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Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 5 September 2006 in Conference Room 9, Redgrave Court, Bootle, Merseyside

Present

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

Apologies: John Longworth, Elizabeth Snape

Officials Present

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

Welcome/Introduction

The Chair welcomed everyone to the first open meeting to be held in Redgrave Court.

1a Minutes of the meeting held on 25 July 2006 (HSC/M07/2006) and matters arising

- 1a.1** There were three amendments:
- Item 3.1 second bullet point. “the Police Commissioner” should be deleted and replaced with ‘The office of the Metropolitan Police Commissioner.
 - Item 3.2 second sentence delete the word “widespread”; and
 - Item 5.2 amend the first bullet point, delete “GB” and insert “than England and Wales”.

Subject to this the minutes were agreed.

1b Draft Minutes of the HSC meeting held on the 11th of July on the Presentation of the Major Incident Investigation Board’s initial report in the explosions and Fires at Buncefield

1b.1 The minutes were agreed.

2 Urgent Business

2.1 None.

3 Chief Executive’s Report

- 3.1** Presenting his report Geoffrey Podger highlighted the following:
- the launch of the sensible risk principles had been very successful with good media coverage and support;
 - two sets of statistics had been launched in August. The provisional 2005/06 fatal injury statistics were the lowest on record and the

	<p>significant reductions in construction and agriculture fatality rates were pleasing given the difficulty in achieving improvements in the two industries. Rates had, however, risen slightly in manufacturing and services. It was worth noting that in 2003 the rate of fatal injuries to workers in Great Britain was the lowest in Europe. The message underlying the release of the offshore statistics was that there was more to be done. HSE was continuing to engage with the offshore trade unions and was committed to working with them.</p> <ul style="list-style-type: none"> • HSE's Finances –the previous trend of under spending had moved to a potential overspend which meant HSE had to reduce staff levels including a ban on recruitment. In the circumstances discussions with the trade unions had been good. Their concerns were: that staff should not be subjected to unacceptable work pressures; that there should be no compulsory redundancies; and steps should be taken to prevent this happening again. <p>No compulsory redundancies were anticipated and changes had been made which should improve the quality of forecasting. The Board would engage with staff on the ramifications and give them the opportunity to raise their concerns.</p>
<p>3.2</p>	<p>The Commission were pleased to see the proactive approach being taken towards the trade union concerns about the offshore oil industry but thought there seemed to be inconsistency between the hard-hitting messages given in interviews and that in the offshore statistics press release. Instead of saying that there was more for the industry to do, the message should be that the industry was not doing enough. The people working in this dangerous environment wanted to be confident that HSE was on their side.</p> <p>The Chief Executive agreed there was a difficult balancing act when dealing with messages to the offshore industry. HSE wanted to encourage the industry to continue to make progress but was conscious of the risk of being seen to be in the employers' camp.</p> <p>The Commission discussed the financial issues and sought reassurances about the budget review processes and the changes planned. It needed to be fully informed to enable it to carry out its oversight function. For example, information on capital and revenue and how this impacted on the different businesses and a better understanding of the strategic levers that impact on HSE's spending would be useful.</p> <p>It welcomed the way staff had been kept informed and suggested there needed to be more communication with outside partners.</p>
<p>3.3</p>	<p>The Chief Executive explained when and how the financial monitoring process had identified the current financial difficulties. There had been a failing in monitoring forecast expenditure and he had taken steps to try and ensure that such forecasting was accurate and not optimistic. He offered to provide the Commission with the Executive's monthly financial update and to provide a note on the actions taken so far.</p>

