

**Health and Safety Commission Minutes****HSC/04/M04**

<b>Meeting Date:</b>	6 April 2004	<b>Open Gov. Status:</b>	Partially closed
<b>Type of Paper:</b>	Above the line	<b>Paper File Ref:</b>	
<b>Exemptions:</b>			

**Health and Safety Commission**

Minutes of a meeting of the Health and Safety Commission held on 6 April 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  
 George Brumwell

**Apologies**

Margaret Burns

**Officials Present**

Kate Timms  
 Vivienne Dews  
 Alex Brett-Holt  
 Colin Douglas  
 Mark Dempsey  
 Paul Kloss  
 Paul Denman  
 Paul Nicholson  
 Jimmie Yardley - DWP

**Presenters**

Item 3 – Kate Timms, Brian Etheridge  
 Item 4 – Vivienne Dews, Vic Coleman  
 Item 5 – Laurence Williams, Andy Hall, Colin Potter, Jason Batt  
 Item 6 – Sandra Caldwell, David Ashton  
 Item 7 – Paul Davies, Alex Tsavalos  
 Item 8 – Andy Hall  
 Item 9 – Elizabeth Gyngell, Jane Willis, Chris Rowe

**1 Minutes of the meeting held on 9 March 2004**

1.1 The minutes were agreed.

**2 Urgent business not covered by items on the agenda**

- 2.1
- I. The Chair welcomed Hugh Robertson to his first Commission meeting and congratulated Margaret Burns on her re-appointment. Mark Dempsey was thanked for his service as Commission Secretary. Susan Mawer would replace him.
  - II. The Commission requested that HSC/04/05 (Evaluation of Management Standards & Proposals for Consultation) and HSC/04/49 (Land Use Planning – Societal Risk) were now discussed above the line.
  - III. Jane Kennedy MP was the new Minister for Work. The Chair would be contacting her soon.

<b>3</b>	<b>Becoming a Modern Regulator (HSC/04/53)</b>
3.1	<p>I. Kate Timms explained that HSC agendas were now being planned and structured differently. This paper posed questions to HSC about the future of regulation. The Commission would need to think about how it envisaged its new role, whilst considering the impact of the budget statement and the Gershon review.</p> <p>II. Brian Etheridge explained the timeliness of a debate on the role of a regulator in the light of a need to implement the HSC strategy and the increasing prominence being given to the work of the Better Regulation Task Force (BRTF). This paper would pose questions to inform thinking and lead a debate about the look and feel of a modern regulator with a view to bringing back more detailed proposals in due course. It would also inform HSC/E's response to the Hampton review.</p>
3.2	<p>The Commission welcomed the paper and believed that more time should be set aside for a fuller discussion. There was a lot happening here and the strategy gave HSC/E a good basis to start from. The Commission was keen to influence both Philip Hampton and the Treasury. Any regulatory proposals likely to impose major new burdens on business would receive a lot of government attention. HSC/E should produce a balanced, rational, well argued paper to inform the Hampton Review and see this as an opportunity, not a threat. The HSWA cannot be dismantled, but HSC/E could look to reposition themselves. The Commission suggested providing evidence to demonstrate which ways ahead would work and case studies (eg Land Use Planning) could be offered to BRTF. Health, Safety and the Environment were increasingly being managed together. HSC/E needed to recognise this and anticipate future relationships with the Environment Agency. It was believed that the government had a desire to consolidate regulators. HSC/E should look at the existing Memorandums of Understanding with other authorities and see if these still worked. Care would be needed when thinking about joining up with economic regulators. Questions about European Directives and regulation of the Labour market must be addressed since HSC/E structures were not always well suited to the regulation of "new" areas. HSC/E might look to form a cluster with other regulators engaged in the labour market. HSC/E must succeed at joining up better with Local Authorities.</p>
3.3	<p>The Chair thanked the presenters. Summing up, the HSC/E strategy addressed all the issues raised. The test was now in delivering practically. There were advantages to be had in being a leading organisation here. There was real pressure from the government. The Budget statement had expressed the need for effective regulatory outcomes. HSC/E should be setting the agenda and developing the lead. The next steps were for a submission to go to Philip Hampton and to pursue the workshop suggestion. In conclusion, the Commission:</p> <ul style="list-style-type: none"> <li>• had a wide-ranging strategic discussion to inform the development of more structured proposals in due course;</li> <li>• gave a steer on the approach to the Hampton review on the scope for promoting more efficient approaches to regulatory inspection and enforcement.</li> </ul>

