

Health and Safety Commission Minutes**HSC/03/M06**

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Exemptions:			

Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 10 June in the Hope Room, 2 Southwark Bridge, London SE1 9HS

Present

Bill Callaghan – Chair
Owen Tudor
Margaret Burns
George Brumwell
Abdul Chowdry
Judith Donovan
Joyce Edmond-Smith
John Longworth
Judith Hackitt

Officials Present

Timothy Walker
Kate Timms
Justin McCracken
Vivienne Dews
Robert Humm
Mark Dempsey
Shelagh Molloy
Paul Denman
Ashley Salandy
Paul Dyett

Presenters

Item 3 – Kevin Myers, Vic Coleman, Phil Kemball, Stephen Wright
Items 4 & 5 – Professor John Knott, Peter Storey, Laurence Williams
Item 6 – Dr Elizabeth Gibby, Stephen Williams, Avril Adams, John Moyer, Dr Derek Hill
Item 7 – Mike Mahony, Les Beaumont, Peter Graham

1	Minutes of the meeting held on 13 May 2003
	The minutes were agreed.
2	Urgent business not covered by items on the agenda
	The Commission was reminded that Nick Brown MP had accepted an invitation to attend the HSC Residential meeting on 24 June.
3	Revitalising Health and Safety in Construction. Responses to the Construction Document (HSC/03/55):
3.1	Vic Coleman introduced the paper and Stephen Wright explained the key points. This paper needed to be seen in the context of the much wider range of work involved in the Construction Priority Programme described in paper MISC/03/12. Following publication of the discussion document (DD) last September, HSE had analysed the responses and produced, with CONIAC's help, an ambitious action plan to address the key issues that respondents thought could lead to major improvements in the construction industry. Respondents had identified no simple solution and the action plan therefore took a multistranded approach over a broad front. Just one of these strands was the proposed revision of CDM and the objectives for this were explained.
3.2	The Commission noted the quality and extensive nature of the work that HSE had undertaken and the extensive contributions from industry.

3.3	<p>The Commission recognised that there were concerns about the effectiveness of the CDM Regulations. However, the main focus needs to be on changing the industry's culture and the ways in which its managers and employees work. Labour-force involvement was seen as crucial to this, as was the need to appeal to people's emotions. Workers need to have the confidence to report bad practices and managers need to be shown the business case for good practice. Specific targets and attainable objectives were seen as good ways of encouraging the industry to change the ways in which it worked.</p>
3.4	<p>The Commission noted the growing employment of foreign workers and the communication and training issues that this could raise. They also pointed out that it was important to recognise the different legal framework in Scotland (including for Building Regulations) and the different institutions that needed to be engaged.</p>
3.5	<p>The Chair thanked the presenters. Summing up, he said that cultural change was the key consideration and any changes to the CDM Regulations had to be seen in this wider context as well as that of the broader Construction Priority Programme. There was a need to consider the wider issues that had been raised and to work with other parts of central and local government to share and spread best practice. Another discussion was needed for the Commission to consider more carefully the objectives and implications of the proposed revision of CDM. The Commission:</p> <ul style="list-style-type: none"> • Endorsed the proposed HSE action in Annex A • Agreed to placing the document at Annex A in the public domain • Asked that the paper should be seen by HELA in view of the interface with Building Control work.
4	<p>HSC Coordinated Programme of Nuclear Safety Research for 2003/2004 (HSC/03/70): Advise from the Nuclear Safety Advisory Committee (NuSAC) on the HSC Coordinated Programme for Nuclear Safety Research for 2003/2004 (HSC/03/71):</p>
4.1	<p>The above two papers were discussed together. Laurence Williams introduced the first paper, explaining that the proposed programme for 2003/04 would cost £8.56 million, a £2 million increase on spending from the previous year. Professor Knott introduced the second paper. NuSAC was keen to ensure that sufficient technical capacity existed to support nuclear safety research. Some underspend had been recorded in 2002/03, but NuSAC agreed that the programme addressed the right issues. For 2003/04, it was noted that there was a risk the programme could be less well co-ordinated. While NuSAC wished to see sound arrangements for managing and monitoring the programme, it was satisfied that the programme would provide continuity and support nuclear safety work.</p>
4.2	<p>The Commission expressed their thanks to NuSAC and were grateful for the work that had been done. The Commission accepted that if the programme for 2003/04 was completed, then the priority areas would be covered. The Commission noted that human factors research was important and that work must continue in this area.</p>
4.3	<p>The Chair thanked the presenters. The Commission:</p> <ul style="list-style-type: none"> • Noted and approved the proposed programme and associated costs; • Noted HSE's and NuSAC's discussions concerning the management and coordination of Nuclear clean-up research; • Considered the implications for the for the HSC Coordinated Programme in future years; • Approved the HSC Coordinated programme of Nuclear Safety Research for 2003/3004

