

**Health and Safety Commission Minutes****HSC/04/M03**

<b>Meeting Date:</b>	10 February 2004	<b>Open Gov. Status:</b>	Fully open
<b>Type of Paper:</b>	Above the line	<b>Paper File Ref:</b>	
<b>Exemptions:</b>	None		

**Present**

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

**Officials Present**

Timothy Walker  
 Kate Timms  
 Justin McCracken  
 Vivienne Dews  
 Colin Douglas  
 Julian Shellard  
 Paul Kloss  
 Mark Dempsey  
 Paul Denman  
 Rob Olsen

**Presenters**

Item 3 – Bill Gillan, Colin Chatten, Carol Grainger  
 Item 4 – Kevin Myers  
 Item 5 – Kate Timms, Vivienne Dews, Tony Mulhall  
 Item 6 – Stephen Williams, Avril Adams, Andrea Parker, John Moyer  
 Item 7 – Colin Douglas  
 Item 8 – Kate Timms, Phil Kemball  
 Item 9 – Anne Sharp

<b>1</b>	<b>Minutes of the meeting held on 13 January 2004</b>
1.1	The minutes were agreed.
<b>2</b>	<b>Urgent business not covered by items on the agenda</b>
2.1	<ul style="list-style-type: none"> <li>• <u>The Morecombe Bay Tragedy</u>: Justin McCracken provided an update on HSE's involvement. He confirmed that health and safety legislation applied to all workers regardless of their employment status. In discussion, the Commission asked for details of Jim Sheridan MP's Private Members Bill, with a view to making a statement on the Commission's position. This would be discussed at the Commission meeting on 24 February.</li> <li>• <u>The Government Setting an Example Programme and Communications with the Public Sector (HSC/04/12)</u>: The Commission requested that this paper be above the line. It would be discussed at the Commission meeting on 9 March.</li> </ul>
<b>3</b>	<b>Action Arising from HSC Discussion Document: Preventing Workplace Transport Accidents (HSC/03/128):</b>
3.1	Bill Gillan introduced the paper. Workplace transport was one of HSC's priority programmes. Workplace transport accidents caused the second highest number of fatalities in the workplace. Being struck by vehicles accounted for about half of the accidents. Evidence indicated that inadequate driver training was a major factor. A lot of work had already been done on vehicle standards, especially relating to forklift trucks and improvements in their design. The roads were heavily regulated to reduce accident rates, but this was not the case "off the roads". HSC/E was looking to introduce extra controls within the formal regulatory framework.

3.2	<p>The Commission questioned the scope of driver licensing. There would need to be clearly defined limits and definitions of what constituted workplace transport and which vehicles were covered. This was not a straightforward issue and there were difficult considerations. The case for regulations would have to be very clearly made and the Commission questioned whether equivalent results could be achieved through other approaches. Improving guidance, common practice and standards were some approaches that needed to be tried in the first instance. The shortfalls in current laws would need to be highlighted. Small firms would have to be adequately consulted and NFU support would need to be sought before moving ahead.</p>
3.3	<p>The Chair thanked the presenters. Summing up, he noted that the Commission was not convinced that consulting on a new regulatory approach was the right option. More options in terms of costs and benefits needed to be considered. The case for licensing would need to be better argued. Training was an important issue but further regulation might not be the only way to secure improvements. The Commission recognised the importance of this work but requested a further paper on options.</p>
<b>4</b>	<p><b>Construction Report to HSC on Operational Issues (No paper):</b></p>
4.1	<p>Kevin Myers introduced this item to the Commission and gave a PowerPoint presentation. He reminded the Commission of the February 2001 Health and Safety summit, led by the Deputy Prime Minister and Bill Callaghan. Industry “Movers and Shakers” were brought together to:</p> <ul style="list-style-type: none"> <li>• Accept responsibility for;</li> <li>• Give priority to; and</li> <li>• Give Commitment to action to address:</li> <li>• The industry’s health and safety record.</li> </ul> <p>Challenging Revitalising targets were developed by all parts of the industry and were announced at the Summit, together with Action Plans designed to deliver them. HSE was responsible for monitoring progress. Progress reports were made to Ministers in February 2002 and January 2003. The HSC/E Construction Priority Programme was designed around an ‘Influence Network which reflected the various ‘layers’ which bear on health and safety risk management - Human and technical systems, which operate within organisation and management systems. These in turn operate within corporate policy influences and ultimately, within the social, political and market context.</p>
4.2	<p>The Construction priority programme was aimed at achieving :</p> <ul style="list-style-type: none"> <li>• Cultural change;</li> <li>• Self regulation – (Construction was poor at self-regulation);</li> <li>• A revamped Intervention Strategy had been developed to support this change.</li> </ul> <p>This Strategy included:</p> <ul style="list-style-type: none"> <li>• A better targeted, intelligence-driven approach;</li> <li>• Earlier intervention in the process with clients, designers and large projects;</li> <li>• Better engagement of senior management at Board level;</li> <li>• Addressing underlying causation – (in investigations and inspections);</li> <li>• Engaging and helping small firms – (through the Working Well Together campaign, SAD’s, Trade Associations and supply chain initiatives);</li> <li>• Including the Government leading by example – (client interventions, working with the Office of Government Commerce);</li> <li>• Occupational Health – Priority topics and Constructing Better Health. (A paper would be put to HSC soon on this);</li> <li>• Engaging the workforce – (Working Well Together bus tour, Worker Safety Advisor pilot, through site interventions and intermediaries).</li> </ul>

