

Health and Safety Commission Minutes**HSC/07/M08**

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Health and Safety Commission**Minutes of a meeting of the Health and Safety Commission held on 4 September 2007 in the Globe Room, Rose Court London****Present:****Bill Callaghan – Chair****Sandy Blair****Danny Carrigan****Sayed Khan****Hugh Robertson****Robin Dahlberg****John Spanswick****Judith Donovan****Observer: Judith Hackitt**

Apologies: John Longworth, Elizabeth Snape

Officials Present:

Geoffrey Podger

Jonathan Rees

Alex Brett-Holt

Vivienne Dews

Colin Douglas

Neal Stone

Lorraine Cassell

Ann Marie Farmer

Apologies: Justin McCracken

René McTaggart

Dame Carol Black – Item 3

Giles Denham – Items 4a, 4b,
6 & 7

David Butter – Item 4

Jenny Eastabrook – Items 4b,
5 & 7

Andy Miller – Item 6

Steve Dennis – item 8

Welcome/Introduction

The Chair welcomed everyone to the meeting in particular:

- Lord McKenzie of Luton, Lords Minister, Department for Work and Pensions;
- Dame Carol Black, the National Director for Health and Work, who was giving a presentation on the Health Work and Wellbeing Strategy;
- Judith Hackitt who would be become Chair in October 08; and
- Michael Large from the Institute of Directors who was attending for Item 5.

1a**Minutes of the meeting held on 17 July 2007 (HSC/M07/2007)****1a.1**

The minutes were agreed.

1b	Urgent Business
1b.1	<p>This was Bill Callaghan's final meeting as Chair and Judith Donovan, on behalf of the Commission, thanked him for his work and valuable contribution to Health and Safety over the last eight years. It had been a pleasure to work with him and see the innovations he had made on quality, content and accessibility.</p>
2	Chief Executives' Report
2.1	<p>Geoffrey Podger highlighted the following issues:</p> <ul style="list-style-type: none"> • HSE involvement in the foot and mouth outbreak of 3 August 2007 – although HSE does not licence any of the three organisations at the Pirbright sight it does have extensive experience in regulating in laboratories involved in animal pathogens. Its remit in this case was to lead an investigation into potential breaches of biosecurity at the Pirbright facility. The Government is planning to report on investigation later this week. Geoffrey thanked Dr Paul Logan and his team for giving up personal time at short notice and for the impressive work done during the investigation. • Secretary of State's Construction Forum – 17 September – HSC Chair and Commissioners Carrigan and Spanswick will be attending. <ul style="list-style-type: none"> i. HSE had been engaged in a significant inspection exercise at 1300 refurbishment sites that had resulted in a large number of enforcement actions and potential prosecutions. The data gathered would be published shortly. ii. Discussions with stakeholders continued and in the latest communications plans 'slips and trips' would emphasise the construction industry. • Prosecution of ICL Plastics Ltd and ICL Tech Ltd (Stockline explosion) - Thanks to all those HSE staff involved in this investigation which had led to a successful prosecution of both companies. A group of academics has published it own findings of the examination of the explosion, the Watterson report. HSE does not accept all the criticisms in the Watterson report. HSE stands ready to cooperate fully with any enquiry into the incident. <p>Fire on Diamond Offshore Ltd's Ocean Guardian Installation – This was a high potential event and a cause for concern across the industry. The investigation was continuing.</p>
2.2	<p>The Commission raised the following issues in response to the report :</p> <ul style="list-style-type: none"> • It commended the excellent work done by HSE staff during the foot and mouth outbreak. However it sought assurances that the HSE resources deployed to undertake this work had not jeopardised other work. • A lot of work had been done by HSE to do more proactive work and rebut criticism of HSE on the regulating of the offshore industry since the meeting with stakeholders in Aberdeen in March 2007. This had been welcomed by workers offshore and was proving effective.

