

Health and Safety Commission Minutes		HSC/04/M09	
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Meeting Date:	7 September 2004	Open Gov. Status:	Fully Open
Type of Paper:	Above the line	Paper File Ref:	
Exemptions:			

Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission, held on 7 September 2004 in the Hope Room, 2 Southwark Bridge, London, SE1 9HS

<p>Present Bill Callaghan – Chair John Longworth Abdul Chowdry Joyce Edmond-Smith Hugh Robertson Judith Donovan Margaret Burns Judith Hackitt Elizabeth Snape</p> <p>Apologies</p> <p>George Brumwell</p>	<p>Officials Present Timothy Walker Justin McCracken Alex Brett-Holt Colin Douglas Vivienne Dews Susan Mawer Paul Nicholson Paul Baldwin</p> <p>Observers:</p> <p>Danny Carrigan Jonathan Rees Michael Atkins, Nicola Richardson Mark James- Dawson Kate Carroll</p>
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1	Minutes of the meeting held on 03 August 2004 (HSC/M08/2004)
1.1	The minutes were agreed.
2	Urgent business not covered by items on the agenda
2.1	No urgent business taken.
3	Introductions
3.1	The Chair welcomed Jonathan Rees, the new Deputy Director General and Danny Carrigan, the new Commissioner, who were both attending this meeting as observers. Jonathan Rees takes up post on 13 September and Danny Carrigan in October 2004. The Chair thanked and acknowledged Kate Timms' hard work during her three-year tenure as DDG.
4	Appointment of Jonathan Rees to the Executive
4.1	The Chair, having consulted with Timothy Walker, and subject to approval from the Secretary of State, invited the Commission to formally agree to Jonathan Rees being appointed to the Executive.
4.2	The Commission agreed.

5	Regional and Devolution Issues (HSC/04/104)
5.1	<p>Alex Callegari introduced the paper that invited comments on whether the Commission felt it appropriate for HSE to set up a project to examine the implications of regionalisation in light of the Governments recent White paper. Several questions from the paper were highlighted.</p> <p>In addition to this paper, Stewart Campbell invited the Commission to endorse last month's paper (HSC/04/78) on the Health and Safety Committee for Scotland.</p>
5.2	<p>The Commission welcomed the opportunity to have a strategic discussion around these issues.</p> <p>They were unconvinced at this time that a major project on the impact of regionalisation was needed. HSC/E was already engaged in partnership working with Local Authorities and the Commission did not want to see resources wasted.</p> <p>However the Commission did recognise that if they wished to exploit the potential of these new institutions by influencing their agendas they would need to engage with them at an early stage or risk losing the opportunity. This approach has paid dividends at the Environment Agency.</p> <p>The regional spectrum went from well-developed institutions that were structured in a way that could help with delivery of the strategy to institutions in the early stages of development, which were less well placed to help at present but might potentially be useful partners in the future.</p> <p>HSE felt that Regional Directors were well positioned to take this work forward without the need to change HSE's regional structure.</p> <p>The Commission were keen that any engagement on a regional basis was focussed on helping to progress the strategy. Resources should be concentrated in those areas where results could be achieved, and this may well indicate different approaches in different parts of the country.</p> <p>The Commission in answer to point 15 felt that the Commissioner for devolved administrations could also cover the English regions.</p> <p>The Health and Safety Committee for Scotland. The Commission supported the proposal and were pleased that Margaret Burns would Chair the Committee. The Commission discussed whether the Committee should be seen as a joint HSC/E - Scottish Executive Committee and agreed that, because health and safety remains a reserved matter, it should be an HSC committee. The Commission felt</p>

