

Health and Safety Commission Minutes			HSC/05/M02
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<b>Health and Safety Commission</b>	
<b>Minutes of a meeting of the Health and Safety Commission, held on 8 February 2005 in the Globe Room, 2 Southwark Bridge, London, SE1 9HS.</b>	
<b>Present</b> <b>Bill Callaghan – Chair</b> <b>Margaret Burns</b> <b>Danny Carrigan</b> <b>Abdul Chowdry</b> <b>Judith Donovan</b> <b>Joyce Edmond-Smith</b> <b>Judith Hackitt</b> <b>John Longworth</b> <b>Hugh Robertson</b> <b>Elizabeth Snape</b>	<b>Officials Present</b> Timothy Walker Jonathan Rees Justin McCracken Alex Brett-Holt Colin Douglas Vivienne Dews Susan Mawer Paul Kloss Paul Nicholson  <b>Observers:</b> Eleanor Keech Amy Sadro
<b>1</b>	<b>Minutes of the meeting held on 11 January 2005 (HSC/M01/2005)</b>
<b>1.1</b>	The minutes were agreed subject to: <ul style="list-style-type: none"> <li>Amending item 5 to reflect the Commission’s views on the importance of communication</li> <li>Replacing ‘it was minded’ by ‘Some thought that’ in paragraph 5.2 sub para 9.</li> </ul> The Commission agreed future minutes should record agreements by the Commission rather than the Chair. Officials were asked to consider the style when reflecting differing points of view.
<b>2</b>	<b>Urgent business not covered by items on the agenda</b>
<b>2.3</b>	<i>Fully Closed – Section 35(formulation of Government Policy)</i> ➔ ➔ <ul style="list-style-type: none"> <li>Spending Review</li> </ul> The Chair reported that HSE were still waiting for the final settlement. The Commission asked whether the Executive would be able to carry out their functions properly with this level of uncertainty. Timothy Walker replied that budgets had been issued based on the indicative allocations. He had authorised substantial recruitment campaigns for inspectors and other staff, based on what the Executive believed was needed to deliver the Strategy

	The Commission noted the situation which could become worrying if the uncertainty continued for too long.
<b>3</b>	<b>Enforcement programme</b>
<b>3.1</b>	<p>Sandra Caldwell gave a presentation to the Commission on the HSE and LA wide enabling programme on enforcement. It was designed to maximise the benefits and impact of formal enforcement work and ensure it supported HSC/E's strategic goals. Local Authorities would be involved in its development.</p> <p>Its origins stemmed from the Strategy: the need to target enforcement where it can have most impact and hold duty holders to account for failures to safeguard health, safety and welfare at work. It would also ensure that our procedures were fit for purpose and easily understood by the outside workforce.</p>
<b>3.2</b>	<p>The Commission welcomed the programme, particularly the proposals on involving local authorities, reputation management, improving the evidence base and increasing proactive enforcement. In discussion they raised a number of points:</p> <ul style="list-style-type: none"> <li>• How would the vision be achieved and what would the timescale and milestones be. They were informed a high-level plan would be produced in March.</li> <li>• How would the evidence on what works be obtained? They were informed that projects within the programme would be evaluated, and that this work was part of developing an "evidence-based" intervention strategy.</li> <li>• They sought reassurance that reactive enforcement would not decline</li> <li>• There will be a communications issue managing the balance between perceptions of the 'nanny state' and 'going soft'. We should publicly explain what was anticipated.</li> <li>• The Hampton review could impact on the proposals, particularly if there was seen to be a need for more 'sensitive' enforcement on the ground. Increased enforcement on health issues could cause reputation management issues.</li> <li>• The decision making process on prosecutions in different sectors needed to be looked at</li> </ul>
<b>3.3</b>	The Chair thanked the presenters. The Commission felt this was an important piece of work. There was a need for a strong evidence base. What was happening outside, particularly Hampton, needed to be taken into account.
<b>4</b>	<b>Presentation on Major Hazards Programme</b>
<b>4.1</b>	Justin McCracken and Steve Coldrick gave a presentation on the delivery of the PSA2 targets by the major hazards strategic programme. The key elements reflected the Commission strategy.