	<ul style="list-style-type: none"> • The ‘Stockline’ explosion was a very emotive issue in Scotland and there were calls for a wide-ranging public enquiry. There had been unjustified and unsubstantiated criticism of HSE which should be refuted. Those HSE staff involved in the investigation should be commended on finding the cause, learning lessons and issuing guidance. • The Commission and Executive were aware that there were moves to end health and safety’s reserved status in Scotland. The Partnership for Health and Safety in Scotland (PHASS) whilst broadly content with the present constitutional arrangements accepted that there was room for improvement. It was agreed that the Commission should receive regular reports from PHASS given that body’s accountability to HSC. It was right that the Commission received regular reports and assured itself that the governance arrangements for PHASS were working properly. • The Commission queried whether any of the small firms trade organisations in the construction industry had been invited to the Construction Forum.
	<ul style="list-style-type: none"> • Geoffrey Podger responded that it was right that HSE was involved in the Pirbright investigation given its locus and expertise. The costs of the Pirbright investigation had been borne by the individual agencies involved. The cost of undertaking such investigations would be raised in discussions with DWP on CSR07. The Executive in response to the Commission agreed to explore with DWP Small Business Trade Association Forum representation at the forthcoming Construction Forum and report back.
2.3	The Commission thanked Geoffrey for his report.
3	Dame Carol Black’s presentation on Health Work and Wellbeing strategy
3.1	<p>The presentation covered the following:</p> <p>The Strategy had been in place for almost two years and aimed to improve the health and productivity of the working age population and prevent people from falling out of work and onto benefits. It was recognised that work is generally good for health and well-being and the benefits of work outweighed the risks. To ensure a competitive economy we need to meet the challenges of those with chronic disease wanting to stay in work and supporting a population with more people working into old age.</p> <p>The scale of the problem was enormous with millions of days lost to sickness absence and work related ill-health or injury each year. 80% of those out of work for 6 months will be away from work for 5 years. This also impacts on the family and their way of life.</p> <p>There had been cross-government working, collaboration and coordinated initiatives since 2005. There had also been successful well-being programmes run by a number of employers including AstraZeneca and Royal Mail. EEF had run well attended sickness absence management</p>

	<p>seminars.</p> <p>It was important to have prevention and early intervention. The workplace was a good place to deliver the prevention message. The longer an issue is left unaddressed the more likely that someone will leave the workforce and the more expensive the intervention.</p> <p>There was a dilemma for GPs because they do not necessarily have access to the professional OH support they need or the encouragement to help the patient back to work. Sometimes the issue of a sicknote is the easiest solution.</p> <p>In March 2007 the Secretaries of State for Work and Pensions and for Health commissioned a review of health related factors that influence working life in Great Britain and sought recommendations. The report of the review is scheduled to be published in early 2008.</p> <p>Health, Work and Well-being is a cross-government issue with clear benefits to all Departments. A good example of cross-government working was 'Welsh Backs' which had been developed in consultation with a wide group of stakeholders and is supported by leading experts, GPs and Government departments including HSE.</p> <p>One of the important next steps would be to build the evidence base and business case for change and develop a model of a new approach based on early intervention. HSC could help in the following ways; making the business case compelling; publicising the challenges concerning mental health and its effect on the workforce; spreading best practice, and; working with local authorities, which was of particular importance.</p>
<p>3.2</p>	<p>The Commission thanked Dame Carol for an excellent presentation and congratulated her on the remarkable work she had done in just one year. There was an open discussion between the Commission and Dame Carol Black during which the following points were raised:</p> <ul style="list-style-type: none"> • The emphasis should be on a good working environment, which would not only be good for health but could promote well-being. Though it was difficult to define at this stage what a good working environment was. • Prevention was key and will provide the greatest cost savings in the long run and there was a need to identify areas where HSE could add value. • A recent initiative on some major construction sites to introduce voluntary health screening had proved successful in breaking the cycle of 'macho men' who saw no need to seek advice on their health from their GP. Prevention was important and the industry and Loughborough University's work into hand arm vibration could make a considerable contribution to a reduction in the incidence of HAV. • The Citizens Advice Bureau could be a source of information on the impact on the immediate family. Work is good for you and social exclusion