3.4	<p>The Commission thanked the Chief Executive for an informative report. It agreed that receiving the Executive's monthly finance report and a note of the financial management changes made so far would be useful.</p> <p>The Commission was meeting in Aberdeen in March 2007 and was planning to meet with the offshore industry.</p>
4	Fatal Injuries: annual statistics and monthly reports (HSC/06/70)
4.1	<p>Jonathan Rees introduced the paper. The figures for 2005/06 fatal injuries, which were provisional, were good, particularly around construction. There had however been increases elsewhere such as in the waste recycling industry, which would need further analysis. The launch had received good factual press coverage.</p> <p>The paper explained how the statistics were compiled to ensure they were sufficiently accurate to meet National Statistics standard.</p> <p>Overall the system for collection and validation of statistics worked well; there had however been some glitches this year and as a result the new Chief Scientist, Patrick Macdonald, would be overseeing a review to improve arrangements for validation and to consider how best the data could be presented. The results would be reported to the Commission at the seminar on statistics being held in January.</p> <p>In order to keep the Commission up to date they were provided with a monthly report of fatal injuries. As explained in Annex 2 this was raw unvalidated data and related only to FOD. It should be possible to extend this to include fatal injuries reported to other directorates. A steer was sought as to whether the Commission wished to continue receiving this information.</p>
4.2	<p>The Commission explored how the various statistics that HSE produced were presented. At the moment fatal injuries, occupational health statistics and days lost to injuries were all released at different times. There were concerns that this gave a fragmented picture. There was a tendency to focus on the fatalities rather than the much larger numbers who died each year due to occupational illness. This was also the wrong way to judge HSE's performance, which needed to be seen as part of the overall picture. Releasing all the statistics at the same time would provide a better overall idea of harm and how to prevent it. It would also be helpful to have the other statistics earlier than November each year.</p> <p>It was equally important to produce data for the layman as well as the specialist. Providing underlying trends was an important part of this. There had been improvements in recent years in the way HSE handled statistics, for example the pocket size publication produced the previous year had been well received.</p> <p>The Commission also asked about the definitions in deciding what was reportable and whether they were consistent with Europe, and what was being done about having a single database for the information.</p>

<p>4.3</p>	<p>Responding HSE said that the Chief Scientist’s review would be looking at how the statistics should be presented. The Commission’s steer was very helpful and it would now be a matter of seeing if there were ways round the practical difficulties. The review would also consider the database issue.</p> <p>Producing the statistics earlier or later depended on the percentage of inaccuracy that was considered acceptable and fit for purpose.</p> <p>The value of the fatal statistics was that they were not subject to under reporting. By analysing them over a long period of time it was possible to confidently identify trends.</p> <p>RIDDOR provided the definitions for reportable injuries. It was not entirely consistent with Europe as it excluded work-related road injuries, although these were taken into account in international comparisons.</p>
<p>4.4</p>	<p>The Commission thanked the officials for a useful presentation and agreed:</p> <ul style="list-style-type: none"> • the monthly statistics should continue to be presented in the CE’s report; • The review on how statistics should be presented should be provided earlier in the year.
<p>5</p>	<p>HSE Health Agenda Gaining Momentum (HSC/06/71)</p>
<p>5.1</p>	<p>Jane Willis presented the paper, which provided part of the broad contextual backdrop to the discussion on Good Jobs Good Health and the role of health and safety in the broader public health and productivity agendas that would be debated at the HSC’s stakeholder event in October.</p> <p>The paper set out the key strands of development and delivery work now underway, aimed at delivering the targets for reducing ill health and days lost and improving health in the workplace. Progress was being made but there was no room for complacency.</p> <p>All work on occupational health issues complemented and contributed to the Health Work and Well-being strategy, an important partnership with DWP, DoH and the devolved administrations. Professor Dame Carol Black had taken up her appointment as National Director of Health and Work and was due to meet with Bill Callaghan and speak at the HSC Stakeholder event in October. Several projects flowed from the strategy including ensuring health and well-being became core to Central Government by engaging with HR departments across Whitehall.</p> <p>The next steps were to:</p> <ol style="list-style-type: none"> a) Engage with others to build this work into broader agendas for sustainability and greater impact on business; b) To further develop thinking and debate about good jobs and similar issues; and c) Sustain effort and resources on key topics.

<p>5.2</p>	<p>The Commission thanked Jane Willis for a good and positive presentation.</p> <p>HSE was a world leader on many aspects of the health agenda, such as stress and its work was having a significant effect. It should do more to publicise its success.</p> <p>The Commission questioned the sustainability of the resource and effort required. The input from our partners was vital and it was important to that they, particularly in the HWWB initiative, were in step with us. Perhaps more champions were needed.</p> <p>We had achieved most success in areas where industry had taken ownership of the issues and this was a model we should use wherever possible.</p> <p>It was important to engage with HR professionals who were very influential in these areas.</p> <p>Local Authorities were fully committed to the health programmes.</p> <p>There was some concern about the reputational issues in relation to the sickness absence and rehabilitation programmes; HSE should not be seen as too closely linked to employers and needed to be confident that real outcomes were being measured.</p> <p>It questioned whether small firms distinguished between health and safety.</p>
	<p>Responding HSE said that the appointment of Dame Carol Black provided a momentum to taking forward the HWWB strategy with the other departments involved.</p> <p>HSE's aim was to target the resources devoted to health – which were a small proportion of its overall resources – effectively, using all the tools it had and to act as a catalyst.</p> <p>Workplace Health Connect was demonstrating that small firms needed the basics and the aim was to achieve a transfer of skills and learning.</p>
<p>5.3</p>	<p>The Commission thanked the presenter for an informative update. This was an agenda that had to be taken forward and we needed to find champions and partners who could help in doing so.</p>
<p>6</p>	<p>Better Regulation Simplification Plan: Final Version (HSC/06/88)</p>
<p>6.1</p>	<p>Giles Denham introduced the paper, which sought the Commission's approval for HSE's draft simplification plan.</p> <p>The focus of HSE's efforts had been to simplify the administrative burden of complying with regulation but without undermining protection of workers and the public.</p>

