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Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 9th October 2007 in the Globe Room, Rose Court, London

<p>Present:</p> <p>Judith Hackitt – Chair Sandy Blair Danny Carrigan Robin Dahlberg Judith Donovan Sayed Khan John Longworth Hugh Robertson Liz Snape</p> <p>Apologies: John Spanswick</p>	<p>Officials Present:</p> <p>Geoffrey Podger Jonathan Rees Justin McCracken Alex Brett-Holt Vivienne Dews Colin Douglas René McTaggart Lorraine Cassell Ann Marie Farmer</p> <p>Jane Willis– Item 3 Elizabeth Gibby – Item 3 Stephen Williams – Item 4 Helen Smart & Jenny Eastabrook– Item 5</p>
1	Agenda Item One: Welcome/Introduction
1.1	Judith Hackitt welcomed everyone to her first meeting as Chair of the Commission and paid tribute to her predecessor, Sir Bill Callaghan, for his leadership and determination in driving forward the Commission's strategic agenda.
1.2	<u>Minutes of the meeting held on 4 September 2007 (HSC/M07/2007)</u> The minutes of the September meeting were agreed as drafted. However, the Commission agreed that for the sake of clarity it should be recorded that HSC/loD Guidance (as discussed under Agenda item 5 of the September meeting) does not have a formal <u>statutory status</u> but that it could have a <u>legal effect</u> if used as guidance by the Courts.
1.3	<u>Matters Arising</u> The Chair reported on the progress on the actions arising from the 4 September meeting, the highlights included: <ul style="list-style-type: none"> a) Report back from the Secretary of State's Construction Forum – the Commission were informed that this issue would be covered in the CE's report and as part of the wider discussion on construction under agenda item 4. b) ICL Stockline – an announcement has been made on the Government decision to hold a public enquiry. An update on the position will be covered in the CE's report. c) Reports from the Partnership for Health and Safety in Scotland (PHASS) – Danny Carrigan agreed to provide the Commission with an update on any significant issues as they arise. d) HSE/GLA Merger – As requested by the Commission, DEFRA have been advised that the consultation document should be published by DEFRA alone and dual badged with the Commission. Talks on the funding and issues associated with the merger are

	<p>ongoing. The Commission were also reminded that a note on the position in Northern Ireland had been provided before the meeting (Alex Brett to Commissioners on 5 October 07).</p> <p>e) Vulnerable (including migrant) workers – The Commission was informed that the issue will be covered by the agenda items on agriculture and construction and as part of the afternoons diversity/equality seminar.</p> <p>f) HSC/loD guidance on director responsibilities – The Commission were informed that the Chair and Judith Donovan would both be attending the launch of the guidance on 29 October.</p> <p>g) Simplification Project: health & safety poster – The Commission noted that a further report was planned for the December meeting.</p>
1.4	<p><u>Urgent Business</u> There were no urgent business items.</p>
2	Chief Executive's Report
2.1	<p>Geoffrey Podger highlighted the following issues:</p> <p>a. ICL Stockline – On 1 October 2007, the Secretary of State for Work and Pensions, Peter Hain, and the Lord Advocate, Elish Angolina, announced their agreement that there should be a public enquiry into the explosion at ICL Plastics and ICL Tech Ltd on 11 May 2004. The terms of reference and schedule had not been agreed at the time of reporting.</p> <p>b. The Commission were also informed that HSE had provided the Minister with their view on the lack of validity of the Academics report. Geoffrey also expressed his frustration at the lack of concern shown in the report for the effect their unjustified criticisms would have on individual staff.</p> <p>c. The Secretary of State's Construction Forum on 17 September 2007 was reported to have been a success. The Commission agreed that its longer term success would need to be judged on the improvements in the industry that are achieved.</p> <p>d. The foot and mouth outbreak – The Commission were informed that the enforcement action which prohibits work on Genetically Modified Pathogens at Pirbright is still in place and would remain so until HSE was satisfied that appropriate action to tighten bio-security had been taken.</p> <p>e. Charging – HSE is proposing to increase its charging rates for its work offshore, Nuclear, COMAH etc. These sectors are being notified of the proposed change. The Commission informed that a paper on the new fees regulations were due in December and, that subject to their and Ministerial clearance, the new charges will take effect from April 2008.</p>
2.2	<p>The Commission thanked Geoffrey for his report and made the following comments:</p> <p>a. consideration would need to be given to how to ensure PHASS were able to be kept in the loop once the terms of reference for the public inquiry into the ICL Stockline explosion were produced.</p> <p>b. a strategy needs to be developed for defending HSC/E's actions (specifically in Scotland where the tabloids have heavily criticised HSE) prior and after the ICL Stockline explosion.</p>
ACTION	Colin Douglas to develop a communications/press handling strategy to tackle the issues arising from the Watterson report and tabloid