	<p>There is now a programme which aims to deliver consistency, improved effectiveness and efficiency on common themes and regulatory processes; to keep relevant the regulatory approach; and to develop better focussed precursors and leading indicators for all Major Hazard activities - whilst building on existing work - which is not confined solely to the precursor events. As the number of these events decreased, it would be increasingly challenging to reduce them further. The aim is to enable major hazards activities whilst assuring public safety and confidence and to make this visible by driving down precursor events. The Commission were asked if they wanted to be more involved in the programme.</p>
<p><b>4.2</b></p>	<p>The Commission thought this was a useful presentation. During discussion they raised the following points:</p> <ul style="list-style-type: none"> <li>• There was a negative public perception of these industries which didn't reflect the good work on safety going on in them. Getting this message across to the media was made more difficult when professionals, including inspectors, always hedged their statements with caveats and probabilities.</li> <li>• Continued intervention was key to maintaining confidence both within and outside the industries.</li> <li>• Research had shown that a key factor in assuring the public was the availability of information.</li> <li>• We needed to think about what our role was in providing assurance.</li> <li>• The work to develop targets for major hazards outside the permissioning regimes was welcomed.</li> <li>• What assurances could HSE give that they had the right people in sufficient number.</li> <li>• The involvement of worker safety representatives is important in giving confidence to the public.</li> <li>• There was insufficient information about communications and what exactly the major hazards division was trying to communicate: it should be about what we are doing to manage risk not about giving guarantees. It was not about changing behaviour as most major hazard industries already wanted to do the right thing</li> <li>• Did the HSE know what caused things to go wrong and what work were they doing about this.</li> </ul> <p>Do licensing and permissioning regimes help or hinder achieving safety.</p>
<p><b>4.3</b></p>	<p>The Chair thought that we had a good record on major hazards and should try and get the message across about HSC/E's role in enabling these hazardous operations to continue. He also wondered if we had reached a plateau in terms of targets achievements</p>
<p><b>4.4</b></p>	<p>The Commission agreed:</p>

	<ul style="list-style-type: none"> <li>• the aim of the programme;</li> <li>• that there should be a further presentation on biological hazards</li> <li>• they would consider whether any of them wished to be more engaged in sections of the major hazards work</li> </ul> <p>that HSE needed to give thought to the communication issues raised.</p>
<b>5</b>	<b>(HSE/05/33) Revised policy and instructions on the enforcement of HSWA Section 3</b>
<b>5.1</b>	Jonathan Russell introduced the paper. The revised policy means that HSE cannot say that it will not initiate enquiries into incidents just because they fall into a particular sector. Instead, consideration will be given to the particular facts of a case before making a decision whether to investigate. It was too early to gauge the impact and implications of the revised policy but it could impact on our resources and ability to deliver PSA targets.
<b>5.2</b>	<p>In discussion Commissioners made the following points:</p> <ul style="list-style-type: none"> <li>• there was a strong risk this would effect the way we used our resources and concern over how this could be managed.</li> <li>• HSE was there primarily to deal with worker safety.</li> <li>• LAs thought HSE was the most appropriate organisation to investigate some of the key S3 issues</li> <li>• Concern that neither inspectors nor the public would understand how this sat with the enforcement programme they had heard about earlier</li> <li>• Sympathy for the view that In areas such as health HSE should be more active on public safety issues. The public sector was not always scrutinised in the same way as the private.</li> </ul> <p>The Chair agreed there was a gap, but this could only be filled if resources were transferred to it, which would affect the strategy. There was a need for a wider debate on public safety ranging from the important – health in hospitals – to the minor such as paddling pools to which HSC could contribute.</p>
<b>5.3</b>	<p>A late amendment from LACORS was tabled at the meeting proposing the third bullet point of Para 3 Annex 1 be amended to read ‘HSE and other enforcing authorities will take account of HSC’s priorities when determining their approach. Generally, HSC will give less priority to the enforcement of HSWA section 3 in areas outside these priorities.’</p> <p>The Commission recognised that this was a sensitive area for Local Authorities because they do investigate most public safety issues and did not want to feel constrained. The Chair considered that as Annex 1 was a statement of the HSC’s policy it should be clear about what its priorities were. Local Authorities were free to put additional resources into public safety investigations if they wished. He would be happy to meet with LACORS and discuss their views.</p>

