘annual’ refresher training, the group was asked to comment on how ‘annual’ should be interpreted. How strict should the group be in insisting that an operative undertook new basic training as opposed to a refresher course? Terry Jago put forward the scenario where an operative had worked in the industry for 5 years and then worked elsewhere for 13 months. Mike Wilkes’ view was that in such cases a hard line was required and the operative should retake basic training. Grant Beglan put forward the case for operatives and exceptional circumstances (such as bereavements). Both Peter Wilson and Susan Murray agreed that further clarification was required regarding timescales and that the code should err on the side of caution.

- 4.3.3. Mike Wilkes stressed that the code brought up several contentious issues that would require greater clarification and consensus. He therefore intended to put the draft to the group and seek comments prior to the next meeting.
- 4.3.4. Trevor Johnson thanked Mike Wilkes for his summary and also Mike Keeligan for his involvement in enabling the TPWG meeting. The commitment to assessment and auditing was very much welcomed and certainly a step in the right direction; he would look into how the HSE could 'joint-badge' the TPWG with the HSE logo in order to show HSE's commitment to improving training standards. The categorisation of TP was welcomed and it was acknowledged that the HSE web site would in time need updating in light to reflect these categories.
- 4.3.5. Mike Wilkes acknowledged that 'Chapter 4' was directed at licensed work and that further discussion was required regarding the assessments of 'group 2' training providers. Terry Jago asked how members who trained their own people were to be categorised. Perhaps a fourth category was required for these, or a category (1a). Jean Prentice asked whether those conducting surveys (who did not require a licence) might be catered for under the TP umbrella at a later date. Martin Gibson raised the question of training in relation to the duty to manage asbestos (DTM) and where it would fit into the training scheme. Mike Wilkes suggested that the ALG could get buried with many of the issues raised by the draft code. Its initial aim was to target training with regard to licensed contractors, but there was no reason that it could not subsequently develop further.
- 4.3.6. Rob Blackburn suggested that a sub-committee of the TPWG be started up to cover the 'analysts', possibly consisting of himself and Jean Prentice. Martin Gibson confirmed that the HSE was interested in looking at issues surrounding competence of analysts etc. and would like to be involved in such a sub-committee. Ann Wilson suggested that at this stage, the sub-committee be kept informal and Mike Wilkes asked that matters should be fed through Mike Keeligan, as TPWG Chair.
- 4.3.7. Tony Tynan felt that it was important that the TPWG continue to meet on HSE premises in order to show support and endorsement of its aims and objectives.
- 4.3.8. Trevor Johnson agreed that the draft code should be circulated with the minutes of this meeting. The TPWG would meet again in May and therefore comments on the draft code should be submitted by 25 April. In the meantime, he intended to write to ALPIs explaining the work of the TPWG and encouraging them to consider 'Chapter 4' when carrying out license assessments. He also suggested that the TPWG should be a regular item on the ALG agenda and that he would support the continuing use of HSE offices for the meetings.

ACTION ALL Draft code to be circulated with minutes. (Comments to be forwarded to Mike Keeligan by 25 April 2006.)

5. ALG Moving Forward (report back from the ALG sub group) (Trevor Johnson)
- 5.1. Trevor Johnson started by saying that a paper on the sub group's progress would be attached to the minutes of this meeting, and invited comments. The sub group had been set up to look at how best to move the ALG forward. Two meetings had been held since the last ALG meeting: 13 October and 12 January and the members were thanked for their positive attitude and input. At the first meeting, the group had agreed that they wanted to produce a code of conduct for trade association members, aiming to ensure that

membership of a trade association could be an objective 'quality mark' for the member. At the second meeting, ARCA and ACAD set out their arrangements for accepting both new members and maintaining the membership status of current members. The ARCA 'Site Audit Scheme' is mandatory for members. Audits are carried out by appointment, but this is not necessarily seen as a weakness: the audit proves that organisations know what they *should* do, that they know the standards. Terry Jago added that the ARCA magazine publishes details of the scheme's actions: 9 members have been suspended recently. In his opinion, the scheme is proving to be effective at making management sit up and take notice. Trevor Johnson acknowledged that the scheme was welcomed by the HSE and that anecdotal evidence suggested that it was proving effective. ACAD currently also have expectations of their own members (including checks of competence, and a current Health and Safety Policy); TICA's governing council and HSE have had positive discussions and ACAD is committed to introducing an audit scheme of its own. Peter Austin informed the group that the ACAD scheme was making good progress, with pilots due to run before June 2006.