4.3	<p>The Construction Priority Programme also complemented::</p> <p>a) wider government initiatives by:</p> <ul style="list-style-type: none"> <li>• promoting better working environments;</li> <li>• motivating employers and complementing a competitive, knowledge driven economy;</li> <li>• engaging more with the Industry to build effective partnerships</li> </ul> <p>b) the new HSC/E Strategy.</p>
4.4	<p>In order to deliver, a new Construction division had been established within FOD (with some increase in resourcing (within existing FOD allocations). This provided a clearer management focus. Examples of good practice developed through partnership working and business re-engineering were displayed for steel erection and pre-cast concrete flooring - with respect to falls from height - and highways work. .</p>
4.5	<p>The Commission welcomed the presentation. New ways of working were being developed for dealing with a challenging industry. This would be a clear success story if the positive momentum was maintained by HSC/E and all parts of the industry.</p>
4.6	<p>The Chair thanked the presenter. This was an interesting and important topic. The good work so far was noted and the Commission would return to this issue at a later date.</p>
<b>5</b>	<p><b>Delivering HSC/E's PSA Targets: progress report at 3<sup>rd</sup> quarter stage 2003-04 (HSC/04/24):</b></p>
5.1	<p>Kate Timms introduced the paper. This was the second performance report to HSC, following the previous one in November. The information in this report had already been sent to the Minister and there were issues on resources to be considered. Two programmes currently in their early stages were:</p> <ol style="list-style-type: none"> <li>I. Local Authorities;</li> <li>II. Occupational Health and Safety development.</li> </ol> <p>HSE hoped to be in a position to report more on these within the coming months.</p>
5.2	<p>The Commission welcomed these performance reviews. Commissioners agreed that, as part of a new way of working, these targets could hold the Executive to account in terms of delivery. Local Authorities were progressing well. The introduction of a steering group to lead the work would be a positive measure here. The current indicators for rail, offshore and the Government Setting an Example Programme were highlighted. Presentationally, some parts of the paper could be difficult to read. Improvements in the clarity of tabular information would be useful.</p>
5.3	<p>The Chair thanked the presenters. Summing up, DWP had requested quarterly data. HSC/E would need to be certain about the meaning of statistical variations and there were a few minor presentation points. However, HSC was pleased to report this progress to the Minister and would proceed on that basis. In conclusion, the Commission:</p> <ul style="list-style-type: none"> <li>• Noted the report and advised the Chair on any issues it wished to be drawn to the Ministers attention;</li> <li>• Noted the position with the development of two Strategic Programme Plans – New Interventions and Local Authorities.</li> </ul>
<b>6</b>	<p><b>Rail Safety: The Effectiveness of TPWS for Overspeed Mitigation (HSC/04/15):</b></p>
6.1	<p>Avril Adams introduced the paper. Although the TPWS (Train Protection and Warning System) fitment programme had been highly successful in mitigating SPAD risk (at least five “serious” incidents had been avoided due to TPWS) emerging evidence showed that TPWS was much less effective and suitable for mitigating overspeed risk than anticipated when developing the Railway Safety Regulations 1999. Costs of TPWS had escalated to over three times the original estimates because the industry had had difficulty in controlling costs.</p>