	reports into ICL Stockline.
3	Agenda Item Three: Tackling Health and Safety in the Agriculture (Land based) Sector: Future Direction (HSC/07/60)
3.1	<p>Jane Willis and Elizabeth Gibby introduced the paper and included the following key points in the introduction:</p> <ol style="list-style-type: none"> a. The paper had been prepared because of the concerns expressed by the Commission on the health and safety performance of the agricultural sector particularly in relation to fatal accidents and to provide the opportunity to discuss the future direction to tackle the challenges. b. Fatal injuries in this sector were mainly due to incidents involving workplace transport and falls from height. c. The nature of the industry makes it a particular challenge to make significant reductions in the injury rates. The industry includes a wide variety of activities, hard to reach small businesses, and large numbers of self-employed, casual and temporary, and migrant workers. d. HSE has worked hard to raise awareness, engage key stakeholders and develop novel interventions. In January 2004 HSE had set out a 10 point, risk based and evidence led, strategy. The impact of this work on the health and safety performance of this sector remains, however, difficult to assess. e. HSE had reduced proactive inspection visits while of course maintaining reactive work e.g. accident investigation. f. An analysis of fatal injury data for the past 20 years has shown that, despite HSEs efforts and interventions, there was no statistical effect on the fatal injury rates. This was in marked contrast to rates for other sectors where HSE had taken similar approaches to focus effort on working in partnership with the industry to reduce accident rates. g. The Commission were therefore asked for a steer on how best to address this challenging dilemma by indicating which (if any) of the options set out in the paper should be progressed. The options were: <ul style="list-style-type: none"> • On the evidence that the work was not impacting on the injury figures HSE could reduce its proactive efforts further. This would be difficult to justify on moral and ethical grounds. • HSE could divert more resources into this sector. While this would be popular with some stakeholders there was no evidence that this would have the desired impact. To do this a choice would have to be made on from where the resources would be diverted. • To refine the current strategy to segment the interventions to try and achieve a better outcome for the limited resources available including searching for ways to ensure the industry takes ownership of the problem.
3.2	<p>The Commission thanked Jane and Elizabeth for a frank and honest assessment of the current position. In response to the points made they made the following comments;</p> <ol style="list-style-type: none"> a. The Commission agreed that this was a very difficult and complex issue to address and that the strategy for tackling the health and safety performance in agriculture needed new impetus and direction. However, it was also agreed that it was important to pause and reassess the issues rather than simply divert more resource to the problem. b. The Commission asked whether other European countries have

	<p>had more success in reducing accidents in agriculture and whether there were lessons to be learnt from our European partners. The Commission acknowledged that there were difficulties in comparing performance as not all statistics were collected in the same way (for example some European countries include road traffic accidents whereas HSE does not).</p> <ul style="list-style-type: none"> c. The Commission therefore asked for further international comparisons to be provided so that an attempt at benchmarking could be made. In addition, more information was requested on the numbers of SHADs delivered and the regional distribution of that delivery. d. The Commission questioned the reported incidence of occupational ill-health in agriculture and believed that in fact the extent of the problem was much greater but hidden by significant under-reporting. e. The Commission acknowledged the importance of using the right medium to get messages across to those in the agricultural sector (including the families of farmers). The Commission noted that if the wrong method of communication were used it would have little/no effect and agreed that, as with other interventions, that there needed to be a mix of approaches to win hearts and minds. f. The Commission discussed the range of possible interventions including enforcement action, communication and stakeholder involvement. They agreed that as part of the review of the agriculture strategy, HSE should explore whether local authorities could be more involved. g. The Commission agreed that the key to addressing the high rate of accidents in the agricultural sector was to get industry to buy-in to the ownership of the problem. The Commission therefore agreed it would be worthwhile exploring whether it might be productive to bring all stakeholders (including, DEFRA, farmers, insurers, financiers, NFU and those in the supply chain) together to consider how best to improve the health and safety performance of the industry. h. The Commission also acknowledged the need to continue to protect vulnerable workers in this sector.
3.3	<p>The Chair concluded the discussions by thanking everyone for a very useful debate and commenting that it was important for the agricultural sector to learn from the experience of the construction sector who have taken ownership of the problem and were now reaping the benefits. The Chair also commented that it was important that the Commission become more involved in the development of the refined strategy. Judith Donovan was suggested as an ideal Champion from the Commission to work with stakeholders and partners on the Agriculture Industry Advisory Committee.</p>
Action	<p>Jane Willis and Elizabeth Gibby to take the lead in the development of a refined strategy for addressing the health and safety performance of the agriculture sector and bring proposals back to the HSC for their consideration.</p>
Action	<p>Elizabeth Gibby to provide the Commission with a response to the detailed queries on aspects of the statistics and to commission further information on international comparisons, as well as providing more information on the detail of SHAD delivery.</p>
Action	<p>The Chair to discuss with Judith Donovan her new role as HSC Champion for agriculture.</p>

