

Health and Safety Commission Minutes**HSC/04/M011**

Meeting Date:	9 November 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 9 November 2004 in the Hope Room, 2 Southwark Bridge, London, SE1 9HS****Present**

Bill Callaghan – Chair
Margaret Burns
Danny Carrigan
Abdul Chowdry
Judith Donovan
Joyce Edmond-Smith
Judith Hackitt
Hugh Robertson

Apologies

John Longworth
Elizabeth Snape

Officials Present

Timothy Walker
Justin McCracken
Jonathan Rees
Alex Brett-Holt
Colin Douglas
Vivienne Dews
Susan Mawer
Paul Nicholson
Paul Baldwin

Observers:

Rebecca Williams

1 Minutes of the open meeting held on 12 October 2004 (HSC/M10/2004)

1.1 The minutes were agreed subject to one amendment.

2 Issues around the agenda

2.1 The Commission asked that the following items be included in forthcoming agendas:

- the communication strategy on the new Occupational Exposure Level framework;
- an update on section three enforcement issues; and
- an update on the issues about employees' civil liabilities.

3 Urgent business not covered by items on the agenda

3.1 Update on the Ufton level crossing train crash to be taken under agenda item 7.

4 Introductions

4.1 The Chair welcomed Rebecca Williams who was attending as an observer.

5 Involvement of LA's in development of policy (HSC/04/115)

5.1 Mark Duval from LACoRS and Allan Davies introduced this joint HSE, HELA and LACoRS paper which set out proposals to better integrate Local Government organisations in the development of polices and strategies

	<p>relevant to the health and safety enforcement role of Local Authorities. They also reported progress against the strategic programme.</p> <p>Mark Duval said LACoRS fully supported the proposals which were an important signal to Local Government that the partnership was being taken seriously. There were challenges to all sides around culture changes and developing trust. He looked forward to developing the detail necessary to deliver.</p>
5.2	<p>The Commission congratulated the presenters on delivering the paper so quickly. A lot was being done but they recognised that this was the beginning of the process.</p> <p>It was important that the arrangements were flexible enough to pick up issues which may occur between meetings, and they asked for an interim report to be produced for the Steering Group.</p> <p>They felt it was right that the performance management criteria being developed were similar for LAs and FOD which would improve trust.</p>
5.3	<p>The Chair welcomed the paper, and noted that a lot of good work is going on in this area. He agreed to the proposals set out in 3i and 3ii of the paper and looked forward to receiving the presentation planned for January 2006.</p>
6	<p>Delivering HSC/E's Targets: Summary Performance report: 2nd quarter 2004-05 (HSC/04/16) (HSC/04/116)</p>
6.1	<p>Jonathan Rees introduced the paper, which set out progress in the last two quarters. Subject to the Commission's comments it would go to the Minister on 11 November. Delivery against milestones was generally good, but it was more difficult to assess progress against outcomes, except for the Major Hazards programme. The publication of the annual health and safety statistics next week would be an important test.</p>
6.2	<p>The Commission probed the major hazards assessment and were satisfied that they reflected improved performance of the indicators, such as a significant reduction in hydrocarbon releases.</p> <p>They felt that mixing outcome and milestone measures was confusing. There should be both leading indicators, which showed whether we were doing what we had said we would; and lagging indicators which showed what we were actually achieving, with explanations for any long lead times.</p> <p>Whilst for the overall table progress looked good, the breakdown of certain programmes showed a more worrying picture.</p>
6.3	<p>The Chair thanked the presenters. He:</p> <ul style="list-style-type: none"> • asked that the Commission be given briefing on the annual statistics. • recognised the difficulties with lagging data and asked HSE to consider how the information is presented in light of the Commission's discussion. • The Commission agreed the report could be submitted to the Minister.