6.2	There was not a universal agreement across industry about the benefits of TPWS for overspeed mitigation. There were emerging areas of concern on the 'reset and continue' incidents and outstanding issues in relation to the exemption for temporary speed restrictions which would start to emerge from 2 January 2005. Any amendment to this aspect of the Regulations could be incorporated into the plans of Cullen Legislation Division. HSE was sympathetic to improving the risk base for decision making on the application of TPWS to speed restrictions and encouraging the industry to take more responsibility for making these judgements. A regulatory amendment would provide the opportunity to do this. HSC/E would need to consider carefully the implications for existing fitments of TPWS for overspeed mitigation. An option might be to state that existing fitments should remain so far as the fitments were reasonably practicable.
6.3	The Commission supported the paper. Evidence would need to be collected and the issue of "reset and continue" needed to be understood further to inform any regulatory review. This was an example of HSC/E being a good, independent Regulator and responding in an appropriate manner to emerging evidence.
6.4	The Chair thanked the presenters. In summing up, the Commission agreed HSE proposals for taking this issue forward with the rail industry by gathering evidence with a view, subject to consultation, to possibly amending the 1999 Regulations by the end of 2004.
<b>7</b>	<b>Communication Strategy – 2004/5 to 2006/7 (HSC/04/32):</b>
7.1	Colin Douglas introduced the paper. A three year Communication Strategy for HSC/E was designed to strengthen the communication focus and support delivery of the HSC Strategy. There were six communication objectives: <ul style="list-style-type: none"> <li>• Putting in place effective internal communications;</li> <li>• Developing a communications culture across HSC/E;</li> <li>• Establishing a strong and dynamic strategic communications approach;</li> <li>• Helping to build and solidify partnerships by better communicating with, and through, a growing band of partners;</li> <li>• Presenting a clear picture of our role and focus;</li> <li>• Promoting the case for sensible health and safety by communicating its benefits.</li> </ul>
7.2	Audiences were critical. For the first year (2004/05) the communications would be slanted towards the following audiences: <ul style="list-style-type: none"> <li>• HSC/E staff and supporting Commissioners;</li> <li>• National government;</li> <li>• Key stakeholders/opinion leaders.</li> </ul> A base of support and understanding would need to be built. HSC/E must continue to build and develop a strong web presence which must increasingly be seen as the primary mechanism for communicating. A wider range of opportunities needed to be identified and exploited in order to be communicated both through national and regional media.
7.3	The Commission welcomed the paper. This was a significant step forward including the development of a communications culture and the support mechanisms. The appropriate audiences needed to be targeted if perceptions were to be influenced. Subscription to the web based service was questioned as some target audiences had limited access to the internet. Key stakeholder groups, including those in Scotland and Wales, also needed to be defined and ways of contacting them must be mapped out.

7.4	<p>The Chair thanked the presenters. Ministers had agreed the HSC strategy and publication was planned for 23 February. Commissioners were invited to contact external stakeholders to inform them of the publication and enlist their support. Summing up, the Chair noted that the Commission:</p> <ul style="list-style-type: none"> <li>• approved the key audiences and messages for 2004/05 as set out in the communications strategy;</li> <li>• approved the objectives and outcomes set out in the Appendix to the communications strategy;</li> <li>• noted that the communications strategy assumed a focus on a smaller set of audiences in 2004/05, which would be widened in 2005/06, and that resourcing this would need to be considered by HSE. The details of this would be developed over the course of 2004/05 and reported back to HSC.</li> </ul>
<b>8</b>	<b>Work and Pensions Select Committee (HSC/04/30):</b>
8.1	<p>Kate Timms introduced the paper. The House of Commons Work and Pensions Select Committee was to examine the work of the Commission and the Executive. A draft memorandum to the Committee was attached to the paper. Subject to Commission comments, this memorandum would be submitted on 23 February.</p>
8.2	<p>The Commission discussed the inclusion of a reference to SFARP as the legal challenge by the European Commission could have a fundamental impact on health and safety regulation.</p>
8.3	<p>Summing up, the Chair noted that the memorandum should be more confident about HSC/E's record and approach. The memorandum should be re-drafted to include the Commission's comments. A short paragraph on SFARP would need to be included. The Commission:</p> <ul style="list-style-type: none"> <li>• noted and commented on the draft memorandum to the Select Committee;</li> <li>• noted the timetable for the publication of the strategy and the role of the Commission in gaining public support for the strategy from key stakeholders.</li> </ul>
<b>9</b>	<b>DfT Rail Review – Update:</b>
9.1	<p>Anne Sharp updated the Commission on the Department for Transport's (DfT) review. The scope of the review was not yet clear, for example, in terms of whether ministers would consider primary legislation. However, HSE would work closely with DfT. The Chair had written separate letters to the Secretary of State for Transport on HSC/E's overall approach to railways (sent shortly before the review announcement) and on the review itself, but had not received a response. Factual information was being sent to DfT officials on what HSC/E do and how. A further note was being prepared on the current railway safety arrangements. HSE had also prepared key messages on the review. Running through the inputs to DfT and the key messages were the principles spelt out in the Chair's second letter – namely the importance of an independent safety regulator, the strengths of an approach based on reasonable practicability and the need for a satisfactory interface between worker and public safety. The Commission would be kept informed of developments.</p>