4	Agenda Item Four: An Update on the work of the Construction Division (HSC/07/71)
4.1	<p>Stephen Williams introduced the paper and made the following comments:</p> <ul style="list-style-type: none"> a. The construction programme had been established to promote long term and sustainable change in the health and safety performance of the construction sector. At its core is ownership by the industry; developing leaders and partnership working between those who create risks and those exposed to them. b. Since the introduction of the construction programme the number of fatal incidents, major injuries and over 3-day injuries are all down over the period notwithstanding last years increase in fatalities. Overall the construction division's work with the industry is making the improvement necessary to meet the PSA target. However, the industry is not meeting its own targets set out at the 2001 summit. c. Fatal accidents for the first six months of the year had not shown the significant increase in the house building sector of last year. Repair/ refurbishment and maintenance activity however still remained a substantial cause of fatal accidents. Construction Division would therefore be repeating a targeted inspection campaign in this sector in February. d. The success of the programme so far is largely attributable to evidence based approach to interventions and the willingness of the industry as a whole to tackle health and safety problems. e. While the Commission had raised concerns about migrant workers at earlier meetings there is no clear evidence that migrant workers are more at risk. However, there is some evidence that they have a slightly higher accident rate but this may be due to the work traditionally undertaken which is riskier - for example trades like roofing and groundwork. f. The construction programme is now gearing up to re-focus its priorities which will include; vulnerable workers, working with local authorities – as clients, regulators, and for their responsibilities for building control/planning and regulating rogue traders - and seeking to influence public sector procurement as a lever for improvements. g. The Commission was also provided with an update on the SoS's forum at which key stakeholders had agreed an action plan which was to be the starting point for further discussion. The Strategic Forum Health and Safety Group, which is currently chaired by John Spanswick, has been charged with taking this forward.
4.2	<p>The Commission thanked Stephen for his presentation and John Spanswick for his contribution to the SoS's Forum and for providing feedback via Stephen Williams. The Commission then made the following comments during the discussion that followed:</p> <ul style="list-style-type: none"> a. The Commission were pleased that the injury statistics showed a significant improvement in the construction sector over the last 5 years. The Commission praised the hard work and commitment of the HSE to the strategy and identified it as a key factor in the success of the programme. b. The Commission agreed that it was important that the early warning signs of where problems are emerging (or re-emerging) are quickly identified and acted upon to ensure the continuation of the down ward trend in the accident figures. c. The Commission noted the importance of learning from near misses so that future incidents could be avoided and, where