5.4	The Commission, with the exception of John Longworth, agreed the revised policy statement and instruction. They did not accept the proposed amendment, although they recognised LAs' concerns. They agreed there was a communications need to manage expectations and that HSC had a role to play in leading debate on public safety.
6	<b>(HSC/05/16) Plans for the worker involvement programme.</b>
6.1	Stuart Bristow introduced the paper. The new enabling programme on worker involvement followed on from HSC's declaration last March. The evidence base on what works was inconclusive so this was an initial plan. It would be evaluated and learned from as the programme progressed. He invited the Commission to approve the programme in principle and sought the Commission's views on the proposed options for regulatory amendment.
6.2	<p>The Commission strongly supported the proposal to have a programme to encourage worker involvement but differed over the proposed regulatory amendments. Comments included:</p> <ul style="list-style-type: none"> <li>• The proposed amendments to the 1977 Regulations were common sense updates and not major items.</li> <li>• They would strengthen the position of safety representatives.</li> <li>• There was insufficient recognition of the workplace shift since 1977 with less Trade Union representation. Moving to more regulation could provoke an adverse reaction from employers when the aim of the programme should be about winning hearts and minds.</li> <li>• The amendments would increase bureaucracy.</li> <li>• The fourth proposed regulatory change would be very difficult to secure and there were legal concerns over it.</li> <li>• The regulatory proposals could have a disproportionate effect on small firms</li> <li>• The increased use of agency labour had encouraged a shifting of responsibilities. Something was needed that worked and the proposed amendments would help. It was important that where agency workers worked alongside others they could be represented by safety representatives.</li> </ul> <p>There was a risk that time and resources inside and outside HSE would be focussed on the regulatory amendments instead of on other more important things in the programme.</p>
6.3	The Chair summed up by saying there was support for the proposed programme of work. However, it needed more emphasis on the modern world of work. On the regulatory changes proposed, the Commission had expressed a range of views on their value. Whilst it would be wrong to ask the Executive to do nugatory work, he recognised that the Tus had serious concerns about the current arrangements. He therefore asked officials to work up the proposals in paragraphs 1-3 of Annex 2, as part of the wider package, but not to take paragraph 4 any further.

<b>7</b>	<b>(HSC/05/23) The way forward in Europe and plans for the UK Presidency</b>
<b>7.1</b>	<p>Malcolm Darvill introduced this item by stating that HSE's European work was last reviewed in 2003 and since then the HSC's strategy had been published.</p> <p>HSE wanted to move to a more high level proactive influencing strategy in Europe. It proposed to use the UK Presidency in the second half of this year to start to evaluate the current EU strategy and more importantly start to develop the content of the next one , which runs from 2007-2111.</p>
<b>7.2</b>	<p>The Commission welcomed the paper. During discussion they made the following points:</p> <ul style="list-style-type: none"> <li>• The EU should be encouraged to promote the Lisbon agenda and support health and safety in Europe.</li> <li>• Paragraph 9 should make it clear that the benefits were social as well as economic. The aim should be to have better enforcement of the law as well as evaluation. Stress was not a good example to give here.</li> <li>• the Bilbao Agency should be encouraged to improve the evidence base and there should also be a reference to other Agencies such as the Dublin Foundation.</li> <li>• The approach in the paper provided a major opportunity for HSE to raise its profile and get the message across that it was a modern regulator with a proportionate approach</li> <li>• A number of good social developments had come from the EU.</li> </ul> <p>Commissioners welcomed the proposed conference, which should be held in a prestigious venue. Commissioners should be involved and they asked that LAs were involved in the development of national events. It was agreed that Judith Donovan would sit on any steering committee and officials would keep the Commission informed.</p>
<b>7.3</b>	<p>The Chair thanked the presenter. The Commission gave their broad agreement to the paper, subject to the textural comments made. They felt that the EU had got the potential to improve health and safety, including through mainstreaming health and safety in other DG agendas. There should be more and better contact with the social partners.</p> <p>The Commission noted the UK Presidency occupational health and safety conference due to be held on 18/19 October and asked to be kept informed.</p>

