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Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission, held on 5 April 2005 in the Globe Room, 2 Southwark Bridge, London, SE1 9HS.

Present

Bill Callaghan – Chair
Margaret Burns
Danny Carrigan
Judith Donovan
Judith Hackitt
Joyce Edmond-Smith
Sayeed Khan
John Longworth
Hugh Robertson

Apologies

Elizabeth Snape

Officials Present

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

Observers

Professor Anthony Newman Taylor

Introduction

1. The Chair welcomed visitors to the Commission's first open meeting and hoped that they would find the experience of seeing how the Commission works and reaches its decisions an informative one.
- He welcomed Sayeed Khan who had been appointed as an independent Commissioner following consultation with professional and independent health and safety organisations.
- He also welcomed professor Tony Newman Taylor, Chair of the Industrial Injuries Advisory Committee as an observer.

2 Minutes of the meeting held on 8 March 2005 (HSC/M03/2005)

2.1 The minutes were agreed.

3 Urgent business not covered by items on the agenda

3.1 Vivienne Dews reported that HSC had now received its Spending Review 2004 settlement. The settlement was slightly more cash than flat cash. In real terms it meant about an additional £8M over 3 years. This reflected DWP's view that it was worth putting money into health and safety. This, coupled with efficiencies and end year flexibility meant that we would have the funding to deliver our plan, It is not a free spending settlement.

The Secretary of State had formally approved the three year plan.

3.2	<p>The Chair announced that following open competition, the following had been appointed to the Board:</p> <p>Mike Weightman -Head of Nuclear Safety Directorate</p> <p>Kevin Myers – Head of Hazardous Installations Directorate</p>
3.3	<p>Judith Donovan reported that she had arranged for a Workers Memorial Day Service to be held Ripon Cathedral on 28 April. This was the first time that this service has been held at the cathedral.</p>
4	<p>Wider Health Agenda- an update on occupational health (HSC/05/56)</p> <p>Jane Willis introduced the paper, setting out what had been achieved so far, the challenges we now faced, and reporting on future work to improve on achievements.</p> <p>On Workplace Health Direct a need for a Stakeholder Council had been identified to ensure better external expertise in the oversight of the programme.</p> <p>Powerpoint presentation attached at annex 1</p>
4.1	<p>The Commission strongly welcomed the paper and the commitment shown to delivering the strategy. It commended the work done on the MSD campaigns as good examples of joint working and achieving results. The 'Working Backs' campaign in Scotland had been very successful; the trade unions had been fully involved in initiatives and there had been good cooperation with local authorities. The work done by HSE in getting the Trade Unions and stakeholders together had been a great success and should be highlighted. There had been good involvement on both sides and they had been working together to produce guidance on a number of issues.</p> <p>There was some concern that there was too much emphasis on return to work in the paper rather than on occupational health and support.</p> <p>The formation of the Senior Stakeholders Council for Workplace Health Direct (WHD) was welcomed. Commissioners questioned how its function would differ from that of OHAC. It was noted that the Stakeholders Council would have a specific role within the governance structure of WHD, its terms of reference were being finalised and the Commission would receive details/ The wider role of involving occupational health professionals was taken forward through the OH Reference Group which was providing a useful sounding board for ideas and a quarterly newsletter to help keep people informed of developments.</p> <p>The Commission were keen to see the communications and marketing plan underpinning the programme. And felt that in future it would be useful to see communication plans alongside policy papers. Explaining what we were doing and why was vital. We had produced good products such as the stress management standards but had to get</p>

