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Health and Safety Commission

**Minutes of a meeting of the Health and Safety Commission held on 14 March 2006
in the Grainger Suite at the Centre for Life, Newcastle upon Tyne.**

Present

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

Apologies:

Officials Present

Geoffrey Podger
Justin McCracken
Jonathan Rees
Alex Brett-Holt
Colin Douglas
Vivienne Dews
Susan Mawer
Neal Stone
Peter Jackson
Ann Marie Farmer

Invited Experts:
Prof Janet Bainbridge OBE

1	Minutes of the meeting held on February 2006 (HSC/M02/2006) and matters arising
1.1	The minutes were agreed.
2	Welcome
2.1	<p>The Chair welcomed everyone to the first open meeting to be held outside London and in particular Professor Janet Bainbridge from One North East who was attending for the item on Biological Agents. A professor of biotechnology and food science, Professor Bainbridge brought wide expertise to her role as chair of the Scientific Advisory Committee on Genetic Manipulation.</p> <p>The Chair announced that this was Joyce Edmond-Smith's last meeting and wanted to place on record the Commission's grateful thanks for her valuable input over the last nine years. She had made an immense contribution in strengthening the links with local authorities (LAs) and helping to transform the relationship with LAs. Joyce Edmond-Smith thanked the Commission and the LAs for their help, advice and considered arguments.</p>
3	Chief Executive's Report
3.1	<p>Presenting his report Geoffrey Podger highlighted four issues:</p> <p>Buncefield – The investigation continued carefully and well. The electronic data remained extant and was being analysed. The next stage</p>

	<p>would be the publication of the environmental report.</p> <p>Workplace Health Connect – He and the Chair had attended the London launch of Workplace Health Connect. The service had got off to a good start, with 180 calls being made in the first week. It would take time to reach its peak and the main effort now would be getting the service better known.</p> <p>Gas Safety Review – He had attended the forum for the exchange of views on gas safety. There were strong views on all sides about the inadequacies of the present system and a lot of work to do to move to an efficient and acceptable system.</p> <p>Domestic Issues – The Board had held a party for the staff at Redgrave Court. Feedback from staff had indicated that the move had gone well and they appreciated the facilities available and welcomed the opportunity to interact with colleagues in the same location. He invited the Commission to visit this striking new building at the earliest opportunity.</p> <p>The Board had issued a response to the staff survey, which would be circulated to the Commission.</p> <p>The Board were fully committed and engaged on the Fundamental Review which was being used to get things done that were to the advantage of the organisation. The Board had considered the consultants report the previous day.</p>
<p>3.2</p>	<p>The Commission welcomed the report.</p> <p>The Commission was holding its September open meeting in Redgrave Court but thought it would be useful to be given some dates for visits there.</p> <p>It asked to be provided with the latest staffing figures.</p> <p>It noted the item on the fatalities in the waste and recycling industry and asked for a report detailing HSE’s actions to tackle this.</p> <p>It requested information on any plans for Workers Memorial day in London.</p>
<p>4</p>	<p>Oral Update on the initial results from the Asbestos consultation: Results of the research and debate on the Artex issue</p>
<p>4.1</p>	<p>Jonathan Rees, Steve Coldrick and Stephen Fairhurst presented the update which aimed to inform the Commission on progress and identify the issues to be addressed to enable the Commission to make an informed decision in May.</p> <p>The proposals in the Consultation Document on the new Asbestos Regulations aimed to tighten the controls to ensure greater worker protection and to implement the Directive. It had generated a lot of interest, including some strong public opposition to the proposals to de-license textured coatings. This had included an Early Day motion in</p>

