

OPEN GOVERNMENT STATUS – Fully Open	HSC/M06/2004
Health and Safety Commission	
Minutes of a meeting of the Health and Safety Commission held on 08 June in the Hope Room, 2 Southwark Bridge, London SE1 9HS	
Present Bill Callaghan – Chair Abdul Chowdry Joyce Edmond-Smith John Longworth Judith Hackitt Hugh Robertson Judith Donovan Elizabeth Snape Apologies George Brumwell Margaret Burns	Officials Present Timothy Walker Justin McCracken Kate Timms Alex Brett-Holt Colin Douglas Susan Mawer Paul Kloss Paul Baldwin Paul Nicholson
Presenters Item 2.2 – Anne Sharpe Item 3 – Justin McCracken Item 4 – Chris Willby Item 5 – Jonathan Russell Item 6 – Kate Timms Item 7 – Colin Douglas	

1	Minutes of the meeting held on 11 May 2004
1.1	With minor changes to paragraph 3.2, the minutes were agreed.
2	Urgent business not covered by items on the agenda
2.1	The Chair reported on his and the DG's appearance before the Department for Works and Pensions Select Committee. The DG and Chief Inspector of Construction had also given evidence at the Public Accounts Committee, when it considered the NAO report on the Health and Safety Executive: Improving health and safety in the construction industry .
2.2	Rail Review – The Chair, Margaret Burns and Judith Hackitt had met Alistair Darling who had invited the Chair to write setting out HSC's preferred option which it believed was more likely to deliver the SoS's objective of speedy cultural change. The Commission was invited to comment on the draft letter. The draft letter proposed a Rail Delivery Forum and the Commission suggested it should be chaired by an independent person, from an industry with experience of delivering a change in safety culture. The Commission agreed the draft letter, subject to some minor drafting amendments, which would be copied to Jane Kennedy MP.
3	Linked papers on Migrant Workers (HSC/04/61) and Employment Status (HSC/04/62)
3.1	Justin McCracken introduced the two papers. The Commission had asked HSE to look at the issue of migrant workers following the tragic incident at Morecambe Bay. The evidence base was very patchy and a key recommendation was to undertake more research. Rigorous evaluation of current programmes of action would feed into this. The necessity of engaging LAs was also emphasized, given the extent to which migrant

	<p>workers appeared to be active within LA-enforced sectors. The paper on employment status concluded that existing legislation provided adequate health and safety protection. The problem was a practical one and improved communication, clarity of message and partnership working was needed to ensure protection was achieved in practice.</p>
3.2	<p>The Commission welcomed the paper on migrant workers and its evidence-based approach and realistic, proactive set of proposals. Migrant workers were vulnerable to exploitation and, for a variety of social and economic reasons, appeared to be heavily represented in a nomadic, informal workforce servicing those industries which required labour (and dispensed with it) at very short notice in response to immediate customer demands. The problems were complex and multi-faceted and presented a new challenge for the health and safety system. Migrant workers were endemic and found throughout the public sector as well as in construction and agriculture. Public procurement arrangements were an area that should be tackled in the future. HSE should do more to influence employers and organisations with clear, strong messages to ensure that migrant workers were given the full protection of the law.</p> <p>Justin McCracken updated the Commission on the cross-government work on gangmasters and the Joint Enforcement Pilot: continuing HSE involvement in these initiatives was also recommended in the paper. At local and regional level, they were going well, but, at the national level, there had been little progress because of the practical difficulties. He felt a strong political steer was needed. The Chair felt that, at some stage, this issue should be taken up with Jane Kennedy.</p>
3.3	<p>The Commission discussed the paper on employment status and accepted that it was not necessary to change the law. However they felt there was a lot of confusion, particularly over agency workers, about who the duty holder was. There was a lack of clarity, particularly in relation to specific duties owed to employees, such as the provision of protective equipment. It was vital that HSE produced clear guidance, addressing these issues.</p> <p>HSE informed the Commission that guidance clarifying the roles and responsibilities for the protection of agency workers' health and safety should be available on HSE's website this summer. It would set out the duties for the protection of agency workers, covering several areas known to be particularly problematic, such as provision of information, training and protective equipment. It would also cover employment status, and make clear that employment agencies/businesses and hirers must work together to ensure that agency workers are afforded the full protection of the law. Both have duties towards the workers, and they must establish who is responsible for particular duties and ensure those duties are discharged. For practical purposes, responsibilities can be agreed by contractual arrangement, but this does not alter the fact that, in the case of an employer's legal duties towards his employees, the duty ultimately rests with whoever is legally regarded as the worker's employer for health and safety purposes.</p>
3.4	<p>The Chair thanked the presenters. On migrant workers the Commission endorsed the programme of work HSE proposed. On employment status the Commission agreed that there was no need to change the existing legal framework and noted HSE's intention to produce guidance. The guidance should make clear that both hirer and agency have duties and HSE must be forthright in communicating those duties. The Commission was clear that this was an important issue and the guidance should be given a high profile.</p>
4	<p>Hazardous Installations Directorate (HID) operational report.</p>

