

Health and Safety Commission Minutes		HSC/03/M02	
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## Health and Safety Commission

Minutes of a meeting of Health and Safety Commissioners held on 11 February in the Hope Room, 2 Southwark Bridge, London SE1 9HS

### Present

Bill Callaghan – Chair  
George Brumwell  
Margaret Burns  
Joyce Edmond-Smith  
Owen Tudor

### Apologies

Maureen Rooney  
Judith Hackitt  
John Longworth  
Abdul Chowdry  
Judith Donovan

### Officials Present

Timothy Walker  
Kate Timms  
Justin McCracken  
Vivienne Dews  
Robert Humm  
Mark Dempsey  
Shelagh Molloy  
Sian Lewis  
Paul Denman  
Marion Cast

### Presenters

Item 4 – Adrian Ellis, John Ewins  
Item 5 – Vic Coleman, Graham Collins, Patricia Winters  
Item 6 – Neal Stone, Mike Tonge, Alan Morley, Keith Wiley  
Item 7 – Richard Clifton, Shirley Williams, Nigel Humberston

<b>1</b>	<b>Introduction</b>
1.1	The Chair noted that a number of Commissioners were unable to attend. This was not therefore a full meeting of the Commission. The Secretariat had consulted Commissioners on handling arrangements for the papers, but the meeting would allow discussion of some key items.
<b>2</b>	<b>Minutes of the meeting held on 14 January 2003</b>
	No comments had been received on the minutes.
<b>3</b>	<b>Urgent business not covered by items on the agenda.</b>
3.1	The Chair reported that the Secretary of State for Transport had accepted the Commission's advice on ERTMS. A written statement to Parliament had been made and the advice had been made public. There had been some regional coverage for the announcement, and a mention in the No 10 lobby briefing.

3.2	Timothy Walker gave Commissioners an update on the Chancery Lane derailment and the arrangements for the HSE investigation. The cause appeared to be meal fatigue on bolts that secured electric motors. Close working relationships had been established between HSE and LUL, who had decided to replace all 22,400 similar bolts. This would delay the reopening of the Central Line.
<b>4</b>	<b>Field Operations Division presentation – Progress with Revitalising and plans for remodelling front line work.</b>
4.1	Adrian Ellis explained that this was an opportunity to bring the Commission up to date with developments in FOD and to report progress. FOD consisted of 10 divisions, 7 of which were regional. Construction work had been brigaded into one Division under Kevin Myers. It accounted for 1,700 staff, of which [675?] were inspectors. Work was in hand to allocate resources to the Commission’s priority programmes and to reorganise work so that travelling time was minimised. In addition new, simpler, reporting forms had been introduced that would support evaluation of duty holder performance. The selection of priority programmes to support Revitalising had helped FOD to focus on key issues and sectors.
4.2	Part of this reorganisation had been to introduce account managers for large, multi site operations which had previously proved difficult to organise. Poor performers were also being identified to set in place plans for improvement.
4.3	Productivity was also being addressed. A 9.2% improvement in contact time had been secured and the role of administrative staff was being considered as a means of freeing up inspector resources. This work was being piloted in London following a consultancy report from Price Waterhouse Coopers. The intention was to introduce better management arrangements so that the burdens on inspectors were reduced. The pilot would run until November before being evaluated.
4.4	Over the last five years or so, the balance between proactive and reactive work had shifted with proactive work falling from 65% to 52%. FOD hoped to reverse this trend although it was noted that the changes had been partly in response to pressures to investigate a higher proportion of reported incidents.
4.5	In discussion the following points were made:
	i On evaluation, the first year’s data would be available in April. This would provide baselines for future monitoring at quarterly intervals. Hard data was essential to the process of reporting on PSA targets to Nick Brown;
	ii It would be useful to know how FOD resources were allocated to priority programmes. Relationships with local authorities were also important given their role in the slips and trips and workplace transport areas. Close collaboration needed to be encouraged where, for example, supply chains involved HSE and local authority enforcement. The Commission would welcome a report on the synergy programme and a discussion on the wider HSE/local authority relationships. This would be done as part of the review of HELA, including the role of Enforcement Liaison Officers and HSE’s proposals for more proactive work at the local level;
	iii Many of the changes that were taking place were welcome, if overdue, and were already having an impact, including the establishment of the Construction Division. HSE needed to consider how better data on performance, accidents and ill health

		could be provided as a means of measuring progress;
	iv	The Chair noted that most bureaucratic systems were introduced for good reasons, and hoped that hard data would start to become available. Reporting, recording and accountability requirements had added to the complexity of FOD's operations and inspector productivity;
	v	Relatively low numbers of staff were devoted to dealing with stress. The Commission noted the difficulties of inspecting against standards for stress, where they existed, and would like to return to this issue at a future date.
4.6		Summing up the discussion, the Chair thanked the presenters. It was clear that considerable effort was being devoted to improving the way that FOD carried out its business. The commission would welcome a further discussion once empirical data was available.
5		<b>HSC's draft policy on permissioning regimes (HSC/03/01)</b>
5.1		Pat Winters explained that the Commission had discussed this policy statement in June 2002 and that HSE had then consulted on a draft policy statement. Stakeholders had requested a statement on the purposes of permissioning regimes and HSE's approach. The revised draft reflected stakeholder views.
6.2		The Commission was invited to clear the revised draft; agree to publication arrangements; and comment on an appeal mechanism based on the arrangements developed for the offshore industry. It had already been noted that the use of footnotes in the current draft needed to be reviewed.
5.3		The Commission discussed the need for the policy to contain an explicit statement of what the acceptance of a safety case meant to workers and the public. This might be dealt with by amending Principles 7 and 2 in the draft. The policy might include reference to the fact that acceptance of a safety case meant that HSE had reviewed management arrangements and that, if these were implemented, they represented a sensible basis for undertaking the work activity.
5.4		There were some concerns about confidentiality and the circumstances in which the commercial sensitivity of information might be challenged. Guidance and legislation in this area was not as clear as that for personal data and information. HSE was invited to consider this further and come back to the Commission with the principles that it would apply.
5.5		Summing up, the Chair noted that the Commission supported the policy statement. Some suggestions had been made on re-ordering and drafting to improve clarity. These should be reflected in the policy which the Commission would ratify at its next meeting.
6		<b>a) DWP review of Employers' Liability Compulsory Insurance: HSC/E's response. (HSC/03/24)</b> <b>b) The Future of ELCI and UK Workplace Compensation (HSC/03/40)</b>

