

Meeting Date:	4 July 2006	Open Gov. Status:	To be advised
Type of Paper:	Above the line	Paper File Ref:	
Exemptions:			

Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 4 July 2006 in the Globe Room, Rose Court, London

Present

Bill Callaghan – Chair
Margaret Burns
Judith Donovan
John Spanswick
Sayeed Khan
Hugh Robertson
Danny Carrigan
Elizabeth Snape
Sandy Blair
John Longworth

Officials Present

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

Welcome/Introduction

The Chair welcomed Sandy Blair who had recently been appointed to the Commission. The Commission congratulated Judith Hackitt and John Spanswick on being awarded the CBE in the recent Birthday Honours.

1 Minutes of the meeting held on 4 May 2006 (HSC/M04/2006) and matters arising

1.1 Item 4.4 first bullet point. “Endorsed the draft principles” should be deleted and replaced with ‘The Commission broadly endorsed the draft principles and agreed to provide any drafting points it had’.

 Subject to this the minutes were agreed.

2 Urgent Business

2.1 None.

3 Chief Executive’s Report

3.1 Presenting his report Geoffrey Podger highlighted five issues:

Buncefield – HSE had issued a safety alert to operators of oil/fuel storage facilities in relation to a certain switch. This information had only recently come to light because the investigation team had been able to recover evidence which was thought to have perished. There may be more such findings.

Brent Bravo inquiry – HSE was still awaiting the sheriff’s report into the two deaths that occurred in September 2003 and until that happened were in an awkward position in responding to the media. An invitation to

	<p>appear on a Scottish TV programme had been refused because of that and concerns about how the programme makers intended to present HSE. HSE would make a formal response when it received the Sheriff's report.</p> <p>House of Commons, Science and Technology Select Committee Report on Magnetic Resonance Imaging – The report was very critical of HSE and although some criticisms were not well founded two of the major ones were: that stakeholder consultation was not to our normal standards; and mixed messages had been given. The report had been drawn to the attention of all HSE staff and Jonathan Rees was preparing a report on the lessons to be learnt.</p> <p>Workplace Health Connect – Adviceline satisfaction ratings were high as were the number of visits, although calls to the adviceline were lower than planned. Due to the financial position the HSE Board had decided not to go ahead with a sixth pathfinder but the national roll out would proceed subject to evaluation and resources being available.</p> <p>Item 5 Options for the merger of the Gangmasters Licensing Authority (HSC/06/58) – He had asked for the paper to be withdrawn to allow further internal discussion. Any comments the Commission had on the paper would be welcomed.</p>
3.2	<p>The Commission thanked the Chief Executive for an excellent report.</p> <p>The Commission discussed the way that HSE had responded to the media on Brent Bravo. It considered that the accusations in the press misrepresented both the oil industry's approach to safety and HSE, who, as illustrated by the enforcement action it had taken, was an effective enforcer in the industry. Whilst recognising the sub judice constraints it wondered whether it would have been possible to make a strong statement, or at least inform Commissioners why this was not possible. This was an ongoing issue and HSE needed to look proactively at how it was handling it.</p> <p>The Commission asked that all relevant parties, particularly the TGWU and MP who had initiated the legislation, be consulted on the proposed arrangements for the merger with the Gangmasters licensing authority.</p> <p>The list of fatalities in Annex 2 was useful but it seemed to include deaths that were outside HSE's remit and the Commission was concerned about whether these were included in final end of year figures.</p>
3.3	<p>The Commission agreed:</p> <ul style="list-style-type: none"> • It wanted to get the message across that we have a regime in the oil industry in which it had confidence. HSE was asked to consider how this could be done. • That HSE would consider how the Commission could be better briefed on such issues • A note clarifying the statistics and the process of preparing the figures for the Statistical Report would be provided