4.1	Chris Willby gave the Commission an overview of HID's work and the new challenges facing HID.
4.1	HID's main areas of responsibility are: <ul style="list-style-type: none"> • Chemical Industry inc refineries • Offshore oil and gas industries • Mines • Explosives • Gas supply • Biological hazards • Commercial diving, inc diver training
4.2	HID's key objectives: <ul style="list-style-type: none"> • To minimise the risk and effect of major incidents • To reduce the incidence of ill health and injuries at work • To work effectively with stakeholders • To manage and target resources effectively • To enforce statutory requirements • To advise on the nature of risks, their assessment and management
4.3	The presentation detailed issues and developments affecting the different sectors of HID work. Common themes across the HID major Hazard sectors were: <ul style="list-style-type: none"> • Ageing plan – infrastructure, maintenance and structural integrity • Containment – contractorisation, changing ownership and downsizing • Management systems – human factors • Partnership working – internally and externally • Communication • New technology • Emergency arrangements
4.4	The Commission held a short discussion about HID's work and its challenges. They commented on the impact that the major restructuring of the gas distribution networks would have on HID's work. The Chair was interested in seeing the results of the SERCO project, in particular looking at how they interact with their different clients.
4.5	The Chair thanked Chris Willby for the interesting presentation. He wanted any lessons learnt from HID's work which had read cross for other parts of HSE to be shared.
5	Service Directive
5.1	Jonathan Russell introduced the paper. There was still time to influence the Directive. Good relationships had been established with DTI and they had been encouraged by the discussion with the EC.
5.2	The Commission had strong views on this matter. The draft Directive could have a very damaging effect on health and safety. Its general purpose was to free up trade barriers, but in the cheapest, lowest quality way. They asked for the letter to be strengthened. It must be made clear that the 'country of origin' approach was not feasible. The law that applies must be the law of the host country. They questioned whether enough was being done to work with other European health and safety regulators.