<b>4</b>	<b>Financial Outlook 2004-2008 (HSC/04/54)</b>
4.1	➔
4.2	
4.3	
4.4	
4.5	
4.6	
4.7	← fully closed
<b>5</b>	<b>HSE Criteria for Delicensing Nuclear Sites (HSC/03/119)</b>
5.1	Andy Hall introduced the paper. The assessment of what constituted “no danger” was not a straightforward matter, particularly if radioactive contamination remained. Publication of HSE’s criteria for delicensing was now pressing – with the increasing focus on nuclear site decommissioning and clean up there was an expectation from other government departments and industry that HSE would clarify its policy on the “no danger” criteria. Following the Commissions agreement in principle to undertake a consultation exercise, HSE had foreshadowed it in a number of public forums. The recent Government consultation on a revised decommissioning policy included a reference to HSE’s developing delicensing proposals and the proposed HSE consultation exercise. A maximum risk of 1 in a million chance of death per year from radiological exposure arising from any man made radioactivity left on a delicensed area of a nuclear licensed site was proposed. The Commission was being asked to allow consultation to proceed.
5.2	The Commission questioned the levels of risk. Reaching a level of 10 to the minus 6 was the first criteria. ALARP would be the second criteria. These two requirements would be given equal weighting in the determination of delicensing. 10 to the minus 6 was seen as an appropriate and defensible level of risk tolerability. This was a level below that of background radiation. The Commission asked that this be expressed in a way the public would understand. Using LA’s would be of value. They have methods of consultation that would be of use (eg Community outreach mechanisms). More attention to the Devolved Administrations was also important.
5.3	The Chair thanked the presenters. The joint criteria, LA’s and the background radiation were the key points. Delicensing was a positive step, provided there were sensible criteria. The Commission looked forward to the Sellafield visit in June. Summing up, the Commission agreed to publication of the (slightly amended) Consultative Document.
<b>6</b>	<b>The New Model for FOD (HSC/04/48)</b>
6.1	<ul style="list-style-type: none"> <li>I. Sandra Caldwell introduced the paper. The aim was to enable FOD to work better both internally and externally, building resilience. Annex 1 of the paper was based firmly on pilot exercises that had been undertaken.</li> <li>II. David Ashton gave a presentation to the Commission. Pilot exercises had taken place in London and the North West with dedicated project managers, plans and measures. There was wide membership and a programme board oversaw developments. Progress reports were produced and the pilots were steered and modified where needed. Evaluation reports were agreed and 14 proposals developed. Information and emerging conclusions were shared with HSE Trade Unions. The overall view was that this had been a very beneficial process for FOD.</li> </ul>

6.2	<p>Success criteria included:</p> <ul style="list-style-type: none"> <li>• Business efficiency – A key measure had been the improvements in contact time;</li> <li>• Business quality – A key measure was to broaden the range of HSE staff dealing with dutyholders;</li> <li>• Business health – The 30% staff turnover rate in London for Band 3 and Band 6 had now virtually been reduced to zero.</li> </ul> <p>The changes in FOD would result in:</p> <ul style="list-style-type: none"> <li>• More contact and a wider range of intervention techniques – Much more contact by operational Band 5's;</li> <li>• Intelligence and information gathering – To support operational activities;</li> <li>• Inspection – with dutyholders but also with designers and suppliers;</li> <li>• Education and promotion – Awareness days, advice and guidance;</li> <li>• Investigation – As part of the preventative approach;</li> <li>• Enforcement and other campaigns – high profile, perhaps to include “zero tolerance” of certain failures;</li> <li>• Dedicated stakeholder teams – there was a very wide potential range of intermediaries and other sources of influence; Targeting, economy of effort and lateral thinking will be essential.</li> </ul> <p>The new model for FOD would increase contact time and greatly improve the operational contribution of Band 5 and 6 staff, some in new roles.</p>
6.3	<p>The Commission welcomed the presentation. This was a big step forward. Good work had been done in the context of SME's although more information about LA's would be useful. Qualitative improvements needed to be considered, as well as quantitative ones. Care should be taken if breaches in the law were now being treated as opportunities to provide advice. This could have implications for safety culture but this was a positive initiative. Officials were reminded not to just look at issues from HSE's point of view. Proportionality was important and any advice given must be necessary.</p>
6.4	<p>The Chair thanked the presenters. The Commission noted what was proposed and this was a welcomed initiative. Resources were being used to good effect and important evidence had been put forward.</p>
<b>7</b>	<b>Managing the Risks from Nanotechnology (HSC/04/42)</b>
7.1	<p>Paul Davies gave a powerpoint presentation. Nanotechnology is the design and creation of materials at the millionth of a millimetre scale. Its “top down” and “bottom up”. A diverse range of materials, technical platforms and possible uses surround the subject. It is both solutions for existing needs and new products awaiting market development. Nanotechnology is atomic force EM, molecular stampers, carbon nanotubes and high tech dusts and powders. Nanotechnology is not nanobots, self assembling computers or bionano cyborgs. Currently, there exists:</p> <ul style="list-style-type: none"> <li>• self cleaning coatings – glass/tiles;</li> <li>• novel materials – suntan lotion;</li> <li>• advanced sensors and integrated circuits;</li> <li>• material modifiers – static relaxation;</li> <li>• use of biological molecules as moulds or vectors – controlled particle size and simple self assembly.</li> </ul>

