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Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission, held on 6 September 2005 in the Globe Room, 2 Southwark Bridge, London, SE1 9HS.

Present

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

Apologies:

Commission: Margaret Burns

Executive: Timothy Walker

Officials Present

Justin McCracken
 Jonathan Rees
 Alex Brett-Holt
 Colin Douglas
 Vivienne Dews
 Susan Mawer
 Paul Nicholson
 Neal Stone
 Ann Marie Farmer

Introduction

The Chair announced that Timothy Walker, Director General, would be retiring on 30 September. He wished to record his and the Commission's thanks for all Timothy's work over the last five years. The Chair welcomed Justin McCracken, acting Chief Executive, and looked forward to Geoffrey Podger, taking up his post as Chief Executive towards the end of November.

The Chair congratulated Sayeed Khan on becoming a visiting professor of occupational health at Nottingham University.

1 Minutes of the meeting held on 26 July 2005 (HSC/M06/2005)

1.1 The minutes were agreed.

2 There was no urgent business

3 Chief Executive's Report

3.1 Justin McCracken introduced the report, which was in two parts: a list of key developments and a foreword that highlighted five significant issues. These included:

- The landmark judgement in Scotland where Transco had been fined £15 million for breaches in health and safety which had resulted in the tragic deaths of a family of four in Lanarkshire in 1999. In his sentencing the Judge had made a number of points that would be helpful to HSE in future cases. In particular he had highlighted the failure of Transco to act on their knowledge

	<p>of the seriousness and long term risks and a corporate lack of remorse and failure to accept responsibility;</p> <ul style="list-style-type: none"> • The success of the backs campaign which had been carried out in partnership with the local authorities, trade unions and other stakeholders and would be followed up next year; and • The closure of the Brent Bravo platform after two further gas leaks. Previous leaks had resulted in the deaths of two workers in 2003 for which Shell was fined £900,000. As the company had pleaded guilty all the evidence had not been heard in court and so a fatal accident inquiry would be held, starting in October.
3.2	<p>The Commission welcomed the outcome in the Transco case and the positive media coverage it had generated, but questioned the length of time it had taken for this case to reach a conclusion. .</p> <p>The Commission asked for clarification on the background to the decision to call an enquiry into the fatalities on the Brent Bravo platform.</p>
3.3	<p>The Chair thanked Mr McCracken. It was agreed that Mr McCracken would provide a note clarifying the legal proceedings in the Brent Bravo case.</p>
4	<p>Approval of the Business Involvement Programme Plan HSC/05/102</p>
4.1	<p>Jonathan Russell presented the paper, which sought the views of the Commission on the direction and scope of the Business Involvement Programme and asked it to approve the Programme plan.</p> <p>The programme reinforced the message that appropriate health and safety management was a benefit not a burden through a range of measures aimed at small, medium and large organisations. There were three key areas of work:</p> <ul style="list-style-type: none"> • increasing the understanding of the business benefits: a number of tools had been developed including the Corporate Health and Safety Performance Index (CHaSPI) and the small to medium enterprise indicator; • promoting greater corporate responsibility and accountability through the Large Organisations Partnership Pilot (LOPP); and • giving renewed impetus within HSE to 'Think Small First'. <p>It was essential that the programme worked in co-operation with the Strategic programmes. HSE had to engage with the business community and change attitudes if the targets were to be achieved. Bud Hudspith had been appointed as the TU representative on the programme board.</p>
4.2	<p>The Commission thought that the programme was an excellent step in the right direction; it was a strategic package During its discussion the Commission made the following points:</p> <ul style="list-style-type: none"> • the Small Firms Trade Association Forum was beginning to