5	European Rail Traffic Management System (ERTMS) Progress Report (HSC/03/62):
5.1	Stephen Williams introduced the paper and updated HSC on recent developments. He explained that this paper included an industry report. HSE had contributed to the industry report's drafting and welcomed its publication.
5.2	The Commission felt the role of HSC/E should be to ensure that this issue did not fade away. It was important that development work continued. There was also a need to press Network Rail on TPWS+ implementation and to involve the key players in the rail industry to maintain progress and establish credibility. The Commission was keen to maintain stakeholder commitment for ERTMS and acknowledged the financial constraints. However, the cost of the Cambrian Coast resignalling for the pilot was not thought to be significant. HSC/E needed to think about when it would put its views on record and if there was the potential to get stakeholders to press for improved rail safety. The support of Network Rail (NR) was also seen as vital.
5.3	The Chair thanked the presenters. He concluded that the main pressure was on keeping the issue of ERTMS in the public eye. The Commission: <ul style="list-style-type: none"> • Welcomed progress over the past year and the SRA establishment of a Single National ERTMS Programme (SNEP); • Encouraged development of a plan with milestones that could be monitored; • Agreed to continue lobbying for stronger commitment, in concert with SRA; • Would explore ways to press Network Rail on commitment to ERTMS and TPWS+
6	Reasoned Opinion on the Implementation of the Framework Directive – Challenge over the use of So Far As Is Reasonably Practicable (SFAIRP) (HSC/03/68): SFAIRP and due diligence (HSC/03/125):
6.1	Peter Graham introduced the first paper (HSC/03/68). He explained that: <ul style="list-style-type: none"> • There were key questions on which Ministers would need to be advised • The options were to “tough it out” or find a compromise and that these decisions were ultimately for the Government; While it was important to alert ministers to the issues and timescales, detailed advice could not be prepared until HSC/E has received the European Commission (EC) Reasoned Opinion (RO). Mike Mahony introduced the second paper (HSC/03/125) and explained the background to this issue of whether a due diligence defence was a viable alternative to SFAIRP, especially in the light of the EC challenge.
6.2	For the most part, the Commission was not comfortable with a change to a due diligence defence and preferred to defend the current position. It was noted that CBI shared this view and that other organisations supported SFAIRP as the best available solution, not least because alternatives would introduce uncertainty. The Commission felt that due diligence did not offer sufficiently clear advantages to justify these risks.
6.3	Some members of the Commission felt that the merits of due diligence were not sufficiently brought out in the papers. Due diligence would need to be discussed in greater detail as one possible option if and when the European Commission (EC) challenge led to changes to the use of SFAIRP.
6.4	The Chair thanked the presenters. The broad consensus, taking into account Counsel's opinion, was that most of the Commission considered that the defence based on SFAIRP had served health and safety legislation in GB well. However, these were important issues and the worst outcome would be for absolute duties to be imposed with no defence in law. The Commission recognised that due diligence could offer a useful option as this issue unfolded. HSC/E would need to marshal its arguments and look at what the impact of change would be in practice. The Commission intended to await the RO and decide what actions to take thereafter.

	Below the line items
7	HSC coordinated programme of Nuclear Safety Research for 2001/02: Efficiency Report (HSC/03/72)
7.1	The Commission noted the report
	Miscellaneous Papers
8	RIA of the Danish Presidency Proposal for a physical agents (electromagnetic fields) directive (MISC/03/11)
8.1	The Commission noted the RIA and recent developments on the proposed Physical Agents (Electromagnetic Fields) Directive
9	Health and Safety Developments in the Construction Industry (MISC/03/12)
9.1	The Commission noted the developments in paragraphs 7 to 22 and the report at Annex A
10	TRANSCO – PROJECT BLACKWATER (MISC/03/14)
10.1	The Commission noted: <ul style="list-style-type: none"> • National Grid Transco's plans for the sale of part of its gas distribution business • The main safety-related issues identified by HSE • Ofgem's intention to publish a Consultative Document in collaboration with HSE on all the regulatory issues arising, in June 2003.

**Commission Secretary
June 2003**