ACTION Trevor Johnson's report to be circulated with minutes. Comments to Colin Seditas before April 25, for discussion at next ALG.

- 5.2. Rob Blackburn asked about the possibility of ARCA and ACAD to sharing information, with Paul Austin agreeing that discussion was required regarding acceptance of each others' audits. Grant Beglan stressed that it was important to ensure that companies were not blacklisted: that companies genuinely wanting to improve had access to the associations. Paul Austin agreed. Terry Jago added that the image of the scheme was important: some companies may be in a position where they want to join the associations but are afraid of failing the initial audit. He reported that Mike Keeligan had suggested a pre-audit assessment to test readiness to join. He also commented that HSE inspectors should ask to see the trade association audit results and that ACAD and ARCA would have to work together to ensure that auditors were working to the same standards. Richard Morgan praised ARCA's scheme and reflected that trade association membership should be seen as an indicator of good standards: to this end, could the auditing schemes not be more robust and reflect general health and safety issues too? Rob Blackburn stated that the current ARCA audits do cover general health and safety issues.
- 5.3. Trevor Johnson put forward two aims: (a) for the audit schemes to mature such that the HSE would be able to include a positive statement about trade associations and their audit procedures on the HSE website and (b) to look at ways of measuring improvements in the industry. Anonymous audit results could be shared with the ALG. Ann Wilson referred to the drawing presented at the last meeting (In the annex to the minutes: Developing the Asbestos Liaison Group) and asked that the sub-group review this at future meetings, keeping it up to date with progress.

ACTION Sub-group to update ALG with progress at ALG meeting on 28 September, to include update to 'Diagram 1'

6. Asbestos Policy Group update (Trevor Johnson)

- 6.1. The Policy group had passed on apologies for being unable to attend on this occasion due to unforeseen absences. Kevin Walkin would be heading the Policy Group in the short term.

- 6.2. On behalf of the policy group, Trevor Johnson provided the ALG with an outline of the framework for progress on the new Asbestos Regulations.
- 6.2.1. The consultation period would be closed on 31 January.
- 6.2.2. A 'key stakeholders' meeting was planned for the 3rd or 4th week of February, with the aim of giving feedback on the consultation exercise.
- 6.2.3. A briefing paper would be provided for the HSC, in time for their meeting on 4 April. Following the April HSC meeting, the formal drafting of the regulations could begin and the completed draft would then be submitted to the HSC at its 23 June meeting. Assuming that the regulations were accepted on 23 June meeting, they would then proceed to the minister by early August. Given this framework, it is likely that the regulations would become law in October (though these dates were not set in stone and various risks are associated with each stage).
- 6.2.4. All consultation documents are open and the minutes of the HSC meeting will also be open. Martin Gibson informed the group that new HSL research pertinent to the regulations would be complete by 31 January, and its findings would be shared with key stakeholders at the meeting in February.
7. Relevant Issues to be raised by Trade Associations
- 7.1. Worker Registration Scheme
- 7.1.1. Terry Jago gave an outline of the pilot scheme launched in October 2005, involving a number of trade association members. The scheme is designed to verify an asbestos workers' training, medical and face-fit records and was instigated due to concern regarding forged paperwork. The aim is to have all workers carrying a card that can be checked against a central database (a web site showing name, NI number, photograph and verification of the above records).
- 7.1.2. The scheme is showing good progress, with a good response from training providers. However, there was some concern regarding the variation in charges from 'EMAS' medical staff (ranging from no charge, to a £15 charge for verification). The database is growing, and currently holds data on 500 workers. The ultimate aim is to have all workers on the database and although the current pilot is a voluntary scheme, it might become mandatory in the future. Whilst HSE's data suggests there are 9000 workers in the asbestos industry, ARCA thinks the real figure is closer to 5000. The scheme would have wide benefits: for example current HSE data on working patterns in the industry could be greatly enhanced and useful links could be made for sharing information between the training providers and trade associations.
- 7.1.3. Terry Jago felt that ARCA was probably not the ideal body to be running such a scheme, expressing hope that HSE might take it over in the future, with ALG involvement. Rob Blackburn agreed, and pointed out that HSE held data on the number of workers with medicals and therefore it was likely that there was a central EMAS database that could be used. Martin Gibson was not aware that EMAS kept such records, but reported that the Epidemiology centre do review medical data and it is possible that data would be held there. Trevor Johnson commented that the HSE would be interested in following the scheme's progress and would appreciate an update at future meetings.