	<p>make a significant contribution;</p> <ul style="list-style-type: none"> • it questioned where the estimated costs of the programme were coming from; • the wording in paragraph 7 implied that HSE did not work in an efficient and effective joined up way prior to Hampton; • the risk of increased and unnecessary bureaucracy; • how the list of companies was compiled and what the criteria was for inclusion; • that companies which were good performers and took part in health and safety campaigns may not always be rewarded for their efforts and were sometimes penalised by more rather than less inspection – a recent example was quoted. HSE undertook to look into this; • clarification on the targets and outcomes to ensure that they would deliver organisational change and not be just an administrative exercise; • the drafting could be improved; good practice sharing should be explicit rather than implicit and Annex 6 in the draft was incorrect and shouldn't go out in its present form; and • raised concerns that the large organisations pilot and stakeholders conference would start before being discussed and agreed.
<p>4.3</p>	<p>In response HSE said that the resources were estimated over the life of the programme and included research and more effective use of staff resources. The Programme Board would be as non-bureaucratic as possible, just normal layers of accountability and would be helpful in getting key stakeholders involved.</p> <p>The pilot would involve large organisations over a geographical and sectorial spread with good and bad performers.</p>
<p>4.4</p>	<p>The Commission welcomed the programme and the involvement of the local authority sector. The Commission approved the programme, noted the three key areas of work; welcomed the improved strategic focus.</p> <p>The Commission approved the programme and asked for the Plan to be further developed to emphasise the importance of: sharing good practice; the need to move from intermediary measurements to real outcomes; and the need to show in detail how initiatives impacted on employers.</p> <p>It agreed to discuss the large organisations partnership pilot alongside the following paper.</p>
<p>5</p>	<p>Developing our Intervention Strategy (HSC05/65)</p>
<p>5.1</p>	<p>David Ashton introduced the paper which asked the Commission to approve the strategy and the next steps in its implementation. The aim of today's discussion was to publish the strategy on the website next month and then promote and publicise it.</p>

	<p>The ongoing work to implement and oversee delivery of the guiding points, and embody them in the work of HSE and LA's.</p> <p>Neil Craig demonstrated the dummy website 'Guide for regulators' which would capture and develop the knowledge base on best practice.</p>
5.2	<p>The Commission welcomed the work and praised the developing website as potentially really useful. They thought it important overall to present the strategy as evolutionary and clarifying rather than a radical new departure. Enforcement was central to HSE's work. Whilst it should be targeted at the worst performers the resource put into enforcement should not be reduced. There was a debate within Government to move away from regulation and HSE needed to be clear that its main objective was worker protection.</p> <p>LACORS should be asked to take responsibility in communicating and promoting the guide throughout the LA sector.</p> <p>The Commission discussed the proposal to carry out some formal recognition pilots (paragraph 63). It wanted details of what the pilots would involve before agreeing to them going ahead.</p>
5.3	<p>The Chair considered that the paper accurately reflected the strongly held views. The Commission:</p> <ul style="list-style-type: none"> • endorsed the 27 guiding points; • agreed that subject to drafting amendments and editing the paper should be published; • supported the development of the guide for regulators; and • agreed paragraph 63. Officials could discuss with identified companies what they wanted from recognition schemes and come back to the Commission in the New Year with their proposals. They welcomed HSE's confirmation that no new procedures would be initiated without the Commission's agreement.
6	<p>Delivering PSA Targets 05/06-07/08: Summary performance report: 1st Quarter, 2005-06 (HSC/05/112)</p>
6.1	<p>Jonathan Rees presented the paper which sought the Commission's agreement to the report before submission to the Minister. Main points in the report were:</p> <ul style="list-style-type: none"> • Major Hazards had a clear set of precursors. The indications were that the overall targets would be achieved; • Fit3 - work was being done to establish programme baselines and have these in place for the 3rd and 4th quarters; • The Enforcement Enabling programmes, had made progress and should now be considered to be Amber/Red; and • Rail -this would be considered with the next paper.
6.2	<p>The Commission congratulated the author of the paper which was now much clearer and consistent and were encouraged by the developments on Major Hazards.</p>

