

Meeting Date:	14 February 2006	Open Gov. Status:	To be advised
Type of Paper:	Above the line	Paper File Ref:	
Exemptions:	None		

Health and Safety Commission	
Minutes of a meeting of the Health and Safety Commission, held on 14 February 2006 in the Globe Room, 2 Southwark Bridge, London, SE1 9HS.	
<p>Present</p> <p>Bill Callaghan – Chair Margaret Burns (item 6 onwards) Judith Donovan Joyce Edmond-Smith Sayeed Khan John Longworth Hugh Robertson Judith Hackitt</p> <p>Apologies: Danny Carrigan, Elizabeth Snape</p>	<p>Officials Present Geoffrey Podger Justin McCracken Jonathan Rees Alex Brett-Holt Colin Douglas Vivienne Dews Susan Mawer Neal Stone Peter Jackson Ann Marie Farmer</p> <p>Local authorities: Mark DuVal - LACoRS Malcolm Mathias – Public Protection Group Manager East Riding of Yorkshire Council</p>
1	Minutes of the meeting held on 17 January 2006 (HSC/M01/2006) and matters arising
1.1	The minutes were agreed.
2	Urgent Business
2.1	No urgent business.
2.2	The Chair announced that this was Judith Hackitt’s last meeting and wanted to place on record the Commission’s grateful thanks for her valuable input over the last four years, He had very much appreciated the contribution and support she and her colleagues in the CIA had provided.
3	Chief Executive’s Report
3.1	Presenting his report Geoffrey Podger highlighted four issues: <p><u>Buncefield</u> – An independent Board, chaired by Lord Newton, was overseeing the investigation. The Chief Executive’s report had been delayed so that it could include the outcome of the Board’s meeting on 17 February. The Board intended issuing a progress report on 21 February 2006. There was still a lot of evidence to be examined and as yet no clear explanation of how the explosion had occurred.</p> <p>RMT/LUL – The Railway inspectorate had been engaged in an</p>

	<p>investigation of allegation of breaches of safety made by the National Union of Rail, Maritime and Transport Workers (RMT) following the strikes on the London Underground in December and January. No breaches of safety had been found but it had brought to the attention of London Underground Ltd (LUL) failures in its own procedures.</p> <p>Workplace Health Connect –Subject to final readiness tests to ensure the Adviceline and Pathfinders had the correct systems in place, the launch event should take place at the Excel centre on 23 February. This was an ambitious scheme and a new approach; HSC would be kept informed on progress.</p> <p>Pay – The Trade Unions had voted in favour of the three-year pay deal.</p>
3.2	<p>The Commission welcomed the report. It asked how the Fundamental review was being taken forward and was informed the work was at a fact-finding stage.</p> <p>The Commission agreed that John Longworth should take over from Judith Hackitt as one of the Commission representatives on the steering group.</p>
4	<p>Local Authorities and HSE Working Together Strategic Enabling Programme: sustaining the Partnership (HSC/06/09 & Addendum)</p>
4.1	<p>Justin McCracken and Malcolm Mathias presented the paper, with the support of Allan Davies, which put forward proposals for sustaining the partnership between local authorities (LAs) and HSE, and closure of the enabling programme.</p> <p>During the two years of the strategic programme HSE had developed a closer partnership with its co-regulators and a more inclusive approach. The revised Governance arrangements were in place with the establishment of the Local Government panel and the reformed Health and Safety Executive /Local Authority Enforcement Liaison (HELA) which would be co-chaired by Justin McCracken and Malcolm Mathias.</p> <p>The report contained a lot of positive feedback from the LAs and many examples of successful partnership initiatives. Better coordination of planning arrangements would lead to better targeting of scarce resources. The partnership teams in the regions have been actively engaged in securing agreement with the LAs on the contribution they would make to Fit3 priorities and the response had been very encouraging.</p> <p>Increased awareness of elected members would raise the profile of health and safety enforcement in LAs, which in turn should lead to more resources being made available. An important aspect would be to make clear the links with the local government agenda: quality of life, healthier and safer communities and economic well-being.</p> <p>The challenge now was to turn commitment into practical action.</p>
4.2	<p>The Commission congratulated all concerned including the steering</p>