	<p>Parliament, an adjournment debate and questions in the House.</p> <p>The Consultation had closed on 31 January 2006 and had received 504 responses. There was overwhelming support for the tighter controls and the proposals to pull everything together in a single set of Regulations and ACoP.</p> <p>There was concern about the concept of sporadic and low intensity in the Directive and HSE would come back to the May meeting with proposals on this. The most significant opposition had been from licensed asbestos contractors and trade unions to the proposal to de-license removal of textured decorative coatings – which would still be subject to stringent controls. In light of this HSE had arranged for the Working Group on Action To Control Chemicals (WATCH) to assess the potential exposure to asbestos that could arise during TDC removal and the reliability of the research done to address this issue.</p> <p>The draft WATCH conclusions were that 0.08f/ml (4h TWA), as chrysotile fibre, was the most reliable estimate of the upper end of the range of potential exposures that could arise for operatives engaged in the removal of asbestos-containing textured coatings. It considered that the research was appropriate to advise on the exposure of operatives but was not designed to look at the potential spread of asbestos in premises.</p> <p>The additional research commissioned by HSE had been published the day before and was on HSE’s website. This had looked at removal on a wide range of surfaces, with a range of techniques and without extraction. Fibre concentrations were less than 0.01f/ml at all of them. Dry scraping could produce peak concentrations of 0.2f/ml but the physical activity involved meant it was unlikely this could be sustained for any length of time.</p> <p>The research also looked at visual assessment and concluded that, because the content of any dust was mainly non-asbestos, this was sufficient to show that exposure would not exceed 0.01f/ml.</p> <p>The overall conclusion was that the new research confirmed that the risks of removing textured decorative coatings were much lower than other licensed materials.</p> <p>HSE would continue its discussions with stakeholders. It intended to bring a paper to the Commission on 9 May that would have a fuller account and set out proposals for information, training and enforcement.</p>
4.2	<p>The Commission wanted to be confident that it had sufficient information to cover the range of circumstances to which workers would be exposed. It questioned whether the research had included any testing on sanding and how the results on scraping compared with those in the previous research report. Maintenance work in domestic property and elsewhere was likely to include sanding and people were unaware of the risk. Such work was not included in licensing which emphasised the need for more work on the duty to manage.</p>

	<p>It asked how other member states were implementing the directive, in particular sporadic and low intensity, and whether they had done any research on removal of textured coatings.</p> <p>Asbestos was an emotive issue, understandably so given the deaths caused by exposure to it. There was a risk that HSE was being perceived as undermining the regulatory framework. Unless all stakeholders were convinced about the approach being taken this risk might outweigh the benefits of an evidence based approach.</p> <p>The Chair concluded the discussion by saying that there had been an intense campaign and a lot of pressure to extend the consultation period. His responses to this had been that if the new research showed dramatically different findings, then the approach would have to be reconsidered. What they had heard today showed that the factual basis on which it had consulted was a sound one. What was important was that there was a common understanding of what was known.</p>
4.3	<p>The Chair thanked the presenters; it had been a useful discussion. The Commission agreed to proceed on the basis that the issues it had raised would be considered and included in the paper to be laid in May.</p>
5	<p>Update on the progress of the Construction Programme (HSC/06/31)</p>
5.1	<p>Stephen Williams gave a presentation on progress on the Construction programme.</p> <p>The industry was large and complex; 6% of HSE staffing resource was given to regulating the construction sector. Around one third of all workplace fatalities occurred in construction and 15% of major injuries. Considerable progress had already been made in reducing the industry's fatal and major injury rate reflecting significant changes in the industry approach and the new ways of working developed by HSE. The balance of interventions had shifted to elimination and control of risk earlier in the construction supply chain.</p> <p>Challenges in driving down accidents and ill health further included Influencing SME's more effectively; maintaining the momentum; and building on health improvement. A number of initiatives were in place, building on the successes of recent years, to meet these challenges.</p>
5.2	<p>The Commission thanked the presenter for an excellent presentation and congratulated the sector on the progress it had made. It had been pleased to hear of the improvement in the provision of welfare facilities.</p> <p>The Commission agreed that small and medium sized firms (SMEs) were important and asked if HSE knew the proportion of accidents occurring in this sector. It questioned whether there were sufficient initiatives in this area and wondered about different approaches, for instance targeting advertising at customers rather than firms. Focused enforcement such as blitzes had also proved a valuable tool in reaching SMEs.</p>