ACTION

- (1) Martin Gibson find out if a central database is held on medicals, and whether this information can be freely provided.**
- (2) Terry Jago to provide an update at next ALG meeting.**

7.2. The contractor's "Plan of Work" and clients' duties

7.2.1. Terry Jago raised concerns that clients were assuming plans of work had the 'approval' of the HSE, as they had been submitted with a notification. Perhaps some publicity was needed to raise the profile of clients' duties and stressing that plan submission does not mean HSE approval. Grant Beglan added that some contractors believe that their plan is approved by the HSE because they no adverse comments are received following submission. Trevor Johnson referred to the goal of widening the ALG to include clients (from the private and public sectors). He also referred to the existing guidance, such as the checklist in the 'duty to manage' publication and the possibility that 'Asbestos Essentials' would be made freely available on the HSE website in the future. Susan Murray commented that many people did not have access to the web and other ways of providing information needed to be maintained. Trevor Johnson suggested that it might be possible to extract information regarding clients' duties and publish it as an information document? There was a general consensus in the group that guidance should be kept open and free to as great an extent as possible. The new regulations would provide an opportunity for guidance to be reviewed.

7.3. Mike Wilkes looked for opinion regarding a specific occurrence on site. The HSE had visited during an analyst's 4-stage clearance procedure. The inspector took issue with the analyst's decontamination procedure, and felt that the contractor was liable. In Mike Wilkes' opinion this was fundamentally wrong, as an analyst is on site as an 'expert': a contractor shouldn't be criticised for failing to 'check out the person who was on site to check the contractor out'. There was some discussion on the balance of responsibilities in cases such as these. Ann Wilson summed up saying that whilst a contractor would not be expected to 'hold the hand' of visiting analysts, they could be expected to be involved and to some degree, in control. The HSE would be concerned if a contractor was aware that an analyst was contravening site procedures and *not* intervening.

7.4. Action Mesothelioma Day

7.4.1. Susan Murray informed the group that 'Action Mesothelioma Day' was taking place on 27 February 2006. A petition was to be presented to 10 Downing Street, calling for better protection, care and treatment for employees and more funding for research. Details were given to the group.

8. ALU issues (Trevor Johnson)

8.1. As from 6 January, Colin Seditas had taken over June Cairn's post within the ALU. Matthew Ramsey had also joined the ALU in Edinburgh as a coordinator.

8.2. A second 'STEP CHANGE' event was scheduled for 21 February, at the West Ham football ground, Upton Park, London. Delegates should arrive at 9:30, for a 10:00 start. The venue would be available for exhibitors from 07:00. Licensed companies in the London and surrounding areas (with less than 18 months remaining on their license) were invited. The group was thanked for feedback from the last event, as this had enabled the ALU to improve timings. The process for contacting companies after the event was also to be modified slightly. Terry Jago asked about the pricing strategy for exhibitors at the events: ARCA and ACAD expressed a willingness amongst members to pay an appropriate rate for space at such events.

8.3. Licence fees were to rise next year, approximately in line with inflation. This will take effect on 1 April.

ACTION Details of new fees to be forwarded with minutes.

- 8.4. The ALU had continued to enforce the licensing regime, with recent examples of licenses being refused.
- 8.5. Susan Murray enquired about any changes in numbers of inspector visits and resources available for asbestos work. Rob Blackburn had heard a reference to HSE staff levels of "18 specialist asbestos inspectors" in a parliamentary question. In response Trevor Johnson confirmed that visits this work-year had been in line with expectations, and that the end of year report would provide detail. Precise figures regarding asbestos inspectors were not to hand, but Trevor Johnson could confirm that the ALU trains 40 'nominated asbestos personnel' each year and in addition, almost all construction inspectors receive training on the inspection of asbestos work.
- 8.6. Rob Blackburn asked about the means of communication between local authorities and the HSE in relation to asbestos work. With respect to enforcement action, Terry Jago questioned whether there was a notice / prosecution database for local authorities. Trevor Johnson referred to the 'Strategic Partnership' between the HSE and Local Authorities, and the HSE's commitment to providing training to local authorities (the first pilot event taking place in early March in mid Wales). Local authorities continue to submit ASB6 forms (and returns in other formats) to the ALU following contact with asbestos contractors.

ACTION ALU to enquire regarding open information on local authority enforcement activity.

9. Any other relevant business

10. Date, time, location of next meetings

- 10.1. The next meetings would take place at 10:00 on
 - 10.1.1. Thursday 25 May, in London
 - 10.1.2. Thursday 28 September, in Edinburgh

ACTION ALL to note, Colin Seditas to confirm venue.