	<p>group, LACORS, HSE Programme staff and elected members. It placed on record its thanks to Bill Myers for his contribution as joint chair of the old HELA.</p> <p>A lot was going on and if LAs became involved in Fit3 and saw the link to their own agendas, real progress would be made.</p> <p>It looked forward to the first meeting of the Local Government Panel in May and noted the arrangements set out in the below the line paper. This would be an opportunity to explore challenging issues such as performance management and the use of Section 18.</p> <p>The Commission discussed why some LAs were not yet fully engaged and whether this was because of lack of resources or that further work was needed to show the link with other agendas. It asked about the relationships with regional assemblies. It also asked about the availability of health and safety professionals in local government and whether those LAs which had been identified as poor performers two years ago had improved.</p>
4.3	<p>The Chair thanked the co-presenters, and everyone involved with the programme. Excellent progress had been made and he looked forward to the conclusion of the different work streams. The May meeting of the LG Panel would be a valuable opportunity to explore some of the more difficult issues in a mature and honest way. The Commission:</p> <ul style="list-style-type: none"> • Agreed the proposals in the paper for the closure of the programme; • Noted the detail set out in annexes 5 and 6 and endorsed the direction of the work on these issues; and • Endorsed the Communications proposals in paragraphs 15,16 and 17.
5	<p>Proposed Consultative document on Worker Involvement (HSC/06/19)</p>
5.1	<p>Giles Denham presented the paper, which asked the Commission to decide whether to issue a Consultative Document on worker involvement that included proposals for amendments to regulations.</p> <p>The paper presented the proposals requested by the Commission in February 2005. The draft CD in the annex suggested three pillars of activity: guidance, voluntary standards and legislation. The legislative changes had three strands;</p> <ul style="list-style-type: none"> • Duty to consult on risk assessment • Duty to respond to representations made by a safety representative (TU and non-TU) • Clarify when safety representatives can represent fellow-employees at sites where they do not work. <p>As the CD was large a shorter version bringing out the main points was also proposed. The consultation period would be extended to four months and evening meetings would be held around the country to allow small businesses and workers to contribute. The Commission was invited to comment on the completeness of the consultee list.</p>

<p>5.2</p>	<p>The Commission commended the team on their work; the paper was well balanced and accurately reflected the views of HSE's Regulatory Challenge panel and Small firms forum.</p> <p>During their discussion the Commission raised a number of issues:</p> <p>It believed that worker involvement improved health and safety performance but this was not demonstrated in the regulatory impact assessment where the costs far outweighed the benefits. Better evidence would be needed to support the case for legislation and consultees should be asked to provide evidence of the benefits. It might be possible to demonstrate synergies between new legislation, revised guidance and improved training. It was pleased that the cost impact on LAs was recognised.</p> <p>Although the CD highlighted the importance of health, the use of the term 'safety representative' did not reflect this.</p> <p>Further information about the WSA Challenge fund, such as a link to the relevant web site page, should be added to question 4. Evaluation would not be ready until 2007 but the document should be clear about what information was available.</p> <p>Paragraph 43, page 32 should be amended to make it clear this referred to only some consultants.</p> <p>The impact of the Information and Consultation of Employees Regulations 2004 on consultation in general and health and safety specifically needed to be included in the CD as well as Annex C.</p>
<p>5.3</p>	<p>The Chair thought that in its current form it would be difficult to recommend the legislative proposals to Ministers and chances of success were low. The Commission agreed the CD should signal the need for more information on benefits. It also agreed:</p> <ul style="list-style-type: none"> • that an additional question on changing the name of safety representatives should be included • the implications of the Information and Consultation of Employees regulations should be referred to earlier in the document; • further information on the WSA challenge fund should be included <p>Subject to amendments the Commission approved the CD and the consultation process including having a summary document.</p>
<p>6</p>	<p>Delivering the PSA: Summary Performance Report for Quarter 3 (2005/06 (HSC/06/25))</p>
<p>6.1</p>	<p>Jonathan Rees presented the paper, which reported on the performance of the Strategic Programmes against the Public Service Agreement (PSA) targets in the third quarter of the year.</p> <p>The overall assessment of HSE's performance was one of cautious optimism. The 2004/05 health and safety statistics published in November had been good news. Good progress was being made. Major Hazards remained on green: catastrophic incidents such as Buncefield remained</p>