<b>8</b>	<b>(HSC/05/31) Delivering HSC/E's targets: Summary performance report:3rd quarter 2004-05</b>
<b>8.1</b>	<p>Jonathan Rees presented the paper which asked the Commission to consider the performance report and advise of any changes before it was submitted to the Minister. The paper reflected the changing programme structure. Annex 1 highlighted successes. Leading indicators for programmes would be developed over the next few months. All programmes were now beginning to deliver.</p> <p>On the major hazard programme, the rail status indicator remained at red. RSSB had revised the index of pre cursors, which would make it very difficult for rail to meet the targets.</p>
<b>8.2</b>	<p>The Commission questioned the labelling of the LA/ HSE partnership programme as enabling when it was clearly strategic. It was agreed that it should be called a Strategic Enabling Programme to distinguish it from the two strategic delivery programmes. The Chair had concerns about who was taking leadership in the rail industry on the setting of improvement targets.</p>
<b>8.3</b>	<p>The Commission noted the good progress made as highlighted in annex 1 of the paper. They agreed that it could be submitted to the Minister but their concerns about improvement targets in the rail should be raised.</p>
<b>9</b>	<b>(HSC/05/34) HSC Open Meetings</b> Susan Mawer presented the paper, which asked the Commission to agree to the proposed arrangements for future open meetings.
<b>9.1</b>	<p>In discussion the Commission thought that although visitors would not be invited to speak at meeting, the timetable should allow for a formal coffee break to allow the visitors to talk to the Commissioners. There should be an early open meeting at Bootle. Item X should be written more positively. They suggested that Newcastle would be a good location for the public meeting and should be linked with a visit to the International Centre for Life .</p>
<b>9.2</b>	<p>The Commission agreed:</p> <ul style="list-style-type: none"> <li>• The venue for the public meeting should be Newcastle in November</li> <li>• The Commission's pre-meeting would be at 9.30 and the open meeting would start at 10.00</li> <li>• The web site and a small advert would be used to give people proper notice of the meeting. This will make it clear that it will be evaluated after 6 months</li> <li>• Prior registration for attendance was needed because of the limited number of seats</li> <li>• The Chair would have no discretion to invite the audience to speak</li> </ul>

	<ul style="list-style-type: none"> <li>• There should be a 15 minutes break in the meeting to allow Commissioners to talk with visitors</li> <li>• An earlier visit to Bootle should be explored</li> </ul>
<b>10</b>	<b>Below the line papers</b>
<b>11</b>	<b>(HSC/05/28) Partnership Branding</b>
<b>11.1</b>	The Commission agreed the approach being developed.
<b>12</b>	<b>(HSC/05/13) Manufacture and Storage of explosives regulations</b>
<b>12.1</b>	The Commission agreed the proposals for revised regulations
<b>13</b>	<b>(HSC/05/14) Proposals for export and import of dangerous chemicals</b>
<b>13.1</b>	The Commission agreed to the recommendations
<b>14</b>	<b>(HSC/05/19) Employers Liability Regulations</b>
<b>14.1</b>	The Commission agreed to the publication of the consultative letter
<b>15</b>	<b>(HSC/05/09) Technical policy on EIADR( Environmental Impact assessment nuclear decommissioning)</b>
<b>15.1</b>	The Commission agreed to the publication of the Consultative Document
<b>16</b>	<b>(HSC/05/22) Withdrawal of ACOP on use of electricity at quarries</b>
<b>16.1</b>	The Commission agreed to the withdrawal of the ACOP and approved the draft letter to the Secretary of State
<b>17</b>	<b>(HSC/05/27) HSC/E Business Plan 2005/6-2007/8</b>
	The Commission agreed to the recommendations made.