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

<p>Present</p> <p>Bill Callaghan – Chair Sandy Blair Danny Carrigan Judith Donovan Sayeed Khan Hugh Robertson Elizabeth Snape John Spanswick Margaret Burns</p> <p>Apologies: John Longworth</p>	<p>Officials Present</p> <p>Geoffrey Podger Justin McCracken Jonathan Rees Alex Brett-Holt Vivienne Dews Colin Douglas Susan Mawer Neal Stone Trevor Cain Ann Marie Farmer</p> <p>Les Philpott – Item 4 Jane Willis, Steve Coldrick & Charles Loft (LACORS) – Item 5 Sandra Caldwell – Items 6 & 7 Michael Wright (Greenstreet Berman) Giles Denham & Jonathan Russell– Item 7 David Adams & Andrew Maxey - Item 10</p>
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Welcome/Introduction

The Chair welcomed everyone to the meeting and congratulated Liz Snape on her MBE in the New Years Honours.

It was Susan Mawer's final Commission meeting and the Commission thanked her for all her work over the past three years and wished her a long and happy retirement.

The Chair announced that the below the line paper, "Sound advice: Guidance for Music & Entertainment Sectors on the Control of Noise at Work Regulations 2005" would be brought above the line for discussion at the end of the meeting.

1 Minutes of the meeting held on 5 December 2006 (HSC/M11/2006)

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 issues:

The HSE/LACORS partnership conference had gone very well, with people concentrating on good practical experiences of working together and providing excellent examples of joint working. The councillors who had

	<p>attended showed considerable interest and commitment.</p> <p>THORP – a decision was imminent on the CONSENT for the restart of the plant.</p> <p>The Morecombe Bay helicopter crash – the Civil Aviation Authority was conducting an investigation into the tragedy and HSE would maintain an interest in the outcome.</p> <p>Regretfully an oil worker had been killed and another injured in an accident on a North Sea production vessel on Saturday night. The accident happened in one of the vessel's cargo tanks and HSE was investigating.</p> <p>The Buzzard Oil Field had begun production on 7 January. There had been close cooperation between the industry and HSE to ensure attention to safety requirements.</p>
3.2	The Commission thanked the Chief Executive for his report.
4	Gas Safety Review (HSC/07/09)
4.1	<p>Jonathan Rees introduced the paper. This was an important issue for which HSE had been responsible for 20 years. In that time good progress had been made, with the number of fatalities halved. However recent high profile cases had reminded everyone of the dangers of carbon monoxide poisoning.</p> <p>HSC had agreed the broad approach for a review in 2005. Since then HSE had met with stakeholders, talked with other government departments and commissioned research on public awareness. The HSC was now asked to agree the way forward.</p> <p>There were three strategic questions:</p> <ul style="list-style-type: none"> • was HSE best placed to deal with gas safety? HSE had discussed this with officials in other Government departments and there was currently no appetite for change. Any transfer of responsibility would also involve the transfer of resources. HSE had concluded that at this stage it would be better to continue to improve links with other Departments and keep the issue under review. • should we continue with a gas installer registration scheme based in regulation? There was consensus amongst all stakeholders that this should continue. • how could the current system be improved? There was a variety of stakeholder views on this. HSE proposed letting the franchise for the gas registration system for a longer period in return for a more stretching remit, including achieving improved public awareness. There would also be more enforcement of unregistered installers, a simplified registration scheme and a tougher more effective monitoring system.

	<p>HSE had considered carefully whether or not there should be more than one registration body. At this transitional stage it thought it better to have competition <u>for</u> and not <u>in</u> the market.</p> <p>The financial implications outlined in paragraphs 19 and 21 were not entirely clear and HSE had reviewed the figures. HSE had put more resource into gas safety than stated: at least 18 man-years. Therefore there was the prospect of savings of £750K.</p> <p>The recent Ministerial change may delay the timetable set out in paragraph 16 but the intention was to move forward as quickly as possible.</p>
<p>4.2</p>	<p>The Commission considered this an important issue. In 2000 it had asked for a 10% reduction in fatalities and this was being achieved, due to the efforts of all involved. However there was more to be done. HSC/E's reputation would be affected if adequate standards of consumer gas safety were not achieved but this was not something that HSE could do on its own when responsibilities extended beyond the remit of the Gas Safety Installation and User Regulations.</p> <p>The Commission discussed the proposed tender and the question of having more than one provider. Any changes to the gas registration scheme must retain public trust and confidence. Value for money was important but not the only consideration. CORGI had huge consumer recognition, which was very valuable. Changing a brand would take time and be costly, and should be thought about very carefully. CORGI also had considerable stakeholder involvement in its structure and had improved campaigning. However it was possible to change service suppliers.</p> <p>There were mixed views on the recommendation to put the regulatory function out to tender. An open and transparent arrangement tied in to a tighter monitoring framework would be a big improvement on governance arrangements. Nevertheless competition might not be the best approach; the key requirements were more direction and supervision and a simplified scheme. HSC would need to see the detail of how the proposed enforcement powers would work in practice.</p> <p>The Commission explored the skills HSE would need to manage a five year contract including the use of break clauses and protecting HSE's brand if the enforcement was badly done. Experience with 5 year supplier agreements had shown the importance of building in annual key performance indicators, to ensure continuous improvement. The Commission felt the term 'franchise' was not appropriate.</p> <p>There was agreement that on balance HSE should retain responsibility for gas safety: following Hampton there was now a better fit and no obvious alternative. The Commission's previous recommendation that local authorities should be responsible for enforcement had not been possible because of the resources involved. However there was also a view that HSE was not necessarily the best place to manage consumer risk and that at some stage there should be a strategic look at where the responsibility would most effectively lie.</p> <p>The Commission welcomed the attention given in the paper to the ill-health</p>