	<p>appropriate, effort can be focussed.</p> <ul style="list-style-type: none"> d. The Commission commented that, in general, the interventions of the HSE were welcomed which is very different to the claims of 'unnecessary red tape and risk aversion' that is seen in other sectors. e. The Commission agreed that it would be beneficial to review the membership of the Strategic Safety Forum group (Chaired by John Spanswick) to ensure include a wide and representative range of stakeholders. f. The Commission noted that local authorities are the largest clients for the building of new homes. The Commission agreed to feed ideas on how to use local authorities as a lever to improvements in to the HSE's Construction Divisions thinking. g. The Commission were informed that Worker Safety Officers were discussed at the SoS's forum and that work was in hand to consider how best to fund them.
4.3	The Commission noted the work being done and agreed to continue supporting the work in this sector.
Action	Sandy Blair to provide HSE construction division with his thoughts on the role of Local authorities in improving the performance of the constructions sector.
5	Agenda Item Five: HSC/E Simplification Plan 2007 (HSC/07/59)
5.1	<p>Jonathan Rees introduced the paper and made the following comments:</p> <ul style="list-style-type: none"> a. The Government is committed to reducing unnecessary administrative burdens by 25% by 2010. The Commission have previously stated that the correct approach is to maintain, and where possible increase levels of worker protection, rather that seek to meet an arbitrary target. However, where paperwork burdens can be reduced and protection improved (or at least not adversely effected) then opportunities to remove legislation or clarify requirements should be taken. b. HSE's first plan was published last September. The plan was well received and in implementing the plan HSE had made good progress towards a reduction which will result in cost saving of approximately £90million. About a third of this reduction came from work done to encourage a sensible approach to risk management. c. As part of the sensible approach to risk management the HSE were planning to publish 12 standard risk assessments in November which were to cover a wide range of sectors particularly SME's. This work had been done in partnership with trade associations, local authorities and trade unions to help ensure the production of better risk assessments, which are good enough, that take less time to complete and help increase the level of worker protection. d. Other simplification measures include HSE's new user-friendly website and quicker telephone reporting system for reporting RIDDOR incidents. e. The Commission were informed that the HSE has a good story to tell but needs to do more to address the perception that health and safety regulation is deliberately risk adverse and burdensome. f. The second plan builds on the sensible risk approach developed by HSE. The Commission were asked to agree the plan and its publication in December.
5.2	The Commission thanked Jonathan and his team for the presentation and

	<p>their hard work and made the following comments in response:</p> <ol style="list-style-type: none"> a. The Commission supported the work and commented on its exemplary nature. However, it was also agreed that it was vital that the better regulation principles were embedded into the thinking behind all policy decisions and not seen as a stand-alone issue. b. The Commission agreed that more work was needed to address the mis-representation of what is required under section 3 of HSWA. It was agreed that the 'silly decisions' made under the banner of health and safety have the potential to undermine the serious efforts of HSE and the Commission and should therefore be challenged where ever it is appropriate to do so. c. The Commission were concerned that the lack of compliance with the requirement to undertake a risk assessment was not due to the complexity of risk assessments but rather a complete disregard of the need to comply (i.e. some employers do not undertake a risk assessment because they do not want to rather than can not do one). These organisation need to be targeted. d. The Commission agreed that it was important to prioritise what we want business to do. e. The Commission also agreed that it was important to celebrate the success we have had which may help to improve our reputation with those that claim HSC/E are purposefully over bureaucratic. f. The Commission noted that there had been positive steps forward in simplifying administrative requirement and that more should be done to publicise the fact. g. The Commission also acknowledged the efforts of HSE to work smarter and simplifying its internal procedures which include not getting involved in complaints where HSE is not responsible or able to influence the outcome.
5.3	<p>The Commission concluded the discussion by agreeing:</p> <ul style="list-style-type: none"> • the recommendation of the paper; • to the publication of the Simplification Plan in December; • the need to develop a communications plan to publicise HSC/E's successes and which reflects the outcome the discussions in November on the work of the BRE, and • that the Commission wished to be consulted on the development of significant initiatives as part of the implementation of the plan.
Action	Jonathan Rees to instigate the implementation of the second simplification plan.
Action	Colin Douglas to develop a communications plan to publicise the successes of HSC/E in reducing the regulatory burden.
6	Agenda Item Six: Any Other Business
6.1	<p><u>The Private and Voluntary Health care Regulations (England) 2001.</u> Sayeed Khan asked if it was known why occupational health provision was excluded from the scope of these regulations. The Commission were unaware of any reason and asked the Legal Advisors to report back to the Commission with the rationale for the scope of the regulations.</p>
ACTION	Alex-Brett-Holt agreed to investigate and respond.

	Below The Line Items
8	HSC Diversity Seminar 9 October 2007 (MISC/07/16)
8.1	The Commission noted the contents of the paper.
9	Update on HSE action on work related cancer (MISC/07/30)

9.1	The Commission noted the publication of the results of the research and the proposed work to reduce the risk of workplace exposure to carcinogens under the Disease Reduction Programme.
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