4	Future HSC/E work on the protection of migrant workers' health and safety (HSC/06/36)
4.1	<p>Giles Denham presented the paper which updated the Commission on progress with the work streams on protection of migrant workers' health and safety and in particular the finding of research. A steer was sought from the Commission on:</p> <ul style="list-style-type: none"> • What it saw as the priorities in this area; • Whether migrant workers should be dealt with separately or as part of the work we do generally with vulnerable workers; and • What our message should be on HSE's positioning on the wider agenda in relation to migrant workers.
4.2	<p>The Commission welcomed the paper, which was a good example of a well-written paper that captured the various dilemmas associated with this work; and was pleased with the progress that had been made.</p> <p>This was an important issue; there were half a million migrant workers in a labour force of 25 million, a substantial minority. Commissioners strongly supported the statement in paragraph 12 (a) that HSC/E was committed to ensuring that all workers got health and safety protection although acknowledging that not all workers were within their remit.</p> <p>It considered that the work of the Joint Workplace Enforcement Pilot (JWEP) was impressive, and the right way ahead, particularly when dealing with rogue employers</p> <p>The Commission discussed whether work on migrant workers should be part of mainstream work. Whilst there was some support for the view that this was a special case with particular problems and should be dealt with separately until more regularised, generally it was felt that the work should be done within the mainstream programme. Migrant workers were at risk both because of their jobs and their position, (for instance exposures could be higher because of how and where they lived) so that it should be part of the mainstream, but with consideration of the needs of migrant workers. There was considerable support from Local Authorities for the general thrust of the programme but they would prefer to see it integrated into the mainstream as they would have difficulty in allocating additional resource. The Commission would wish to be confident about the extent to which we reached vulnerable workers in the more difficult sectors.</p>
4.3	<p>The role of agencies was thought to be pivotal because of their involvement in so many aspects of migrant's life and work. There was some disappointment that the launch of guidance to agencies on their responsibilities was low key.</p> <p>Whilst questioning the quality of the research it discussed whether further targeted research would be useful or whether resources should be concentrated on actions.</p> <p>It asked for a definition of 'migrant worker' and was later provided with the definition used in the research and more broadly. (Attached at annex A).</p>

	<p>The Commission asked whether the work streams that had been identified could be done within existing resources and it was informed that some of the proposed work listed in paragraph 12 of the paper would require resources to be transferred from other areas of work.</p> <p>Other comments included:</p> <ul style="list-style-type: none"> • Employers were looking for inspection/enforcement action by Government agencies, as this was not something they could police themselves; • Consultees should include trade unions who were working actively in this area • Communications would be important and all routes should be considered in getting the message across. • This was an area where partnership working was vital • The term migrant workers covered a wide range of people and issues and the description vulnerable workers might be preferable
4.4	<p>The Commission agreed:</p> <ul style="list-style-type: none"> • HSC/E was committed to protecting people at work whatever their status; • HSE's enforcement effort was already directed towards rogue employers and migrant workers should be part of that approach although with some specifically targeted initiatives such as on communications, provision of information, providing examples of good practice; • HSE should continue to link in with what other organisations were doing.
5	<p>Options for the merger of the Gangmasters Licensing Authority with HSE (HSC/06/58) - WITHDRAWN</p>
6	<p>Application of the Work at Heights Regulations 2005 to Paid Climbers and Cavers (HSC/06/48)</p>
6.1	<p>Jonathan Rees introduced the paper, which proposed a consultation to amend the current Regulations to bring those paid to lead or teach others in climbing and caving activities within their scope.</p> <p>Annex 1 contained the detailed background to the issue: because of the concerns of the sector they had been excluded when the regulations were implemented. Further discussions had been held with the sector looking in detail at what they did, which had reassured both the industry and HSE that they could comply with the regulations.</p> <p>The proposals now presented to the Commission were a package: amended regulations to bring the sector within scope; and draft guidance drawn up with sector experts. There would be a small number of briefings for HSE and LA inspectors and sector representatives before the regulations came into effect, although this would not be a priority area for HSE inspectors.</p>