7.2	<p>The technology opens up new frontiers and there is a current lack of knowledge about;</p> <ul style="list-style-type: none"> <li>• hazards – new materials or new properties from existing materials;</li> <li>• risk – control measures are unproven.</li> </ul> <p>This means that there is uncertainty about the risks. The regulatory approach requires sensible, proportionate and precautionary risk management so that:</p> <ul style="list-style-type: none"> <li>• HSC/E keeps on the side of safety;</li> <li>• the degree of caution is proportionate to the degree of uncertainty;</li> <li>• best health and safety practise is followed.</li> </ul> <p>Research is being undertaken to reduce levels of uncertainty.</p>
7.3	<p>The ways forward include:</p> <ul style="list-style-type: none"> <li>• raising the profile of possible issues;</li> <li>• promoting the adequacy of existing regulatory architecture;</li> <li>• providing practical information and advice to employers and employees;</li> <li>• links to RS/RAE report in order to enhance HSE’s reputation and further promote risk awareness and control.</li> </ul>
7.4	<p>Proposed actions include:</p> <ul style="list-style-type: none"> <li>• a published interim information note (at Annex 1);</li> <li>• a communication plan;</li> <li>• completing and publishing 3 on-going reviews – fire and exposure, toxicology and occupational hygiene;</li> <li>• working with all government, industrial and research stakeholders to prepare a research strategy to reduce uncertainty.</li> </ul>
7.5	<p>The Commission welcomed the presentation. Work was being undertaken in a proportionate, sensible way. Care would be needed over the unknowns to long term health issues. HSC/E’s focus was on the remit. A precautionary approach should be adopted and changes could be made as understanding increased. Comparisons were made to countries such as China, Japan and America. However, HSC/E should not base its level of precaution on work being undertaken in other countries. HSC/E should be seen as an exemplar in this area. The National Consumer Council recently published a report entitled “Winning the Risk Game”. The report outlined a model of good risk governance and HSC/E would need to consider the 5 criteria outlined. Coordination with other agencies was necessary to ensure that there was clarity about who was responsible for taking decisions.</p>
7.6	<p>The Chair thanked the presenters. This was a fascinating area of work and the Commission broadly supported the approach described. A balance was to be struck and research was required to diminish levels of uncertainty. Summing up, the Commission had commented on the suggested approach set out in the paper.</p>
<b>8</b>	<p><b>Reconciling Land Use Planning advice and required ALARP demonstration for COMAH establishments (HSC/04/49)</b></p>
8.1	<p>The Commission raised this paper above the line. Andy Hall explained that following a meeting with ODPM, other government departments had reacted angrily to the fact that HSE was consulting on planning issues that could expose Ministers to issues for which there were not currently solutions.</p>
8.2	<p>The Commission was concerned that other government departments were trying to halt this work. This was a vital issue and it was important to keep to the original timetable. The Treasury had already said that planning issues were a huge trade restriction in the UK. The pressure must be kept on. The Cabinet Office and the Treasury should be more interested and engaged here. The Commission suggested that this area could be the subject of a BRTF case study.</p>