	<p>The Government target was intended to reduce burdens on business. Simplification in the right way improved the understanding of duty holders on compliance and led to better outcomes and that was the approach taken by HSE.</p> <p>The model used by the government had caused some concerns as it had led to anomalies in the way costs were treated and subsequent distortions in focus e.g. including policy and third party costs in the administrative burden measurement exercise. However HSE thought its plan should deliver the bulk of the target.</p> <p>The monitoring group for the exercise, which included external stakeholders, had broadly supported the plan and had made 3 key points;</p> <ul style="list-style-type: none"> • sensible risk management was critical but the culture change required would be a challenge; • most health and safety legislation flowed from Europe and it was unrealistic to think that could be changed; and • HSE should work with other regulators whenever possible.
6.2	<p>The Commission congratulated the Better Regulation team on compiling a clear plan, which met the remit it had been given. It strongly supported the focus on making it easier for duty holders to understand and comply with legislation and thus achieving improved health and safety. Health and safety was not a burden; workers needed protection.</p> <p>There was discussion around the likely outcomes of some of the reviews, for instance on landlord gas safety checks, where sensitivities were very strong, and the checks for competent contractors under the construction regulations. The review of gas safety was not about reducing bureaucracy and it was important not to give the wrong impression.</p> <p>It discussed whether all the suggestions would lead to genuine simplification. An example of this was the Health and Safety Poster where Commissioners had divergent views on its value but all agreed its presentation and content needed constant review to check its relevancy.</p> <p>The Commission asked for sight of the draft European Occupational Safety and Health Strategy mentioned in the plan.</p>
6.3	<p>The Commission congratulated officials on the plan and the way they had robustly defended HSC/E's position. It agreed the plan for:</p> <ul style="list-style-type: none"> • Submission to the Better Regulation Commission and the Panel for Regulatory accountability; and • Publication on the HSE website in October 2006.
7	<p>Operational Issues: HSE Response to Buncefield (including land use planning) - Oral Presentation</p>
7.1	<p>Justin McCracken and Kevin Myers updated the Commission on HSE's ongoing response to the Buncefield Incident and the substantial level of resource commitment involved.</p>

This was the first time HSE and the Environment Agency had jointly carried out an investigation reporting to an independent Board. Over the 8 month period to date 70 HSE and 22 EA staff had been involved in the investigation and follow up - the equivalent of 30 and 8 full time staff respectively. This was a substantial part of our regulatory input to the industry. £1million of HSL effort had also been committed.

The Major Incident Investigation Board (MIIB) terms of reference included:

- Identifying and transmitting without delay any information requiring immediate action;
- Work closely with all relevant stakeholders; and
- Make recommendations on prevention, preparedness and mitigation of major accident risk at COMAH sites.

HSE uses safety alerts to advise industry quickly of significant issues. Two such alerts have been issued to date in respect of Buncefield. The first of these, covering a range of issues, was issued in February 2006. This was targeted at 108 Buncefield type-sites but copied to all COMAH sites. HSE subsequently visited all 108 sites to follow up the alert, 86% were found to be largely compliant with present guidelines. 3 improvement notices were issued and 2 other significant issues identified. 12% of sites had minor concerns to rectify.

One of the key issues to emerge from this work was the lack of clarity about risk assessments and standard. This issue was being taken forward by a Safety Standards Task Group, involving industry and trade unions as well as HSE/EA/SEPA. This was established in June 2006 and had ~~it had~~ six working groups covering different ~~6~~ topic areas.

A second safety alert was issued in July 2006 concerning the setting and testing of high level alert safety switches. Subsequent follow up had revealed that there were fewer of these in use than had been expected. All were now being operated to the manufacturers' instructions.