	HSE considered this was a proportionate approach which met both sector and its needs and would allow HSE to focus on where there were real risks, which was not within this sector.
6.2	<p>The Commission recognised the amount of work that had gone in to resolving this issue and congratulated HSE and the sector on achieving a satisfactory outcome, a view supported by the Challenge Panel.</p> <p>The sector should be a natural ally: climbers and others instinctively carried out risk assessments and had a good health and safety record, which the regulations would reinforce. This was an expanding sector of the economy. Consequences of any failures such as when leading children, could be severe. Any benefits arising from the proposed regulations should be reflected in the Regulatory Impact Assessment.</p> <p>Communication would be important and needed to reach beyond the leaders in the sector: a targeted approach would be needed and possibly identification of 'champions' particularly from LA climbing areas such as Snowdon. The sector itself could play a key part in countering any rehashing of old messages.</p> <p>The Commission questioned differences in how the Directive had been implemented in other EU countries and was reminded that implementation was down to national governments but that in respect of the self-employed its policy was that legislation should apply equally to employers and self-employed.</p>
6.3	The Commission thanked officials and the sector for their hard work and agreed that the consultation document should be issued. The wording of the RIA should be looked at.
7	Comparison of the risks from different Materials Containing Asbestos. (HSC/06/44)
7.1	Giles Denham presented the paper, which provided further information for the Commission on the comparative risks from work with different types of asbestos containing materials and with other non-asbestos related risks. It also sought agreement that a limit for sporadic and low intensity exposure should be included in the Regulations rather than the ACoP.
7.2	The Commission agreed that the limit for sporadic and low intensity exposure should be included in the Regulations, which would strengthen the package. It thanked officials for the material on comparative risks, and its helpful use of graphical illustration and would return to this on 25 July.
8	Results of the consultation on proposals for workplace exposure limit for respirable crystalline silica (HSC/06/02).
8.1	Jonathan Rees introduced the paper which presented the results of the consultation exercise on a new Workplace Exposure Limit (WEL) for respirable crystalline silica and recommended that the WEL of 0.1 mgm ⁻³ should be implemented in October 2006.

	<p>Implementation of a lower limit would not be feasible at the present time because of measurement difficulties at lower levels of exposure. However the Advisory Committee on Toxic Substances would keep this under review.</p>
8.2	<p>The Commission considered this to be a responsible approach; a lower level was not practicable at present if it could not be measured but advised that HSE should be aiming to achieve a further reduction.</p>
8.3	<p>The Commission:</p> <ul style="list-style-type: none"> • Noted the results of the consultation exercise; • Agreed the recommendations on the way forward, in particular that a WEL of 0.1 mgm⁻³ be implemented in October 2006; and • Agreed that ACTS would keep under review implementation of the WEL as well as research on exposure measurement to inform discussion on further reduction of the limit.
9	<p>Future Governance of Health and safety Commission and Executive (HSC/06/57)</p>
9.1	<p>Jonathan Rees presented the paper which sought approval for work to increase the accountability and effectiveness of HSC and HSE's current governance structure.</p> <p>The proposal was to issue a consultation document in the Autumn. The content and format would be very important with clear parameters on the who, what and why.</p> <p>The work would be taken forward by HSC/E and the next step would be to agree the joint committee membership. The HSE members would be; Geoffrey Podger, Jonathan Rees, Vivienne Dews, Colin Douglas and Alex Brett-Holt. The first meeting would be held on 25 July to agree a project plan, structure and content of the CD. A common speaking note would be drawn up and circulated to HSC/E</p> <p>HSE was keen that HSE staff, trade unions and external stakeholders would be engaged in the process. A note had gone out to all staff last week to inform them that the issue would be discussed by the Commission.</p>
9.2	<p>The Commission confirmed that Bill Callaghan, Margaret Burns, Sandy Blair, Danny Carrigan, and John Longworth would sit on the committee and act as a sounding board.</p> <p>There was some discussion about how radical the the group should be in its consideration of options, leading to a general agreement that the fundamental principles, including the tripartite nature of any body, had already been agreed.</p> <p>The details and implications of any options would be critical, for instance the separation of executive activity and policy.</p>

	Any new appointments to the Audit Committee should be aware of the possible impact any changes could have on them.
9.3	The Commission agreed that a consultation document on the case for merging HSC/E into a single corporate structure should be developed, and that a small group of Commissioners would act as a sounding board. The worked up proposals would come back to the Commission.
	Below the Line
10	The Removal of age related conditions in Mining Legislation (HSC/06/38)
10.1	The Commission approved the changes to the ACoP and noted the the new Regulations.
	Miscellaneous Papers
11	Information Project (MISC/06/11)
11.1	The Commission noted the paper
12	The publication of Hse guidance for managing the health and safety of agency workers (MISC/06/06)
12.1	The Commission noted the publication of the guidance.
13	Railway safety publication of Annual Report on Railway Safety 2005 (MISC/06/12)
13.1	The Commission noted the report and the publication date.
14	HSE Expert Report for the Government's Energy Review
14.1	The Commission noted the paper.

ANNEX A

Definition of 'migrant worker'

The definition used for the HSE migrant workers research project is:

'migrant workers are those who have come to the UK within the last five years specifically to find or take up work, whether intending to remain permanently or temporarily and whether documented or undocumented.'