8.3	The Chair thanked the presenter. A letter would be written to David Arculus.
<b>9</b>	<b>Proposals for a public consultation campaign to support the development of Management Standards to tackle work-related stress (HSC/04/05)</b>
9.1	The Commission raised this paper above the line. Commissioners wanted to see the guidance and workshop evaluations. There was the feeling that proposals did not reflect the workshops. Concern was expressed over the percentages used. It was felt that these figures could be misleading.
9.2	It was agreed that the purpose of the consultation should make clear that views were being sought on this opinion. A cover note with appropriate disclaimer would accompany the paper version. It would be explained that figures should be in a footnote to avoid people focussing solely on percentages when studying the document.
9.3	Summing up: <ul style="list-style-type: none"> <li>the Commission agreed proposals for a public Consultation Campaign, subject to the appropriate amendments;</li> <li>Commissioners were invited offer their active support to the campaign by signing up to attend a short workshop on the Management Standards.</li> </ul>
	<b>Below the Line Items:</b>
	<b>Evaluation of Management Standards &amp; Draft Proposals for Consultation (HSC/04/05)</b>
	This paper was discussed above the line.
	<b>The Biocides Consultative Committee – Reappointment of members (HSC/04/41)</b>
	The Commission agreed the reappointment of the current members of the BCC; and that the submission at Annex A should be sent to the Minister of State, DWP.
	<b>HSE Coordinated Programme of Nuclear Safety Research 2004/05 (HSC/04/18)</b>
	<ul style="list-style-type: none"> <li>HSC approved the proposed outlined NSR Programme which formed part of the HSE Major Hazards Research Programme and associated management costs, including HSE's consequent levy on the nuclear licensees.</li> <li>HSC noted that HSE had been in discussion with DTI in order to agree new draft HSC Guidelines for the NSR programme to replace the DTI Guidelines which had been in place since 1990 (revised 1994).</li> </ul>
	<b>Advice from the Nuclear Safety Advisory Committee on the HSE Coordinated Programme of Nuclear Safety Research for 2004/05 (HSC/04/19)</b>
	<ul style="list-style-type: none"> <li>HSC was advised by NuSAC to approve the HSC Co-ordinated Programme of Nuclear Safety Research for 2004/2005 put forward in paper HSC/04/18.</li> <li>HSC was further advised that the new programme management arrangements were operating satisfactorily, but the NuSAC SCR would continue to monitor the arrangements closely.</li> </ul>
	<b>HSE Coordinated programme of Nuclear Safety Research 2002/03. Efficiency Report (HSC/04/20)</b>
	HSC noted the report, which summarised HSE's and licensees' evaluation of the efficiency and effectiveness of the 2002/2003 HSE Coordinated Programme.
	<b>Land Use Planning – Societal risk (HSC/04/49)</b>
	This paper was discussed above the line
	<b>Miscellaneous Papers:</b>
	<b>Workplace Transport Competency Assessment CD-Rom (MISC/03/06)</b>
	The Commission noted the paper

	<b>Work Related Violence – Progress on the Commission’s Three Year Programme 2000–2003 and Proposals for Work in 2004-06 (MISC/04/06)</b>
	The Commission noted the progress of the 2000-03 programme of work on WRV (Annex 2); and noted the work planned for 2004-2006 (Paras 20-21 and Annex 3). This work would build on the momentum and success of the 2000-03 programme and demonstrated HSE’s continued commitment to working with its key stakeholders and partners to reduce the incidence of WRV still further.
	<b>Drug Related Accidents at Work – Outcome of Research (MISC/04/07)</b>
	<p>The Commission noted the outcome of the research. This confirmed the interim findings that informed HSC’s advice to Ministers on 20 November 2002:</p> <ul style="list-style-type: none"> <li>• there was insufficient evidence to link illegal drug use and workplace accidents, so that a baseline, and hence a target for reduction, could not be set;</li> <li>• HSC’s strategy was to help employers prevent and manage the problem of drug misuse at work, and to continue to support cross-Government strategies to tackle the problem of drug misuse more generally.</li> <li>• There was no need to change this advice and the Minister of State for Work has been informed in a separate submission. Home Office Ministers were also aware. The issue of drugs in the workplace was not a priority for HSE and work was being kept to a minimum.</li> </ul>
	<b>Transfer of Carriage of Dangerous Goods Work from HSE to the Department for Transport (MISC/04/10)</b>
	The Commission noted the paper
	<b>Review of Charging (MISC/04/12)</b>
	The Commission noted the paper
	<b>Draft Directive on Trade in Services – Possible Health and Safety Implications (MISC/04/13)</b>
	<p>The Commission noted that:</p> <ul style="list-style-type: none"> <li>• the potential impact of the draft directive was being examined;</li> <li>• → ← <i>exemption 2(2)</i></li> <li>• a further paper would be submitted for the Commission’s 8 June agenda to enable a timely response to the consultation.</li> </ul>

**Commission Secretary**  
**April 2004**