6.1	Introducing the item, the Chair explained that he had taken the unusual step of setting out some options for the Commission's consideration. The DWP review provided an opportunity for a new look at workplace compensation and how employers might be given incentives to focus on prevention and rehabilitation as a means of contributing to the Revitalising targets. Restricting the review to the sustainability of ELCI would not allow a wider look at the system as a whole, including the state funded Industrial Injuries Benefit scheme. Economic efficiency, the additional cost of legal fees in the system and the arguments for and against no fault compensation systems could be fully considered in a more wide ranging approach.	
6.2	Neal Stone explained that the DWP was still gathering views and evidence. Ministers would consider the results in March with a view to ensuring that an adequate compensation system was in place.	
6.3	In discussion, the following points were made:	
	i	The scope of the Commission's response might be limited to issues that were strictly within its remit, namely issues that helped prevention and rehabilitation. There was logic in linking the costs to employers to their performance. There were questions about whether no fault schemes would achieve more, and the adversarial system was not necessarily inefficient;
	ii	However, legal costs were an issue. It was likely that costs to employers would have to rise, for example with proposals for the NHS to recover more of the costs of accidents, and the government might be persuaded to fund offsetting measures;
	iii	ELCIO was part of a wider system and any changes would need to take account of unintended consequences. More debate and discussion was needed on how to improve rehabilitation. Litigation took time, with the opportunity for rehabilitation often being lost.
6.4	The Commission agreed that the Chair's letter to ministers should:	
	i	Set out the key objectives for a new system in terms of health and safety improvements, its role in supporting Revitalising goals and targets and the gaps left by the current arrangements;
	ii	Suggest that this offered an opportunity for a more radical consideration of the system as a whole and avoid unintended consequences of a limited review of ELCI;
	iii	Suggest that the DWP might gather better evidence on current issues and the performance of no fault schemes elsewhere;
	iv	Raise the need to introduce better incentives for employers based on their performance, including the particular needs of smaller firms;
	v	Cover other issues such as enforcement arrangements;
	vi	Emphasise that the current system would not deliver the step change needed and that these wider issues might be developed in a Green Paper.
6.5	The Chair would write in these terms on the Commission's behalf for ratification at the next meeting.	
<b>7</b>	<b>Options for draft regulations relating to the Railway Safety Levy (HSC/03/31)</b>	

7.1	Richard Clifton explained that this item was linked to previous Commission discussions on the railway safety levy. He explained that the Railways and Transport Safety Bill contains a clause enabling regulations to be made to introduce a railway safety levy. As part of the legislative process the House of Lords' Delegated Powers Committee's role is to consider whether proposals in draft legislation for the making of secondary legislation are appropriate. The paper set out the issues to be put in an explanatory memorandum (perhaps together with draft regulations) for the Delegated Powers Committee to reassure them that secondary legislation was appropriate in this case. Issues for consideration included the scope and application of the levy. Richard Clifton advised the Commission that the memorandum would not in any way pre-determine the outcome of any subsequent consultation on draft 'levy' regulations.
7.2	The Commission noted that the memorandum and draft regulations were to be provided for the Delegated Powers Committee for illustrative purposes only, and that a good deal more work would be needed before a developed draft set of regulations would be ready for public consultation.
7.3	The options set out in the paper were agreed for ratification at the next meeting.
<b>Below the Line items</b>	

<b>8</b>	<b>Annual Report of the Adventure Activities Licensing Authority</b>	<b>HSC/03/19</b>
8.1	This paper would be carried forward to the next meeting	
<b>9</b>	<b>Carriage of Dangerous Goods (Amendment Regs 2003)</b>	<b>HSC/03/21</b>
9.1	This paper needed full Commission endorsement and would be discussed for decision or ratification at the next meeting.	
<b>10</b>	<b>Progress with Implementation of HSC/E's Race Equality Scheme</b>	<b>HSC/03/22</b>
10.1	This paper would be carried forward to the next meeting	
<b>11</b>	<b>CTSA Appointment of Dr Robert Smallwood to CTSA</b>	<b>HSC/03/27</b>
11.1	This paper would be carried forward to the next meeting	
<b>12</b>	<b>Changing Patterns of Employment</b>	<b>HSC/02/91</b>
12.1	This paper would be carried forward to the next meeting	
<b>13</b>	<b>Consultation on the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regs 2003</b>	<b>HSC/02/31</b>
13.1	This paper needed full Commission endorsement and would be discussed for decision or ratification at the next meeting	
<b>14</b>	<b>Railway Safety Regulations 1999 TPWS at Diverging Junctions</b>	<b>HSC/03/29</b>

14.1 The Commission will be consulted on these regulations in due course