The Commission was concerned that the safe operation of these switches appeared to place too much reliance on management action to ensure their correct operation. It felt that there was scope for building in a greater degree of assurance at the decision stage. HSE confirmed that the design and operation of such switches was one of the issues being considered within the Safety Standards Task Group.

Guidelines on Land Use Planning were being revised in the light of our experience of Buncefield. A consultation document was proposed for November 2006. This was intended to be issued jointly with other Government departments responsible for planning issues.

This had been an incident of low probability but with high consequences and it was important to learn from the mistakes and experience.

7.2

The Commission thanked the presenters for a helpful overview.

The Commission was concerned at the impact of devoting such resources

	<p>to the investigation and questioned whether HSE could continue to provide an acceptable level of assurance. Responding HSE said it did not feel its normal level of assurance (within current resourcing) had been significantly compromised to date; it had reprioritised and redistributed the available resource, with assistance from colleagues in NSD and OSD; and staff were working very hard. But this would not be sustainable if it proved necessary to continue to commit the current level of resource to the Buncefield work. However, the Buncefield Investigation Manager had indicated that he hoped to have considerably scaled down resource demands by the end of October.</p> <p>The Commission asked if the investigation had lead to a re-examination of how we approached regulation of the industry and was told this matter was within the Terms of Reference of the MIIB and would be considered by HSE in the light of any findings or recommendations.</p> <p>The Commission asked if HSE would be reviewing the ad-hoc model that had been developed through the MIIB to learn any lessons for the future. HSE confirmed that it would be conducting such a review, which would take account of the views of Lord Newton. It agreed to discuss the outcome with HSC.</p>
7.2	<p>The Commission thanked everyone who had been involved in this important work and congratulated them on producing such important results in such a short space of time.</p> <p>It recognised the resources that had been involved and would be concerned if this was maintained for too long.</p>
8	Performance Report for November 2006 – approach and positioning (HSC/06/69)
8.1	Colin Douglas introduced the paper, which sought Commission approval for the approach and positioning of the first annual performance report, which was scheduled to be published in November 2006. The document, which would have short accessible text, was seen as a key way of communicating with a wide range of stakeholders.
8.2	The Commission questioned the audience the document would be aimed at and whether paper copies were necessary. The numbers of printed copies of the Annual Report should be reduced if a new document was introduced. Overall it supported the attempt as part of HSC’s strategy to communicate and thought that it should have weight even if easy to read. The Local Authorities should be consulted.
8.3	HSE explained that the intention was to have an HSC report on the broader health and safety system rather than mirroring the Annual Report. At the moment there was no single short summary of HSC/E’s work that could be distributed, for instance at the huge range of events HSC/E participate in. It would also be proactively targeted at stakeholders. The Annual Report had been slimmed down last year and the numbers of printed copies reduced.

8.4	On the basis that the document would tell a story the Commission agreed that work could proceed.
	Below the Line
9	Withdrawal of the Approved Code of Practice and Guidance Note on Zoos – Safety, Health and Welfare Standards for Employers and Persons at Work 1985 (HSC/06/73)
9.1	The Commission agreed to seek Ministerial consent to the withdrawal of the ACoP and Guidance Note on Zoos and introduce new guidance.
10	Audit Committee – terms of reference (HSC/06/62)
10.1	The Commission agreed the changes to the terms of reference of the HSC Audit Committee.
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12	HSC/E Management Statement (HSC/06/61)
12.1	The Commission agreed that the current Framework of Accountabilities should be replaced by the Management Statement as detailed in Annex A of the paper.
13	Amendment to the Code of Practice for Using Plant Protection Products (HSC/06/67)
13.1	The Commission agreed the amendment to paragraph 3.7.4 of the Code of Practice.
14	HSC Commission Stakeholder Conference, 10 October 2006, London (HSC/06/74)
14.1	The Commission noted the format and structure for the HSC's stakeholder conference and the supporting arrangements including their role and responsibilities on the day.
15	Summary of responses to the Health and Safety Commission's consultation on proposals for the revision of the Construction (Design and Management) Regulations 1994 and the Construction (Health, Safety and Welfare) Regulations 1996 (HSC/06/76)
15.1	The HSC noted the summary report of responses to HSC's consultation on proposals for the revision of the Construction (Design and Management) Regulations 1994.
16	Miscellaneous Papers HSC Charging (MISC/06/20)
11.1	The Commission noted that HSE was reviewing HSC/E's approach to charging.