	<p>the Committee was a forum that could assist in the delivery of HSC's strategy, and that its objectives should be as sharp as possible to help it to do that.</p>
5.3	<p>The Chair thanked the presenters.</p> <p>The Chair concluded that any work with regional institutions should focus on delivery of the strategy. He was keen that where there were institutions, which can help deliver HSC's strategy, including Regional Assemblies, HSE should be proactive in engaging with them.</p> <p>He restated concerns about resources, whilst wanting HSE to explore the opportunities that decentralisation offered.</p> <p>He asked HSE to establish a small working group as proposed and to report back to Commission once the regional referendums had taken place.</p> <p>The Commission agreed that Health and Safety Committee for Scotland should be established.</p>
6	Intervention Strategy (HSC/04/110)
6.1	<p>David Ashton introduced the paper. The Commission were asked to consider the draft discussion document and provide a statement of high-level support. The aim was to publish the document via the HSE website, advertising it through a press notice. HSE saw this as an opportunity to make a real difference in the way it interacts with its duty holders and was seeking views on some broad and open questions relating to its intervention strategy, including its proposal to focus resources on the worst performers.</p>
6.2	<p>The Commission felt this was an excellent paper and held a broad and frank discussion. They recognised this was an important issue and that key stakeholders would have strong and opposing views about the approach of earned autonomy. There were well-rehearsed arguments for and against this approach.</p> <p>The Commission felt the title should be changed. They felt the consultation should focus on prioritising resources and not earned autonomy, which at present could be the focus of feedback. They felt that any decision on what intervention HSE would apply to a particular company could not be based purely on accident data, as this could be subject to abuse.</p> <p>The Commission recognised that to deliver its strategy it needed to focus its resources, it realised that it is impossible for HSE to inspect every workplace and that there probably are areas where HSE should be less active. But any decisions should have a clear evidence base and should encourage continuous improvement.</p>

	The method of verifications was discussed. The Commission did not want to see a system which could be abused or exploited.
6.3	<p>The Chair agreed this was an important issue and wanted to see the widest debate. He suggested this issue should be discussed at the October Open Meeting as part of the consultative process. This would be an opportunity to discuss and explain the mix of interventions.</p> <p>He asked HSE to revise the text in light of the discussion and circulate an amended draft to be cleared in correspondence. The final document would be considered at the Open Meeting as part of the consultation process.</p>
7	The Hampton Review (HSC/04/111)
7.1	The paper was introduced by Brian Etheridge. The Commission asked for a think piece paper to help finalise its views and establish a set of core principles to underpin any future regulatory model. A letter from the Chair setting out these views would be sent to the Hampton team.
7.2	<p>The Commission made some drafting suggestions but thought it was a thoughtful and interesting piece of work.</p> <p>The Commission further explored the basis of HSE's understanding of the direction favoured by the review team. The Commission made clear its opposition to a sectoral approach. The Commission was not convinced that it would be the best option for business and asked that this be spelled out clearly to the Hampton team. The Commission felt it should explore opportunities to share its thinking on Hampton more widely and asked commissioners to take it back to their constituent organisations.</p>
7.3	The Chair thanked the presenters. He asked that HSE amend the letter as discussed and copy it more widely.
8	Stress Consultation
8.1	<p>Elizabeth Gyngell introduced the paper and gave a PowerPoint presentation to further illustrate HSE's findings and options.</p> <p>Presentation attached at annex 1.</p>
8.2	<p>The Commission, in general, felt this was a very good piece of work and discussed the options, focusing on option A and D. They welcomed the idea that organisations were able to assess their position in relation to the best and worst performers and saw this an opportunity to demystify the stress issue to employers. They in general liked the idea of encouraging organisations to benchmark themselves against the best performers but recognised the risks because not everyone could be in top 20% of performers.</p> <p>They felt that some of the supporting material and process',</p>

	<p>particularly in option D were complicated and agreed the standards should not be applied to small firms. Ideally, what was needed were some top tips, which could be understood not only by the HR professionals but top management and those at the sharp end.</p> <p>They explored the aspirational targets and what results from a survey a company would need to receive to be placed as a good or exemplar performer. The Commission recognised that to reach a satisfaction level of 80-85 % via a survey was very challenging but felt that if a survey showed that one in five staff in a company/workplace were suffering ill health as a result of stress, that this was something that would need to be addressed.</p> <p>The Commission discussed the risk assessment approach and agreed that provisions in the Management Regulations adequately covered the requirement to make an assessment against stress.</p> <p>Given some of the discussion HSE suggested placing the aspirational target in the guidance.</p>
<p>8.3</p>	<p>The Chair thanked HSE for its hard work. He concluded that there was general support for the standards and that overall the Option preferred was Option D. However HSE should undertake some further work and ensure that the Commission had the opportunity to comment on the revised supporting material before this was finalised.</p> <p>He agreed that management standards should be launched on 3 November.</p>
<p>9</p>	<p>DTI Working Time CD</p>
<p>9.1</p>	<p>Paul Kloss introduced this paper.</p> <p>The Commission were asked to comment and agree HSC/E's response to DTI's preliminary consultation, which is concerned with long hour working in the UK and the application of the opt-out rule.</p>
<p>9.2</p>	<p>The Commission held a broad discussion around the issues. The Commission were aware that the TUC and the CBI had different views on the opt out rule. The TUC opposed it, claiming there was widespread abuse and that it was not only senior managers who were working longer hours but those in the low paid economy as well. The CBI felt there was no evidence of abuse and if HSC/E found such abuse encouraged enforcement. The CBI favoured the opt-out rule available in some places with the use of contracts, backed up by risk assessments.</p> <p>The Commission debated the issues around these views. Trade Unions also stressed the importance of risk assessments. The Commission heard that there had been 672 investigations by HSE relating to working time. Although this was a small proportion, HSE</p>