	<p>consequences of CO exposure. The only way to make progress on both fatalities and ill health was to increase public awareness and the industry had to do more in this area. The Commission wondered whether the new body would have sufficient authority to drive this forward. It also recognised that increased awareness would lead to increased reporting of ill health and incidents.</p>
4.3	<p>The Executive responded to some of the issues raised:</p> <ul style="list-style-type: none"> • Whilst it was envisaged that the new body would be given a specific remit on public awareness, HSE would continue to work with it, Ministers and MPs on this issue; • a strategic review of where responsibility for gas safety should lie would be needed at some point; • annex 3 was the beginning of the specification for the contract which would include limited enforcement requirements. But as part of the process, parties would be invited to set out what they thought they could offer; • HSE was looking to buy in some skills, particularly on the legal and competition side; • The contract would be more actively monitored than the current arrangements and key performance indicators and quarterly monitoring would be built in; • As we were moving to a new system the process needed to be open so that all could contribute views. Whilst there was an intellectual case for having a number of providers, at this stage it was probably not appropriate, but should be reviewed in five years time. The issue of having a recognised brand was an important one and would need careful consideration.
4.4	<p>The Commission congratulated officials on the quality of the work and for producing it to time.</p> <p>The Commission agreed that:</p> <ul style="list-style-type: none"> • HSC/E should retain oversight of the domestic gas safety regime, but this should be reviewed at some stage. • It strongly supported the recommendation that the gas installer registration scheme should be reformed to improve domestic gas safety. • There should be an element of competition for a 5 year contract to run the new scheme but it would want to be satisfied that it was well managed and appropriate key performance indicators were in place. • An announcement should be made as soon as possible. • They would like to see further details of the proposed specification when these were available.
5	<p>Disease Reduction Programme - Fit for today, fit for tomorrow. An example of LA Partnership in practice (HSC/07/17)</p>
5.1	<p>The Chair welcomed Charles Loft from LACORS.</p>
5.2	<p>Introducing the paper Jane Willis said that this presentation completed the set of Fit 3 updates. Disease reduction was one of the most challenging of the programmes because of the long latency associated with these</p>

	<p>conditions.</p> <p>Steve Coldrick gave an overview of progress on the programme, which was based on the Chemicals strategy and designed to deliver a 2.4% contribution to the reduction of the ill health PSA target. Fatal injuries were a very small proportion of the total number of work-related deaths, for example a possible 4000 deaths were due to Chronic Obstructive Pulmonary Disease (COPD). The challenge was that most work related deaths were from long latency diseases such as mesothelioma, where the number of deaths had not yet peaked. This was less of a problem in areas such as asthma where substantial improvement could be seen</p> <p>The LA partnership was crucial to successful delivery of the programme; they were, for example, the only regulator for the hair and beauty sector. Their experience had enabled them to identify new issues such as risks in Nail Bars. Other key partners were the trade unions and the private sector.</p> <p>Good progress had been made with asbestos; there was a strategy to improve good practice in high-risk COPD industries and work was in hand to identify other carcinogens.</p> <p>Future work on cancer and COPD included improving the statistical evidence base, developing and implementing a suite of interventions and monitoring and reporting progress.</p>
5.3	<p>The Commission thanked officials for a clear and comprehensive presentation.</p> <p>In contrast to the success in reducing fatal injuries, the number of deaths each year due to occupational disease remained high. Resources needed to be committed to this both now and in the future to achieve a similar decline. It was important to ensure that, at a time when there might be restraints on resources, resources were not squeezed because it was easier to deal with short term target. The issue of long latency and how this fitted with the PSA and RHS targets needed to be understood. The Commission was encouraged that leading indicators, reflecting exposure data, were being developed.</p> <p>The programme was showing that working with local authorities and others could make a real difference. There were a lot of good examples of initiatives which were not known about. The communications strategy should look at how local authorities and others could be kept informed. LACORS were also looking at how partnership within local authorities could work such as multi purpose visits covering a range of agency responsibilities.</p> <p>The Commission also suggested the Small Trades Forum could help in providing contacts for widening the partnership.</p> <p>Considering possible future health issues the Commission said that the outcomes of the horizon scanning exercise in December should be looked at. All programmes should be evidence based and should concentrate on those sectors where there was a clear link between exposure and disease. There should be long term consistency, particularly for LAs. The amount of lost time</p>