4.2	<p>employers and employees more involved to ensure there was uptake of these. HSE needed to engage with the enforcers. The involvement of environmental health officers had proved successful in getting messages across to sector and trade bodies. There was a need to identify businesses with good practices and use them as advocates for change in the way that businesses operate. Some of the greatest gains could be made by targeting the public sector.</p> <p>Other points raised by the Commission included:</p> <ul style="list-style-type: none"> • The developments on smoking in different parts of the United Kingdom could lead to potential difficulties with workplaces covered by different requirements. We would need to keep an eye on this; • There was a risk of ‘tool box’ fatigue in small firms <p>Professor Tony Newman Taylor recognised similarities with the issues discussed at the IIAC – the nature of work-related ill health, how this was changing and the increase in stress and MSDs. He saw a need to engage with the people providing occupational health support. Many of those who had work-related ill health were seen first by primary care practitioners and hospital staff, who were not well educated in occupational health and may inadvertently give inappropriate advice and unwittingly reinforce the wrong messages.</p> <p>The Chair thought the links with other government departments, particularly Health departments, were crucial to the success of the programme. Workplace Health Direct involved a substantial investment of public money and it was important to have the proper governance arrangements in place. The Stakeholder Council would provide the opportunity for HSE to draw on a broad area of expertise. There were a lot of relationships to be managed to a very demanding timetable and Commissioners had a role to play in this.</p>
4.3	<p>The Chair thanked the presenter. The Commission noted and agreed the proposals. It agreed:</p> <ul style="list-style-type: none"> • A further paper should be provided setting out how the stakeholder council fits with the project board, its terms of reference and purpose and the monitoring and evaluation arrangements • Sayeed Khan should sit on the council. Hugh Robertson would consider his and others participation. • Whilst second hand smoking was a public health issue, they needed to be aware of developments <p>HSE should ensure that the links with different organisations worked.</p>
5	<p>Implementation of HSE’s Stress Management Standards in the NHS (HSC/05/53)</p>
5.1	<p>Will Pascoe introduced the paper. The project was aimed at achieving proactive management of stressors within the NHS. It was launched in January 2005 and the first Trusts would begin implementation in May. The project was a great opportunity for HSE to engage with the NHS outside of its traditional enforcement led role, and there was a lot of enthusiasm for the approach within the candidate trusts.</p> <p>Powerpoint presentation Annex 2</p>

5.2	<p>The Commission welcomed the paper but were concerned that it did not recognise the different health and safety systems in England, Scotland and Wales and how the project was handling the implications of these differences. It was explained that some NHS Trusts in Wales had expressed interest in the project and that NHS Boards in Scotland had also been contacted though none had volunteered thus far. They also thought there was inadequate cover of worker involvement – volunteer Trusts needed agreement and involvement of their staff to roll out the Stress Management Standards or the system would not work. It was stated that workers and their representatives within volunteer trusts would be working with management to implement the Stress Management Standards and that a “Sector Information Forum” consisting of representatives from key stake holder groups was being convened to acquire appropriate information and intelligence.</p> <p>They referred to a data collection system in Manchester based on reporting by occupational health physicians and suggested this might provide a useful source of information to help identify outcomes.</p>
5.3	<p>The Chair thanked the presenter. The Commission welcomed the approach and recognised the need to make a real difference to levels of stress in the public sector. Worker involvement was an important issue, as was the need for evaluation and monitoring. The Commission would be interested in what the initiative achieved and information should be fed into the Ministerial Task Force.</p>
6	<p>Proposed Control of Noise at Work Regulations: results of the public consultation and recommendations. (HSC/05/01)</p>
6.1	<p>Elizabeth Gibby introduced the paper, which seeks agreement for the proposed regulations to be sent to the Minister.</p> <p>The proposed regulations, which implement a EU Directive, will reduce the noise level at which action has to be taken by 5 decibels. This will have a significant effect on reducing hearing loss.</p> <p>HSE have engaged with stakeholders to explain the regulations and in particular are working with the music and entertainment sector to define ways in which they can comply with the regulations.</p> <p>It is hoped to launch the guidance during European week in October. Road shows, organised with EEF, will be held around the country .</p>
6.2	<p>The Commission welcomed the proposals; although there had been improvements in the level of work reduced hearing loss there was still more to be done. The new regulations should be actively enforced.</p> <p>It discussed draft regulation 4 (4) and thought this should be consistent with other requirements in requiring employers to talk with employees about whether weekly or daily exposures should be used. This would however go beyond the requirements of the Directive.</p> <p>The Commission felt that it needed to see the guidance before it agree the regulations.</p> <p>There was a risk of bad publicity and it was important to be proactive. There should be a communications plan with robust answers and strong messages. Some form of guidance should be available on</p>