	<p>can affect generations. Sometimes the problem could be income not health because you receive more money on sickness benefit. It was important to analyse what lay behind the figures and not expend resources where there is no impact. There were difficulties in targeting on a geographical basis because the data to do this was not available, though mapping health deprivation had been undertaken in Wales.</p> <ul style="list-style-type: none"> • Could changes be made to the undergraduate courses for medical professionals to reflect the role of the medical profession in addressing occupational health issues. Do GPs realise that HSE has produced guidance on for example Asthma and Dermatitis. Dame Carol Black confirmed that Bill Gunnyeon, DWP, was working on building this in to the undergraduate curriculum. • The best way for HSE to assist was to spread best practice utilising compelling case studies. Employers found this area daunting and needed practicable small steps to help them tackle ill-health.
4	<p>Two papers with linked issues:</p> <p>4a) HSE/GLA Merger: Draft Consultation Document (HSC/07/65)</p>
4a.1	<p>Giles Denham introduced the paper. In 2005 the Government had accepted the Hampton Review recommendation for the merger of the Gangmasters Licensing Authority (GLA) and HSE.</p> <p>HSE had worked with Defra officials and Parliamentary Counsel to develop a draft Legislative Reform Order (LRO) to give effect to a merger. The associated consultation document had been drafted on the basis that the decision on merger had been taken and therefore focused on how it should be implemented. In particular flowed the line agreed by the Commission that the GLA be brought in as a stand-alone division within FOD. He noted that some stakeholders remained opposed to the Government's decision.</p> <p>The Commission was invited to agree the terms of the Consultation Document (CD) and LRO. Consultation formally needs to be carried out by Defra, but it was suggested that the papers should be issued jointly with HSE.</p>
4a.2	<p>The Commission appreciated the rationale for merger as recommended by Hampton but asked about the benefits from merging the GLA with HSE.</p> <p>The Commission was concerned about the risks of the GLA being inadequately resourced to deal with its remit properly. A Private Members Bill, initiated by Jim Sheridan MP, proposed to widen the role of the GLA to the construction industry. If agreed, there was a further risk of GLA/HSE facing additional unfunded costs in the future.</p> <p>Giles responded that licensing costs were recoverable from the regulated industries, but funding for enforcement would need to be negotiated with Defra. The financial benefits were undoubtedly modest though contacts with the relevant regulated bodies would be more joined up.</p>

	<p>The Commission also sought clarification on the constitutional position of the GLA in respect of Northern Ireland, once merged with HSE. The HSC's legal adviser agreed to consider whether HSE could delegate the role to HSE NI.</p> <p>The Commission was concerned that if HSE was associated with the CD, it could appear that HSE was seeking to takeover the GLA, when it was simply accepting the Government's decision. It was right that the Commission should be consulted about the content of the documents. However, the CD should be issued by Defra alone as this was clearly a government responsibility.</p>
<p>4a.3</p>	<p>The Commission agreed that:</p> <ul style="list-style-type: none"> • The draft consultation document LRO were acceptable; • Defra Ministers should be invited to issue them and to manage the consultation exercise, without HSE badging or involvement; and • To continue to press Defra to fund the one off costs associated with the merger.
<p>4b</p>	<p>b) Vulnerable (including migrant) workers: an update (HSC/07/63)</p>
<p>4b.1</p>	<p>Giles Denham presented the paper, which was a progress report on migrant workers and to keep HSC informed on this politically sensitive issue including on developments at the Business, Enterprise and Regulatory Reforms (BERR) Vulnerable Workers Enforcement Forum. Not all migrant workers were vulnerable nor were all vulnerable workers migrants. The sectors they worked in helped to determine the risks they faced.</p> <p>HSE was developing communications channels, advice for employers, workers and inspectors. There was the strong possibility that the issue of migrants would be raised at the Construction Forum.</p> <p>The Commission was asked to note the work HSE was proposing to improve the evidence base over the coming year and to advise on any emerging concerns in readiness for the diversity seminar in October.</p>
<p>4b.2</p>	<p>The Commission could not accept on the basis of limited and incomplete evidence that migrants were not at greater risk. If they are illegal or do not speak English then they will be at risk, for example the Morecombe Bay cocklepickers. The scale of the influx of foreign workers could not be ignored, over a quarter of building workers in London and 10% of the working population in some areas were migrant workers.</p> <p>The preliminary data concerning risks to health and safety faced by migrant workers was flawed. A lot of the evidence was anecdotal; more emphasis was needed on recording and improving the evidence base.</p> <p>A recent IOSH survey in the hospitality sector had shown that 30% of the workforce comprised migrant workers and a quarter of all accidents were attributable in some way to language problems.</p>