	<p>It was important that HSE was involved in the Olympic building programme at the design stage. The Commission asked what HSE thought the impact of the Olympics, for instance through pulling in skilled workers, would be on health and safety in the construction industry. It also suggested thinking of innovative ideas such as an Olympics best practice award. It would be useful for the Commission to receive a report on the Olympics in October.</p>
5.3	<p>The Chair thanked the presenter for a very good report. It had illustrated the value of coordinated industry and HSE actions and initiatives. The Commission noted the need to maintain momentum.</p> <p>The Commission agreed it should be given reports on how SMEs were being tackled and the interface with the domestic market; and HSE's work on the Olympics at the appropriate time.</p>
6	Operational Issue: Biological agents
6.1	<p>Kevin Myers and Professor Janet Bainbridge gave a joint presentation on the work of HSE's Biological Agents Unit and the Scientific Advisory Committee On Genetic Manipulation (ACGM).</p> <p>The Biological Agents Unit is part of the Hazardous Installations Directorate, Specialised Industries Division. The business focus was the most hazardous pathogens and biotechnology and genetic modification. There were 2000 facilities in the UK who carried these activities out to a significant extent. It also provided technical support to other parts of HSE and Local Authorities on topics such as legionella</p> <p>The main issues for the Unit included: new and re-emerging diseases; bio-safety and bio security; and the interface with public health. The unit was involved in contingency plans for the possible outbreak of Avian flu.</p> <p>The ACGM chaired by Prof Janet Bainbridge consisted of 17 expert members, covering a wide range of expertise. Members also shared cross membership with other advisory committees and Government departments so had good cross connections.</p> <p>Since being relaunched in 2004 the Committee had established ways of working including producing an Annual Report and holding an open meeting once a year. The next would be in June 2006. One important strand of its work was the review and updating of its compendium of Guidance. This had to be done regularly to reflect the technical developments and legislative changes in this rapidly changing cutting edge environment. The aim was to have a more complete, but slimmer and more user friendly document.</p>
6.2	<p>The Commission thanked the presenters for a useful and informative update and commended the open approach being taken by the SACGM. It engaged with Professor Bainbridge on the issues of risk aversion, public perception of risk and the need to engage with the public at an early stage. It also wondered whether the appropriate public interest was represented on this and other Committees working on biological agents.</p>

	<p>Professor Bainbridge commented that dealing with risk was challenging: different practitioners had differing mind sets, as had NGOs. The only way forward was to be open and take a case-by-case approach. Often a judgement had to be made: if all risk were to be avoided there would be no progress. But the judgement should be underpinned by the science and if this was unclear than a precautionary approach was taken.</p> <p>She believed that scientists had a moral duty to engage with the public and as part of that was working to make the Committee's annual report more accessible.</p>
6.3	<p>Concluding the discussion the Chair said it had raised wider issues which the Commission may have to return to in the context of the risk debate. Getting the balance right between the expert view and how issues were perceived by the public was a core issue for HSE.</p> <p>He also reflected that this was an area where the UK was at the leading edge of research and although that work was controlled by the regulators it was not hindered.</p> <p>The Commission agreed that the adequacy of the representation of the public interest on the advisory committees working in this area should be considered.</p>
7	<p>Transfer of responsibility for the regulation of health and safety on the railways (HSC/06/28)</p>
7.1	<p>Vivienne Dews presented the paper, which informed the Commission of progress made on the transfer of responsibility on the railways to the Office of Rail regulation (ORR).</p> <p>The work was on track for transfer to take place on 1 April and HSE would meet its objective of transferring an effective operation and looking after the interests of its staff.</p> <p>ORR would be levy funded; the timetable for levy regulations was tight but DfT had agreed to support ORR if the legislation did not go through on time. Discussions on how much funding HSE would lose had begun and this did not need to be resolved before the merger. Rail staff in London would be co-located at the new ORR office. Outside London, rail staff would continue to be based in HSE offices for the foreseeable future; HSE had agreed a Memorandum of Terms of Occupation (MOTO) with ORR.</p> <p>Gatherings would be held for HSE's railways policy and inspectorate staff on 16 March to mark the event.</p>
7.2	<p>The Commission congratulated HSE staff on a job well done; it was a tribute to them that this had progressed so smoothly at a time of personal uncertainty.</p> <p>The Chair confirmed that he would be making a public statement on the transfer which he would share with colleagues. Assurances had been</p>