9.2	The Commission welcomed the update. It was clear that the Government was primarily concerned about the performance and costs of the railway network. The Commission supported HSE's approach to regulating the industry, and the key messages on the review. It asked for strengthening of these to make it clear that any changes in the arrangements should ensure or improve on current levels of protection. The Commission noted criticisms that the rail industry had levelled at HSC/E. Lord Cullen had set the agenda that HSC/E were now implementing; both Ministers and HSC had accepted his recommendations. However, HSC/E had demonstrated that it could be pragmatic, for example in its advice to Ministers on the issue of ERTMS. It was important that business continued as usual during the course of the review, and the Chair had written to the Secretary of State about this.
9.3	The Chair thanked the presenters. The Commission awaited a further report back at the March meeting, and in particular advice on the appropriateness of its making a public statement.
	<b>Below the Line Items:</b>
<b>11</b>	<b>Enforcement of the Carriage of Dangerous Goods Legislation by the Vehicle Inspectorate and by the Police Forces in England, Scotland and Wales (HSC/04/11):</b>
11.1	The Commission agreed that: <ul style="list-style-type: none"> <li>• this report described a positive effect of the Agency Agreements and as a consequence the arrangements should be continued;</li> <li>• an invitation be made to the Association of Chief Police Officers in Scotland (ACPOS) to extend empowerment to all the police forces in Scotland;</li> <li>• the terms of the Agency Agreements are revised to refer to the new Carriage Regulations.</li> </ul>
<b>12</b>	<b>Further Consultation Document on Proposed Control of Substances Hazardous to Health (Amendment) Regulations 2004 (HSC/04/14):</b>
12.1	The Commission agreed publication of the CD and noted DEFRA's proposed new approach to Marketing and Use Directives, and its possible impact on the implementation of the cement Directive.
<b>13</b>	<b>Agency Agreement with DEFRA for the Inspection &amp; Enforcement Relating to the Environmental Aspects of Contained Use of Larger Genetically Modified Organisms (GMO's) &amp; Deliberate Releases into the Environment of GMO's used in Clinical Applications (HSC/04/17):</b>
13.1	The Commission noted that HSE would continue to inspect the contained use activities, and extended its remit to include the deliberate releases of GM micro-organisms in a clinical setting.
<b>14</b>	<b>SR2004 PSA Targets (HSC/04/23):</b>
14.1	That you agree in principle to the use of precursor data (relating to injuries, ill health, days lost and major hazards) as indicators to underpin the new PSA target.
<b>15</b>	<b>Implementation of Directive 2003/105/EC amending Council Directive 96/82/EC on the Control of Major Accident Hazards involving Dangerous Substances (HSC/04/26):</b>
15.1	The Commission: <ul style="list-style-type: none"> <li>• endorses the implementation proposals below; and</li> <li>• agrees that the opportunity should be taken to make a small number of minor changes to the Control of Major Accident Hazards Regulations (COMAH), through which the Seveso II Directive was implemented in 1999.</li> </ul>

<b>16</b>	<b>Proposed Home Office victims code of Practise: Treatment of Health and Safety Incidents (HSC/04/09):</b>
16.1	The Commission: <ul style="list-style-type: none"> <li>noted support for the exclusion of health and safety incidents from the Home Office draft code, which is not written in terms that can be applied readily to health and safety enforcers;</li> <li>noted that in order to take account of the code as far as possible, the arrangements for HSE and local authority liaison with victims were being reviewed, and how to define 'victim' for health and safety purposes was being considered;</li> <li>gave any comments they had on these issues.</li> </ul>
<b>17</b>	<b>Approved List of Biological Hazards (HSC/04/29):</b>
17.1	The Commission approved publication of the Approved List
<b>18</b>	<b>The Government setting an example programme &amp; Communications with the Public Sector</b>
18.1	The Commission requested that this paper be discussed above the line at the next meeting.
	<b>Miscellaneous Papers</b>
<b>19</b>	<b>External Review of HSE Science (MISC/04/03):</b>
19.1	The Commission noted the paper
<b>20</b>	<b>Development of a new HSC/E Science &amp; Innovation Strategy.</b>
20.1	The Commission noted the paper

**Commission Secretary  
February 2004**