	<p>recognised that the response was proportionate.</p> <p>The Commission debated whether they should be more proactive on enforcement in this area. The Commission recognised there was pressure on HSE to do more but were minded that any increase in work in this area would deflect from their core goals set out in the strategy.</p> <p>The Director General was clear that any additional work would need to be funded and asked that this point be made clear in the response to the consultation.</p> <p>The Commission raised the issue that there was little evidence that demonstrated a link between working long hours and ill health. And that Policy decisions will be made by DTI, who lead in this area.</p>
9.3	<p>The Chair agreed the letter should be amended to reflect the Commission discussion. The Chair specifically wanted the letter to highlight the resourcing issues. Risk assessment is important but this is adequately covered by the Management Regulations.</p> <p>The Chair asked to see an amended draft no later than 22 September.</p>
10	Select Committee Report
10.1	<p>Phil Kemball introduced this paper and went through the process and timings. The Commission were asked to consider the draft response and comment on how future liaison should take place.</p>
10.2	<p>The Commission discussed the draft response. The Commission felt that the response seemed too defensive in places. They felt it was clear from HSE's comments that they agreed, either totally or in part with some of the Committee's recommendations. The Commission also felt that perhaps the response covered some areas, which required a political decision and felt HSC should not comment. They also felt the response could be stronger in areas, pointing to work which is already underway.</p> <p>HSE informed the Commission that the format of the Department response will be different from the traditional one and some of the Commission's concerns will be addressed because of this new format.</p>
10.3	<p>The Chair agreed to talk to Jane Kennedy about how HSC engages with the Select Committee and discuss HSC response.</p> <p>The Chair felt the Commission should not be defensive about its policy and should defend its strategy and the priorities the Commission has set.</p> <p>The Chair agreed that HSE should consult with him direct, given the timescales involved.</p>

11	HSC Progress Report on Public Enquiries
11.1	The Chair had asked for this item to be brought above the line and invited Stephen Williams and Anne Loach to join the meeting to discuss the paper. The Commission were invited to comment on the progress report.
11.2	The Commission were happy with the tone, however they suggested some drafting alterations. The Commission discussed the Chair's foreword, which they felt should make clear that much progress had been made and that industry, with HSC/E's help, had delivered on a challenging program of improvement.
11.3	The Chair thanked HSE for their work. The Chair was concerned that no one had oversight to continue this work and that the process for continued improvement would be a challenge. He asked HSE for a redraft in light of the Commission's discussion.
12	The Evaluation of the Health & Safety (First Aid) Regulations 2004 (HSC/04/33)
12.1	The Commission <ul style="list-style-type: none"> • noted the high level of goodwill • noted the results of the D/D • agreed the main recommendations of HSE's response • noted that HSE will inform key stakeholders and the public on the outcome of the review at the earliest opportunity.
13	High Level Planning Statement (HSC/04/87)
13.1	The Commission notes the content of the Statement
14	DWP's CD Delivering equality for disabled people (HSC/04/100)
14.1	The Commission <ul style="list-style-type: none"> • noted the possible implications for HSC/E of the proposals in the CD; and • agreed that a response will be submitted to Chair for clearance on behalf of the Commission once internal consultation is completed.
15	Railway Safety Publication of Annual Report on Railway Safety (HSC/04/101)
15.1	The Commission noted the contents of the report and the proposed publication date
16	Subtilisins- Maximum exposure limits (HSC/04/103)
16.1	The Commission agreed the following Maximum Exposure Limit :