	<p>due to stress and its interaction with mental health problems would be important for the future.</p> <p>The Commission asked about Chemical Essentials and was informed that this was no longer being taken forward. This kind of information had more impact when supplied by others such as through the supply route.</p> <p>The Commission also asked how performance on health compared with the rest of Europe.</p>
5.4	<p>The Commission thanked HSE and LA colleagues for their hard work on the programme. It</p> <ul style="list-style-type: none"> • Strongly welcomed the LA's partnership with Fit3 and the progress being made, and noted that this was the result of prioritisation. • Continued to support the active engagement with key stakeholders, which it saw as the right way forward; and • Agreed to reflect on future activity at a later stage.
6	<p>Operational Issues: Field Operations Directorate (FOD) Update (Oral update no paper)</p>
6.1	<p>Sandra Caldwell gave an overview of the diverse nature of the work FOD did in delivering the Commission's Strategy, the challenges faced and how it responded to them.</p> <p>FOD was diverse in its range of duty holders, its staff, and the range of activities undertaken. Being regionally based meant that communications was a major challenge and having 40% of HSE's staff gave it a key role in the training and development of staff.</p> <p>On workload the aim was a 40:60 reactive: proactive split, the majority of the latter focussed on delivery of Fit3. Involvement in the project management of Fit3 campaigns had enabled field experience to help shape campaigns.</p> <p>Maintaining FOD's preventative focus meant managing the very large volume of reactive work which was why integrated teams were used so that some of the work could be dealt with by non-warrant holding staff. The downward trend in enforcement had been reversed and this position was being sustained.</p> <p>Section 3 activities were a significant element of reactive work and ranged from low risk incidents to serious injuries and death. As they involved mainly members of the public they were likely to attract media attention and the territory of the sensible risk debate. It was difficult and demanding work where inspectors had to ensure they were taking proportionate decisions.</p> <p>4 case studies were described to illustrate different aspects of partnership working which had brought a range of benefits and had provided FOD with opportunity to work smarter and move the Health and Safety Agenda forward.</p>
6.2	<p>The Commission thanked Sandra for a very informative presentation. It demonstrated the importance and high calibre of everyone on HSE's front line and the ways that they were delivering the Commissions strategy. The</p>

	<p>Chair said that FOD's achievements should not be underplayed.</p> <p>The Commission discussed the extent to which FOD were maintaining the 40/60 split and that it was increasing the amount of front line direct contact with duty holders.</p> <p>It recognised the importance of FOD's front line role and the high calibre of its staff and was concerned at what strains might be put on it because of restraints on resourcing. The Executive described some of the steps being taken to target priorities and work smarter but said that if it was unsuccessful at managing the pressures it may have to come back to the Commission on the proactive/reactive balance.</p>
6.3	Concluding the Commission thanked everyone in FOD for their hard work.
7	Evaluation of the Enforcement Policy Statement (HSC/06/78)
7.1	The Chair welcomed Michael Wright the Director of Greenstreet Berman who had prepared the evaluation report.
7.2	<p>Michael Wright presented a summary of the report, which had been published the previous day.</p> <p>The principles of enforcement in the Enforcement Policy Statement (EPS) (transparency, targeting, proportionality, accountability and consistency) were important aspects of achieving effective enforcement and sustained compliance amongst duty holders. The need for enforcement to be perceived as fair in order to have a positive influence on duty holders whilst also maintaining trust (which was an important element of duty holders seeking and listening to inspectors advice), all reinforced the importance of the EPS principles.</p> <p>The report set out the impact of enforcement, and identified areas for positive review.</p> <p>The broad conclusions of the report were that:</p> <ul style="list-style-type: none"> • Enforcement could prompt health and safety improvement • Many factors influenced the impact of enforcement; • It was unclear how the amount of enforcement impacted on health and safety • There was scope for further review and development of EPS and the Enforcement Management Model (EMM) in light of future developments. • There was a strong appetite for wide range of 'penalties' such as restorative justice. <p>Sandra Caldwell added that some of the lessons learnt from the review were already being taken forward. For example, HSE have posted on the internet its victim statement policy, which explained how victims would be involved in all HSE's procedures flowing from investigations and that victim statements were now routinely taken and considered by the investigating inspector and the Courts.</p> <p>Enforcement relating to health was more challenging because the EMM was</p>