	<p>HSE's web site. There should be guidance for small firms.</p> <p>The Commission questioned the background to the proposal to delete the requirement that, when companies cease to trade to pass health records to HSE. HSE responded that an OHAC survey revealed that this rarely happened. HSE advice was to pass the information to the individual concerned.</p>
6.3	<p>The Chair thanked the presenters. The Commission were broadly satisfied with the proposals but needed to see the guidance and communications plan before it agreed the regulations. These should be brought to the next meeting.</p>
7	<p>Hampton Review: Immediate reflections on the final report (HSC/05/51)</p>
7.1	<p>Jonathan Rees introduced the paper, updating the Commission and seeking their initial response to the report, and also referred to the Better Regulation Task Force report.</p> <p>The Hampton Report was broadly positive for HSC/E but there would be a lot of detailed work to do to follow it up. HSE's job was to make the changes proposed by government work. It would be important to develop a close relationship with the Better Regulation Executive.</p> <p>A project board was being set up to look at the work required and would report back to the Commission before the summer break.</p>
7.2	<p>The Commission thought the report was a vote of confidence in HSC/E and the work it was doing. It was reassuring that health and safety was seen as a key area. It acknowledged the lobbying efforts everyone had made, including LACORS.</p> <p>The Commission sounded a note of caution about the structural changes. An important part of the HSC Strategy was the need to prioritise and the changes could divert energy and resources. It was concerned that, if the gang masters licensing authority was taken on, sufficient resources should be transferred to ensure that its work and ethos were maintained.</p> <p>There were issues around the role of HSC and the various Secretaries of State it would need to report to. Primary legislation may be required. It was important that the Commission knew how this was going to be taken forward as soon as possible.</p> <p>The proposals on penalties should be developed with other agencies and regulatory bodies.</p>
7.3	<p>The Chair thanked the presenter. The Commission noted and agreed the assessment of the implications of the report and, on balance, endorsed it as a vote of confidence. It recognised that a lot of work would need to be done and emphasised the need to maintain our strategic focus. The Commission welcomed the proposal of a more detailed paper in July.</p>
8	<p>Developing an Intervention Strategy (HSC/05/37)</p>
8.1	<p>David Ashton introduced the paper. The consultation exercise had produced a wide range of responses, summarised in the paper. There</p>

	<p>was a strong consensus that all interventions were valid, but no consensus on formal recognition of good performance.</p> <p>To develop the evidence base they proposed carrying out a series of pilots to explore how best to influence companies and help them raise their standards. Within those the value of recognition would be explored.</p>
8.2	<p>A number of Commissioners had not received the paper until that morning and so were reluctant to discuss it in depth. In particular the Commission was uneasy about the setting up of pilot schemes without fully discussing the implications. However it recognised that HSE would need to continue preparatory discussions with identified large organisations to enable them to bring more information to the Commission.</p>
8.3	<p>The Chair thanked the presenters. The Commission agreed:</p> <ul style="list-style-type: none"> • that the result of the consultation exercise could be published. • further work was needed on evidence for the interventions guide and further consideration of how it should be presented and published. • On the pilot studies, HSE should continue to prepare for them, and should present information to the Commission to enable it to take an informed decision at its meeting in July.
9	Better Regulation (HSC/05/46)
9.1	<p>Giles Denham introduced the paper. There was a heightened interest in this topic as evidenced by Hampton and the BRTF report. Our key stakeholders needed to be comfortable with the balance between costs and benefits of regulation. A survey of the Small Firms Forum indicated there was still more to do through client and peer pressure. The Commission's views were sought on the proposed position statement, and on the proposal for a representative Commissioner to be engaged in work on reducing the administrative burdens of regulation and regulatory simplification.</p>
9.2	<p>The Commission generally welcomed the idea of having a statement. Its comments on the contents included:</p> <ul style="list-style-type: none"> • The opening was too complacent about our record on health. It needed to recognise there was still a lot to be done. • There should be more about getting the evidence base on what works. A key element of the better regulation approach was understanding which interventions were the most effective in the different environments • There should be more about the quality and rigour of HSE's regulatory impact assessments • Assessments were sometimes hampered through lack of information from industry • It should be more positive about the benefits of regulation- to individuals and businesses; we could take credit for the improved accident record, which showed that our kind of regulation worked.