	Subtilisins: 0.00004 mg.m ⁻³ (40 nanograms.m ⁻³) (8-hour time-weighted average)
17	New Code of Practice for the safe use of plant protection products in Scotland (HSC/04/106)
17.1	The Commission agreed to the public consultation on the new Code.
18	Channels of advice free from fear of enforcement (HSC/04/108)
18.1	The Commission agreed the statement , and that it should be placed on the HSE website accompanied by a press release.
19	Proposed option to address reserved Health and Safety Issues to enable new fire safety regulations for Scotland (HSC/04/109)
19.1	The Commission agreed to a section 30(2) Order amendment of the Scotland Act combined with a section 104 Order.

Annex 1 – Power Point Presentation on Stress:

Slide 1: Results of the Consultation – Key Findings 1

- There is broad support for the 'States to be Achieved'. This reflects the findings of consultation with experts. No significant changes are envisaged.
- The TUs would prefer to see an Approved Code of Practice for stress. The Employers' Representatives are supportive of a non-legislative approach. Employers have called for clarity in defining the Standards legal status.
- One large employers suggested that the Standards would be onerous, however, another suggested that they should be marketed as a Management Tool generally and not just for Stress as the approach would benefit business as a whole.

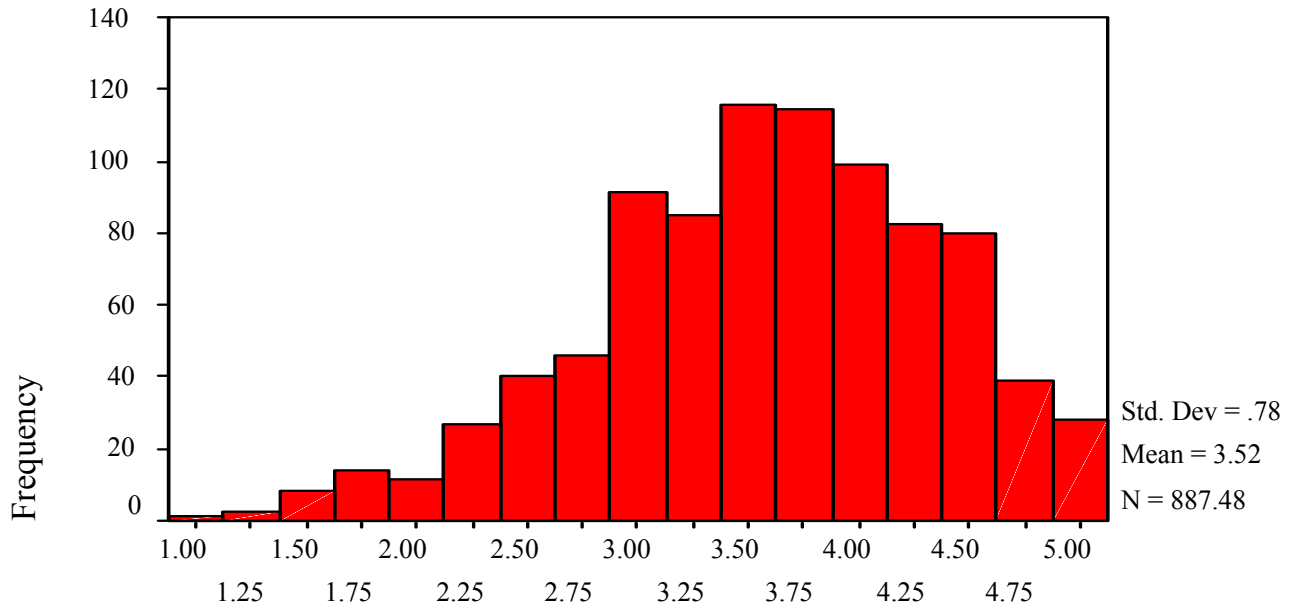
Slide 2: Results of the Consultation – Key Findings 2

- In the electronic consultation, there was support for a numerical target (74%). The preference was that this was in the form of a Continuous Improvement model with aspirational targets.
- Corporate responses indicated less support for a numerical target, particularly as an absolute cut off. In general they also preferred a Continuous Improvement approach.
- We believe Option D (HSC/04/99) presents the best solution to these responses and previous expert opinion.

Slide 3

Slide 3:

Histogram



SDEMAND

Cases weighted by WTA