7	Update on COMAH and Land Use Planning (HSC/04/113)
7.1	John Murray introduced the paper and reported on progress following the setting up of the cross Government Task group. There were unlikely to be any decisions before Autumn 2005.
7.2	<p>The Commission emphasised to HSE how difficult this issue was. The impacts and tensions meant that there was huge potential to get out of hand. HSE were to be congratulated for their attempts to hold it together. There needed to be a public debate, involving all stakeholders, on the issue of societal risk.</p> <p>The Chair was conscious of the raging debate and was concerned at HSE's use of language, considering lay people might find it misleading to label sites 'of concern' when there was no more danger than in the past. He was concerned at the cost to HSE of a new policy, and the Commission said that the costs to industry could be very significant. The Chair said HSE was not in a position to require anything other than what was reasonably practicable and were not in the position of closing industry down.</p>
7.3	<p>The Chair thanked the presenters for the report. There was some sensitive information but the sooner it was possible to have an open and informed debate the better.</p> <p>The Chair:</p> <ul style="list-style-type: none"> • noted the report • asked HSE to consider its use of language when communicating about this • noted the issues around budgets • welcomed a report back from HSE's meeting with the Minister; and • would be happy to be involved in considering how the issue could be taken forward
8	Update on Ufton level crossing train crash
8.1	<p>Allan Sefton gave an oral update on the train derailment at Ufton level crossing. HSE has now completed its on site investigation and has withdrawn from site. It had found no breach of health and safety legislation.</p> <p>The National Level Crossing Safety Group were a possible option to take forward the investigation as part of the national level crossing strategy review.</p>
8.2	<p>The Commission praised HSE for the way they responded, in particular the HMRI investigation team, and for the speed with which the report was produced.</p> <p>In light of the report back, the Commission did not think it appropriate to advise the Secretary of State that a S14 investigation should be held. However they were concerned to ensure that any group reviewing the investigation should represent all stakeholders, including trade unions, and that the conclusions of the investigation should be put in the public domain as soon as possible.</p>
8.3	The Chair thanked the presenter and his staff for what they had done. He

	supported HSE's broad approach and noted that HSE had a clear policy on the risk from level crossings. The cause of the accident was clear and a S14 investigation was not necessary. He asked for a draft letter to send to the Secretary of State.
9	ORR merger (HSC/04/124)
9.1	<p>Stephen Williams introduced the paper, which provided an update on developments in key policy issues relating to the transfer of responsibility for health and safety in the railway industry to ORR.</p> <p>HSE had made good progress with DfT in resolving concerns about some elements of the draft Bill. However HSE was still exploring whether ORR, as enforcing authority for health and safety provisions on rail, should be subject to S18 guidance.</p>
9.2	<p>The Commission emphasised three key principles: clarity on the interfaces: all workers having the same level of protection: and that ORR had a good structure of stakeholder involvement</p> <p>It was important that HSE continued to work closely with DfT and ORR to ensure that the new arrangements worked.</p>
9.3	<p>The Chair thanked the presenters. He said the Commission had given a clear steer on:</p> <ul style="list-style-type: none"> • the need for consistency of enforcement for both workers and employers • the need for clarity on enforcement responsibilities of ORR and HSE after the change: and • the importance of making the arrangements work. <p>The Commission should be kept informed of developments.</p>
10	Potters Bar train derailment- HSE Investigation (HSC/04/129)
10.1	Mike Weightman introduced the paper which provided an overview of the HSE investigation, the Investigation Board's view of the investigation and sought HSC's confirmation of its opinion on holding a public inquiry.
10.2	<p>The Commission noted that decisions re any prosecutions were unlikely before spring 2005. The Commission expressed concern about the length of time this process takes. They considered that the Investigation Board's investigation had been thorough and rigorous. They noted that the Board had kept victims and their families fully informed throughout.</p> <p>It was important that the Board and through them, the Commission and the public were confident that the recommendations were being implemented and improvements made. The Commission expressed concern that the Board had met with some difficulty in obtaining information about how the recommendations were being taken forward.</p>
10.3	<p>The Chair agreed:</p> <ul style="list-style-type: none"> • Network Rail should be invited to the next Potters Bar Investigation Board meeting to provide an update on their work to implement the Board's recommendations. • to write to the SoS stating that the Commission saw no grounds to

	change the advice given in August 2003 in relation to a public inquiry.
11	Working at Heights (HSC/04/122)
11.1	Elizabeth Gibby introduced the paper and summarised the issues. The Adventure Activities Sector had made representations for an exemption under regulations during the consultation exercise and to Ministers.
11.2	<p>The Chair reported back from his meeting with Alistair Burt MP, Kate Hoey and representatives from the Adventure Activities Sector. He felt that there were risks in whatever action was taken and that the implications of an exemption needed to be fully explored with the Sector.</p> <p>The Commission were not convinced that an exemption was justified. It could be confusing and burdensome for the sector and this needed further explanation.</p>
11.3	The Chair asked for a letter to the Minister seeking her agreement to the disclosure of Counsel's advice to the sector and to further dialogue with the sector on the pros and cons of exemption and its implications.
12	Report back from breakout sessions - HSC Open meeting (HSC/05/127)
12.1	The Chair invited Colleagues to reflect on the Open Meeting
12.2	<p>The Commission felt that, apart from some administrative and staging issues, the meeting had been a success. They were eager to have more open meetings, spread around the country, although, because of the resource implications, thought they should be limited in number. They saw a difference between making Commission meetings open and holding public meetings. They asked about the experience of other Agencies .</p> <p>They were also concerned that issues around the openness of advice to Ministers should be resolved.</p>
12.3	<p>The Chair asked:</p> <ul style="list-style-type: none"> • for a paper on the options for more openness. • And that a meeting outside London should be organised.