	<p>received from the Secretary of State that HSE enforcement policy would remain in place, inspection methods would not change and ORR would maintain and improve standards in the future. The HSWA would still apply.</p> <p>The Commission asked if the ROGS regulations had been signed off and whether their advice had been accepted.</p> <p>It drew attention to the separate MoU between ORR and LAs reflecting that the responsibilities of LAs would not change on transfer.</p>
7.3	<p>The Commission asked for its thanks to be passed on to staff. It agreed it needed an immediate update on the ROGS legislation. It asked to be kept informed if there was a risk that HSE would suffer financially.</p>
8	<p>Oral Update on the HSC/E Fundamental Review 2006</p>
8.1	<p>Vivienne Dews presented the update on the review. The objective of the review was to: “Improve HSC/Es ability to deliver its mission including meetings its targets and ensuring its resources were used to best effect”.</p> <p>Nick Ville, who was independent of HSE, was carrying out the process, overseen by the Commission and Board. Phase 1 had involved a lot of research including talking to stakeholders and staff workshops. The process had been open and transparent and had included the Trade Unions. All key documents had been made available on the intranet.</p> <p>The review was looking at 5 themes. The emerging in highest priority were: freeing up time; and delivery. Making best use of science; procurement; and working with others were longer-term priorities.</p> <p>Each theme would be taken forward by a Board member. There would be a further presentation to the Commission at its residential on 8 June.</p>
8.2	<p>The Commission endorsed the process. Such exercises, when handled well and transparently, had proved valuable to organisations. This was a sensible and pragmatic approach that was aligned to the aim of the organisation. It was not aiming for a structural change but improving ways of working. The process should be transparent and the Commission would need regular reports.</p> <p>The Commission asked how the staff felt about the review and sought reassurances that they were involved in the process.</p> <p>Where issues were of relevance to LACORS the Commission wanted to ensure there would be transparency and existing mechanisms used.</p>
8.3	<p>The Commission noted the progress made and looked forward to further reports.</p>
9	<p>HSC’s Hampton Programme (HSC/06/21)</p>
9.1	<p>Introducing the paper, Jonathan Rees indicated that good progress had been made. The principles underlying HSE’s approach to taking forward the mergers with other regulators had been: to absorb them within HSE and HSC’s structure; to take on the bodies as they were and find</p>

	<p>synergies later; and to identify the risks which needed to be managed.</p> <p>A formal consultative document on the penalties review was expected from the Cabinet Office in the Spring. HSE would develop its thinking with stakeholders and come back to the Commission in July.</p> <p>HSE's forms review had identified 50% of the forms reviewed which did not contribute directly to the HSC strategy or to a business need. Work on the project had confirmed that 3 forms account for the majority of forms handled by HSE and reviews in each of these areas were currently in hand.</p>
9.2	<p>The Commission welcomed the report and the progress made. HSE had engaged effectively in the Hampton process and helped ensure that it was not about deregulation.</p> <p>There were a number of concerns around the GLA. It needed to be adequately funded if it was to succeed. There had been hopes that its scope would be extended to the service sector. The GLA dealt with broader issues than health and safety and there should be some way to make sure that expertise in the GLA Board on matters such as employment law was not lost. The value of the GLA Board as an expert group was recognised. Plans should be made to ensure the HSC was equally well supported in its taking over governance responsibility for the GLA.</p> <p>The Commission sought clarity on its role in relation to the regulatory bodies, including the GLA Board.</p> <p>The Commission were interested in what stakeholders had said in response to the informal consultation on penalties.</p>
9.3	<p>The Commission thanked Max Walker for his work on this project. It agreed HSE should present its merger plans to the Cabinet Office; and noted the opportunities to influence the penalties regime. It asked for more information on its role in relation to the regulatory bodies and feed back on the informal consultation on penalties.</p>
	Below the line
10	Proposals to consult on revised Biocidal Products Regulations (HSC/06/20) & Addendum
10.1	The Commission approved the publication of the consultation document
11	Governance: Implications of the HM Treasury led Review of HSE's Financial Management; reconstituting the Audit Committee(HSC/06/29)
11.1	<p>The Commission noted:</p> <ul style="list-style-type: none"> • The findings of HMT's review; • That corporate governance issues would be considered at the Commission's residential meeting in June; and • The reconstitution of the Audit Committee as an HSC committee. <p>The Commission agreed the proposed terms of reference for the for the reconstituted Audit Committee.</p>

	MISC Papers
12	Better Regulation Executive (BRE) Review of Penalties – HSE contribution (MISC/06/02)
12.1	The Commission noted the response.