5.3	<p>The Chair thanked the presenters. The Commission:</p> <ul style="list-style-type: none"> • agreed the line in the draft but asked for it to be redrafted to make it stronger. • asked HSE to alert and discuss the issue with other Members States' health and safety authorities. • said that the Chair's letter responding to DTI's consultation should be put on the web-site – and a press release should be issued.
6	HSC/E's future involvement in award schemes
6.1	<p>Kate Timms introduced the paper. The Commission had a discussion a year ago on whether the European awards were giving value. HSE advised the Commission that as from March 2004 it had no plans for an awards event to be linked to the European Week for Safety and Health. There was a powerful case to join forces with those who are good at national awards and HSE's research concluded that the National Business Awards was the best in the field and would give a better national coverage than the European week. The paper proposes that we explore that option.</p>
6.2	<p>The Commission felt the European Week for Safety and Health had generated a lot of participation. The scheme had a good mix of winners from the public and private sectors, as well as trade unions. The Commission were concerned that a move to a business award could send the public sector the wrong messages when HSC/E is trying to engage with them on the Commission's new strategy.</p> <p>The Commission was concerned that the proposed award would not generate much publicity for health and safety and there was a danger of diluting HSE's message. There seemed to be conflicting objectives for entering the scheme. Was the aim to increase the involvement of a range of organisations so that there was a positive contribution to health and safety, or was it intended to raise the profile of HSC/E or of health and safety. We needed to be very specific about what was wanted from the award.</p>
6.3	<p>Judith Hackitt, who chaired the remaining meeting, asked HSE to carry out some more work on its proposals. The Commission wanted more clarity on the overall objectives and purpose. The proposals were focused on a particular sector. HSE needed to consider whether this was the right approach and whether it was consistent with HSC's strategic goals.</p>
7	Communications update and "branding"
7.1	<p>Colin Douglas introduced the paper and summarised progress to date. The Commission's new "Communication partner" in the Secretariat is Paul Baldwin, who will be supporting Commission is their role as champions.</p> <p>A possible role for Commissioners in engaging politicians, including events on the main party conference fringes, is being developed. The Commission would receive further information shortly.</p>
	<p>Colin introduced Mark McConnachie, Ian St John and Antony Segroave from Roundell and Radical. They had carried out a review of branding, which had come at good time: HSE moving into new buildings in Bootle, the new laboratory in Buxton, and the revamping of HSE's internet.</p>

7.2	<p>Roundell and Radical presented their findings. HSC/E branded applications and general standards of visual presentations were well below best practice.</p> <p>HSE/C communicates powerful 'unintended' messages through the appearance of its working environments, the quality and consistency of its branded applications and in its attitude towards visitors, staff and other audiences.</p>
7.3	<p>The presenters then demonstrated through examples how HSC/E's branding could be improved through the use of:</p> <ul style="list-style-type: none"> • More graphic and contemporary signage • Consistent use of HSC/E logos in terms of design and positioning, using a grid design for sub brand and partner logos • Text and colours, the use of strong imagery and colours, the introduction of a suite of colours, which it was suggested could be shared by HSC and HSE • The official Crest on document and guidance • Better use of powerpoints – standard formats
7.4	<p>The Commission stressed that it was important that information held on HSE's website and internet was easy to print and copy</p> <p>They were concerned at the suggestion that it was not necessary to distinguish between HSC and E.</p>
7.5	<p>The Chair thanked the presenters. The Commission generally supported the proposals. It was important to have coherent imagery with a strong message, which was easily downloadable. The issue of the role of the Commission was one that should be explored further, informally, at the HSC's away day.</p>
	Below the Line Items:
8	Payment of fees to non-public committee members
8.1	<p>The Commission considered the options and agreed to retain the status quo, and not make payments to attendees for attendance and preparation, but await the outcome of the Cabinet Office review.</p>
9	Refractory Ceramic Fibres
9.1	<p>The Commission agreed the following Maximum Exposure Limit of 1 fibre per millilitre (f/ml) (8-hr TWA) for Refractory Ceramic Fibres (RCFs) and Special Purpose Fibres.</p>
10	Land Use Planning and ALARP Demonstration for COMAH establishments
10.1	<p>The Commissions noted progress.</p>
11	An Update on the HSC Enforcement Policy Statement
11.1	<p>The Commission noted:</p> <ul style="list-style-type: none"> • The progress made to date in evaluating the impact of the HSC Enforcement Policy Statement (EPS) • The findings emerging from the programme's consultation exercise; and • The next steps to be taken

12	Consultation on proposals to implement Directive 2003/105/EC amending Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances
12.1	The Commission approved the issue of the CD on proposals to implement Directive 2003/105/EC, amending Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances, for a formal 12-week consultation period.
	Miscellaneous Papers
13	Publication of the National ERTMS Programme (NEP) 2nd year report
13.1	That the Commission noted the progress that has been made to date.