	<p>The Commission noted the challenge in delivering the days lost target and the work being done to address the issue. However there were some concerns that getting people back to work was not at the core of HSE's activities, as days lost targets would not be achieved.</p>
6.3	<p>The Commission agreed the report should be submitted to Lord Hunt and that Enforcement should be Amber/Red. The days lost target and the activities around this would be discussed at the October meeting. As this involved discussions on developments on cross government policies this would be held in closed session. The new target for the Rail industry would be discussed under item 8.</p>
7	FOD Update
7.1	<p>Sandra Caldwell gave a presentation which provided the Commission with an overview of: the diversity of the work FOD does in delivering the Strategy, the challenges they currently faced and how FOD was changing in response to these.</p> <p>Highlights of the presentation included:</p> <ul style="list-style-type: none"> • New Model FOD which aims to broaden the range of staff directly involved in frontline work and target inspector effort; • The proactive work being done to meet the PSA targets, develop closer partnerships, effective health and safety management, core business and communications; • How enforcement activity supports both proactive and reactive work; • The reactive workload and the 40:60 reactive proactive balance but building in the need to respond to serious incidents and the time involved due to the increasing legal complexity and growing public expectation; • The key role of non-inspector frontline staff in handling complaints; • The importance of the debate on public safety in relation to the FOD interface with the public, which meant that they can be drawn into marginal activities.
7.2	<p>The Commission thanked Sandra Caldwell for an excellent presentation. In discussion it made the following comments:</p> <ul style="list-style-type: none"> • how important this work was and the breadth and depth of the work that FOD did; • it was the public face of HSE but wasn't outwardly known and the name FOD was incomprehensible; • in light of earlier discussions on evidence based interventions FOD data and evidence of major trends, incidents and the way the world of work is changing. It would be interesting to see that information at some point in the future; and • the pressures of reactive work, fatalities take time and are resource intensive. <p>FOD was changing dramatically and the partnership work with LAs on workplace transport was a good example of innovative and lateral</p>

	<p>thinking. The Commission wondered whether the numbers of front line staff had declined, whether the new arrangements for handling complaints were working and if the use of websites and IT had reduced the burden on FOD.</p>
7.3	<p>The Chair thanked the presenter for a thought provoking discussion which the Commission would reflect on. He said that the Commission had given a clear steer on maintaining the 60/40 proactive/reactive split but recognised there were pressures to do more reactive work. However the Commission firmly believed HSE's aim was preventive.</p> <p>The Commission agreed that they should be provided with an analysis of staffing in the Chief Executive's report in October.</p>
8	HSC/E Management Statement (HSC/05/88) Plus Addendum
8.1	The paper was deferred until later in the year.
9	Railways and Other Guided Transport Systems (Safety) Regulations 200[x]: Residual amendments (HSC/05/101)
9.1	<p>Stephen Williams presented the paper, which updated the Commission on the Railways and Other Guided Transport Systems (ROGS) Regulations and asked the Commission to clear the proposed regulations and agree a limited further consultation led by DfT with HSE support.</p> <p>The Regulations were previously approved by the Commission in March with the recommendation that they should not be signed until DfT had had developed their proposals for interoperability. Work on the DfT package had progressed and changes were now needed to the ROGS regulations.</p> <p>The main change would be the substitution of the ACoP on safety critical work with guidance.</p> <p>DfT had not yet considered the issues raised in the paper therefore HSC's view could be fed back to inform the Minister.</p> <p>The work on the transfer of RI to ORR was ongoing but there were clear indications that the timetable might slip.</p>
9.2	<p>The Chair raised his concerns about the timetable slipping and the issue of who monitored the safety performance of the rail industry in the intervening period. The longer the transition period continued the weaker the independent safety regulator would be. The Chair was also concerned that the PSA improvement targets had been reduced from 10% to 5%</p> <p>Whilst recognising there had been improvement in the health and safety performance of rail the Commission shared the Chair's concerns over slippage of the timetable and the possible consequences. They still maintained their view that, as regulations were in place in other similar industries on safety critical work, an</p>