	<p>rare and the number of pre-cursor incidents continued to decline.</p> <p>The Annexes identified the key risks which underlined the significant challenges ahead, particularly around new interventions on the health agenda and days lost. But overall it was a positive report.</p>
6.2	<p>The Commission thought that good progress had been made and congratulated staff on the work they had done to achieve this. Their main concern with the paper was that it's scoring should be consistent so they could look at trends and it should include a straightforward judgement of whether progress was being made in the narrative. This would help them to assess the impact and outcomes. They also questioned the relationship between the PSA and Revitalising targets, and the way the target baselines changed.</p>
6.3	<p>The Commission agreed that the summary report should form the basis of a submission to the Minister and that the Chair should discuss the issues raised in his discussion with the Minister in March.</p>
7	<p>Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS): Post Consultation Update (HSC/06/22)</p>
7.1	<p>Giles Denham and Chris Carr presented the paper, which asked the Commission to agree the changes to the proposed ROGS regulations and the issuing of an Approved Code of Practice on safety critical work.</p> <p>The Commission had approved the original ROGS package in March 2005 with the provision that it might need to be reviewed in light of DfT's approach on interoperability. DfT had published their proposals in September 2005 with a much narrower scope, which meant that parts of the Mainline Railway would not be covered by interoperability. The ROGS amendment therefore proposed that safety verification be extended to the mainline.</p> <p>The majority of stakeholders had indicated their acceptance of the revised approach with the exception of the Heritage and tramways people who remain opposed to the removal of the ROTS regime.</p> <p>The Commission were also asked to confirm whether or not it supported the introduction of an ACoP on safety critical work. Responsibility for railways was about to transfer to ORR who would not have ACoP making or modifying powers. The ACoP could therefore never be amended to reflect changing experience and would cease to be of effect when the regulations were revoked or amended to omit the relevant provisions.</p>
7.2	<p>The Commission thanked HSE and stakeholders for the enormous amount of work undertaken on this. The revised approach was a move to a system that was risk based and proportionate and away from the old formal bureaucratic approach and it was important to get this message across to Heritage rail.</p> <p>The Commission asked whether the due diligence defence in the regulations was sufficiently up to date in its wording.</p>

	<p>The Commission debated whether or not an ACoP on the management of fatigue was still appropriate in light of the future implications for ORR. On balance; It felt that the original advice that an ACoP was appropriate was still valid. It had recommended an ACoP because there was already one in existence; fatigue and working time were important health and safety issues; a number of stakeholders thought the move from an ACoP to guidance would be a weakening of the regulatory regime. Circumstances had not changed. The minister should be advised that whilst the Commission recognised the difficulties for ORR it affirmed its original advice.</p>
7.3	<p>The Commission:</p> <ul style="list-style-type: none"> • agreed the recommendation 3a on changes to the proposed ROGS regulations; • noted the minor drafting changes to part 4 of the regulations; • confirmed that it was its view that an ACoP on safety critical work should be introduced; • agreed that the Chair should discuss the due diligence wording with HSC's legal adviser and amend if he thought appropriate; and • agreed that the proposed Regulations be submitted to Ministers.
8	HSC Business Plan 2006/2007 (HSC/06/27)
8.1	<p>Vivienne Dews presented the paper, which asked the Commission to approve the business plan for 2006/07. The three-year plan covering the period 2005/06 – 2007/8 had been agreed last year. This one-year plan expanded on the planned work for the second year.</p> <p>The plan had two audiences:</p> <ul style="list-style-type: none"> • It was the cornerstone of our contract with DWP and explained resources and delivery for Ministerial agreement; • Internally it provided the framework for detailed planning and enabled staff to see how their work fits in.
8.2	<p>Discussing the Plan, the Commission felt it did not contain the information it needed to know what it was agreeing to. It was not clear if there were any changes, there was no historical information so that comparisons could be made; there was no information on whether we had achieved what we said we were going to do. It did not want a lot of detailed analysis but an explanation of the context would be helpful</p> <p>Geoffrey Podger explained that no significant changes had been made from the three-year plan and none would be made without seeking Commission agreement.</p> <p>The wording in the third paragraph of the revised foreword needed redrafting.</p>
8.3	<p>The Commission agreed the Plan should be amended to include something about how the plans had changed in light of progress made and from what had been said in the 3-year Business Plan last year. Subject to these comments the Commission approved the plan.</p> <p>It agreed it would like a later discussion on performance against the current year's plan.</p>

	Below the line Papers
9	Channel Tunnel safety Authority (CTSA) Appointments of Rob Andrews, Director of Rail safety Policy and Charlie Hendry, Chief Fire Officer Designate to CTSA and Arrangements for Future Appointments (HSC/06/23)
9.1	The Commission approved the appointments and noted the arrangements for future appointments
10	Liaison between HSC and Local Authorities: establishment of Local Government Panel for Meetings with HSC (HSC/06/24)
10.1	The Commission noted the establishment of new governance arrangements between HSC and LAs and the meeting planned for 9 May 2006.
11	HSE Access to Industrial Injuries Prescribed Disease data(HSC/06/26)
11.1	The Commission agreed in principle to use its power under section 27 of the HSWA to obtain data on industrial injuries prescribed diseases cases at the individual case level.