	<p>based on benchmarking and it was difficult to provide the same benchmarks for health. Traditionally enforcement has been strong in some areas e.g. Asbestos and Courts were taking seriously other issues e.g. Dermatitis – fine £100,000, vibration white finger.</p>
7.3	<p>The Commission agreed that the EPS was fit for purpose. There were other outcomes, such as the BRE's Macrory Review and compliance code development, which might impact on the EPS. It was agreed the Executive would return to the Commission in the summer with the outcomes of these developments and their possible effect on the EPS.</p>
8	<p>Sound Advice: Guidance for the music and entertainment sectors on the Control of Noise at work Regulations (HSC/07/08)</p>
8.1	<p>The Chair welcomed David Adams, chair of the HSE/industry working group.</p>
8.2	<p>Jonathan Rees presented the paper. This was a sensitive issue with the potential for silly media stories that would be detrimental to the benefits for work related hearing loss. The Regulations came in to force on 6 April 2006 with a two-year transitional period for the music industry. The guidance had been developed by industry with HSE providing secretarial and technical support. HSE was grateful to all who had been involved.</p> <p>To a casual reader the guidance could appear intimidating and it was proposed to temper this by:</p> <ul style="list-style-type: none"> • providing a simple flyer to raise awareness • reinforcing the industry ownership of the guidance • differentiating more clearly between what was legally essential and what was good practice • having a user friendly web design <p>The enforcement strategy would be developed in cooperation with LACORS.</p> <p>Other Member States have had to produce guidance and officials would work with colleagues there to share views and discuss solutions.</p> <p>The Commission were asked to endorse the package recognising that there would be editorial change before it was launched which would be aimed at getting the right balance between meeting the desire in the industry for good practice, meeting the requirements of the regulations and the reputational risks.</p>
8.3	<p>The Commission thanked those who had worked on the draft guidance, which was well researched and contained some excellent practical help. However if it was to have the maximum effect it needed to be made much more accessible. Noise was not a trivial issue: those working full time with bands or working 5/6 days a week in clubs would suffer significant hearing loss in the long term. It was vital that guidance was not dismissed because of the way it was presented.</p> <p>One of the Commission's main concerns was the sheer scale of the guidance; incorporating detailed guidance for a range of sectors in one</p>

	<p>document made it look impenetrable and was likely to be off-putting. Also by not clearly differentiating between occasional and daily exposure it could be misinterpreted; it should be emphasised that we were not trying to stop people enjoying themselves and that a few simple changes could reduce exposure levels.</p> <p>The guidance should be broken down into shorter, sector specific guidance. The introduction should make clear that the guidance was not a generic solution to all the issues. It would carry more credibility if it was clear that it had industry ownership. It should not be issued as a consultative document until these matters were sorted.</p> <p>Responding Mr Adams said that he would like to see it presented as coming from the industry. The general view of the working group had been that one document was needed, which people could dip into, and which might encourage other sectors to produce their own guidance.</p> <p>The Executive confirmed that the guidance did not have to be available until December 2007 so there was time to turn the raw material into a form that people were happy with and it would bring a timetable to the Commission for doing this.</p>
8.4	Concluding the Commission agreed valuable work had been done and to ensure that it got the best possible reaction an early priority would be to raise awareness using real life case studies. It was essential to get the guidance right and so a lot more work on presentation was needed before it could go out for further consultation
	Below the Line
9	The Noise and Hand-arm Vibration Programme (HSC/07/11)
9.1	The Commission noted the paper.
10	A DRC/HSC joint statement on health and safety risk management and disability (HSC/07/15)
10.1	The Commission endorsed the joint DRC/HSC statement of overarching principles.
11	Construction Programme's existing SME work and development of future Strategy (HSC/07/16)
11.1	<p>The Commission noted the importance and scale of the challenge and the work being done to improve the standards of health and safety among construction SME's and in particular the work:</p> <ul style="list-style-type: none"> • with the Department for Communities and Local Government (DCLG) and the Scottish Executive; and • to further develop the strategy.
12	Application of the Work at Height Regulations 2005 to paid Climbers and Cavers (HSC/07/01)
12.1	The Commission noted the report on the consultation and agreed the draft regulations.
13	Report on the Review of the Decision not to include the '2 Metre Rule' in the Work at Height Regulations. (HSC/07/02)