	<p>ACoP was the most appropriate approach.</p> <p>HSE explained that the RSSB target of 10% year on year improvement had not been achieved because dutyholders in the industry had never really felt ownership of it, and had never had plans to deliver the necessary improvements. The 5% target had been developed by HSE with Network Rail.</p>
<p>9.3</p>	<p>The Commission noted:</p> <ul style="list-style-type: none"> • the proposed change from ACoP to guidance; • the minor changes needed to clarify the intent of the regulations; • the offer from DfT to conduct a six week consultation on the changes; and • Justin McCracken’s explanation. <p>The Commission agreed:</p> <ul style="list-style-type: none"> • that the Chair would write to the SoS for transport setting out the Commission’s concerns; and • to support the extension of the requirement for safety verification to the mainline railway system, where authorisation under the interoperability process is not required.
<p>10</p>	<p>Proposals for workplace exposure limit for respirable crystalline silica – amended version (HSC/05/73)</p>
<p>10.1</p>	<p>Mark Lawton introduced the paper which sought the Commission’s approval for the publication of a consultative document proposing the revision of the exposure limit for respirable crystalline silica (RCS).</p> <p>The challenge had been to get a balanced approach on the revised lower limit that took into account the economic and scientific evidence and the views of HSC and the Advisory Committee on Toxic Substances.</p> <p>There were two possible limits 0.1mgm and 0.05mgm; the 0.1mgm was advocated due to the difficulties over measurement and enforcement, and the economic burden on business.</p> <p>HSE estimated that at least 100,000 workers were regularly exposed to dusts containing RCS. The current limit was 0.3mgm; however current scientific evidence suggested a more stringent limit was needed. The evidence suggested that long-term exposure to 0.3mgm would eventually result in up to a 20% risk of developing silicosis. With exposure of 0.1mgm the risks reduced to 2.5% and at 0.05mgm it reduced to less than 1%.</p> <p>When the new limit was introduced HSE would carry out an intervention campaign in 2006-2008 to focus on sectors of poor performance. The Challenge Panel had considered and agreed the proposal in July following consideration of the scientific and cost information.</p>

10.2	In discussion the Commission thought this raised a number of difficult issues including the levels of risk they felt to be acceptable and the quality of the economic evidence. They thought it was important to give a clear signal in the document about which level they preferred. Because of the measurement and enforcement difficulties they thought this should be 0.1 but with a clear message that it would move to 0.05 when it was economically viable and measurable.
10.3	The Commission agreed that the consultative document (CD) should recommend the 0.1mgm but express the view that this would be reduced to 0.05 when achievable practicable and measurable. The CD should be redrafted to reflect this and cleared by correspondence.
	Below the line Papers
13	A strategy for workplace health and safety in Great Britain to 2010 and beyond – Update with next stage deliverables (HSC/05/105)
13.1	The Commission noted the progress with the next stage deliverables; and the proposals for future strategy progress
14	Clearance of Practical Implementation reports on Occupational Safety and Health Directives (HSC/05/75)
14.1	The Commission approved the reports and agreed that they should be submitted to the Minister for approval and onward submission to the European Commission.
15	Update on European Occupational Safety and Health Issues and the UK Presidency (HSC/05/106)
15.1	The Commission noted the update and Presidency events, to which they had been invited, and the availability of the lobbying brief on the future direction of OSH in the EU.
16 16.1	→ ←
17 17.1	A Strategy for Health, Work and Well-being: Collaboration between DWP, HSE and DH (HSC/05/114) The Commission noted the progress with the development of the strategy; and that a fuller report would be available after the Ministerial announcement in October.
18 18.1	HSC Stakeholder Conference 2005 (HSC05/67) The Commission endorsed the programme for the day and the roles for individual Commissioners. It agreed to advise officials of names and addresses to be added to the draft invitation list.

	Miscellaneous Papers
19	Proposals for a New application Outside Great Britain Order (AOGBO) (MISC/05/18)
19.1	The Commission noted the proposals.