9.3	<p>The Chair thanked the presenters. The Commission agreed to provide specific drafting comments to officials during the next two weeks. The statement would be developed in the light of these and a revised version should go to the Commission in May as a below the line paper.</p> <p>The Commission agreed that Judith Donovan should act as its representative on the two regulatory issues.</p>
10	Invest to Divest Programme (HSC/05/32)
10.1	<p>Les Philpott presented the paper, which was about finding ways of releasing resources for our priorities in ways, which maintained or improved health and safety.</p> <p>The Commission was asked for its views on the emerging programme, which would then be worked up more fully.</p>
10.2	<p>The Commission supported the principle behind the paper, which had been agreed as part of the Strategy but felt that the language used conveyed an unduly negative impression of a good intentioned Programme. It was not about withdrawal or scaling back but a more positive Programme about transferring responsibility and ownership of relevant health and safety regimes to others. The rationale behind the Programme: refocusing, removing duplication, being more effective, should be brought out more.</p> <p>The process had to be carefully managed and sensitively handled. Communications were important: the implications of the programme should be clearly spelled out with a clear message on how resources were being transferred to our priority work.</p> <p>The Commission recognised all the seven lessons listed in the paper, especially the need for openness, resilience and up front investment.</p>
10.3	<p>The Chair thanked the presenters. The Commission fully supported the intention of the paper. There were awkward presentational issues to be sorted out; the language should be looked at again</p>
11	Proposal for a workplace exposure limit for respirable crystalline silica (HSC/05/55)
11.1	<p>The paper was brought above the line at the request of the Commission. It was concerned that the Consultative Document was suggesting a limit, which was unmeasurable and therefore unenforceable. This would damage HSE's credibility as well as being an inefficient use of resources.</p> <p>HSE explained that, following a recommendation from ACTS, HSE had agreed to consult on exposure limits of 0.1 and 0.05 with a steer in the consultative document towards 0.1. The consultation would be done for two reasons. Firstly the health risks were considerably lessened at a limit of 0.05 and ACTS wanted to give the public an opportunity to comment on the proposed limit of 0.05. Secondly the European scientific committee on occupational exposure limits had already recommended this limit on scientific grounds only.</p>

	<p>There are measurement difficulties at 0.05 and NIOSH are developing a method to measure this. However, there is no indication as to how long this would take.</p> <p>If the consultation went ahead, the new limit would not be in place before 2006, by which time a measurement method might be available.</p> <p>If a measurement method had not been developed the implications and costs of developing a suitable method would have to be considered.</p>
11.2	The Chair thanked the presenter. The Commission agreed that the paper should be relooked at and the rationale made clearer, in consultation with the Chair and Judith Hackitt. It should then go below the line at the next meeting.
13	Below the line Papers
13.1	Consultation on Disability Rights Commission Code of Practice: The duty to promote disability equality (HSC/05/54)
13.2	The Commission noted the possible implications for HSC/E of the draft code and areas of concern and agreed that a response to the DRC's draft Code of Practice should be submitted to the Chair once consultation within HSE is complete.
14	Draft Services Directive- UK negotiating lines(HSC/05/49)
14.1	The Commission agreed to seek opportunities to promote the UK negotiating objective to uphold UK standards on health and safety in all circumstances in the context of securing the overall economic benefits which the Government anticipates..
15	Miscellaneous Papers
15.1	International Offshore Safety Regulators Conference (Misc/05/08)
15.2	The Commission noted the paper and the date of the Conference
16	Making more information free and accessible on the web. (Misc 05/10)
16.1	The Commission noted the developments.