	<p>The Commission asked if HSE's Info line had seen an increase in the number of enquiries from migrant workers.</p> <p>The Commission was concerned that LAs were not represented on the vulnerable workers enforcement forum. There are issues around integrating migrants into local communities and the absence of LA representation could result in a lack of coherence.</p>
<p>4b.3</p>	<p>The Commission noted:</p> <ul style="list-style-type: none"> • The progress with HSE's activities to protect migrant workers and thanked HSE colleagues for the good work they had done, for example in partnership with other agencies in Cornwall, which should be publicised more widely; • It was important to ensure a strong focus on construction, agriculture, food manufacturing/processing and hotel and catering given their extensive employment of migrant workers. • The developments at BERR Vulnerable Workers Enforcement Forum, which could possibly be extended to include LAs • The importance of improving the quality of evidence concerning the health and safety risks migrant workers faced and the incidence of injury and ill health impacting on them • Given the diversity of sectors now employing migrant workers, generic general guidance on health and safety was needed for workers and employers in addition to the targeted work in areas like agriculture.
<p>5</p>	<p>Final Draft of new HSC/Institute of Director's guidance on director responsibility for health and safety (HSC/07/59)</p>
<p>5.1</p>	<p>Jonathan Rees and Michael Large (IoD) presented the paper which contained the draft guidance for directors prepared by a steering group led by the Institute of Directors (IoD) chaired by Michael. The Commission had considered an earlier draft at its meeting in June 07.</p> <p>HSE and IoD believe that the guidance now meets the needs of directors subject to the inclusion of a fuller reference to sensible risk. There would be a sustained campaign to promote the guidance as detailed at Annex C, starting with a launch on 29 October at which the Secretary of State, Minister and HSC Chair would be speaking and to which the Commission would be invited.</p> <p>The Executive thanked Michael and the steering group members for their hard work and HSE staff who had provided the secretariat and policy support.</p> <p>The purpose of the guidance was to be readable, in director 'speak' format. It was not a guide to health and safety legislation but a prompt to directors and boards to lead on health and safety.</p>
<p>5.2</p>	<p>The Commission thanked Michael and the IoD and colleagues on the steering group. It commended the guidance which had the right partnership and branding, was well written, and supported by a sound marketing and publicity plan. The Commission felt that directors may be more influenced by</p>

	<p>IoD's name on the guidance than that of HSC and asked that, as appropriate, IoD should come first.</p> <p>The Commission questioned:</p> <ul style="list-style-type: none"> • Why the case studies illustrating leadership failures did not name the companies concerned, as this was public knowledge; • the omission of a case study on governance based on reports into BP Texas City refinery explosion, given that it was a business with headquarters in the UK ; • the legal status of the guidance was with joint IoD/HSC branding? • how the message concerning director responsibility would be got across to boards of directors in LAs and government.
	<p>Michael Large responded to the issues raised:</p> <p>The steering group did consider naming the companies in the case histories but did not want to turn this in to a witch-hunt. The firms concerned were not household names and naming them would not add anything of value in promoting board responsibility and director leadership. However, further detail on the type of business involved will be added to give additional colour to the case studies.</p> <p>The BP case was well known and the lessons for directors widely publicised. Its inclusion could encourage SMEs to think that the guidance was not directed at them, but rather at big business and so detract from the aim of one version for all organisations irrespective of their ownership, sector or size.</p> <p>Michael agreed that it was essential that the new guidance was disseminated widely across the public sector. The Local Government Association and the NHS Confederation, which were represented on the steering group, would distribute to their members. HSE was currently in discussion with various groups, including in the public sector, on how best to reach the right people, for example identifying those that prefer to distribute by hardcopy and those who prefer e:mail.</p> <p>The sensible risk message will be more clearly incorporated into the guidance. Jonathan confirmed that the guidance was not statutory.</p>
<p>5.3</p>	<p>The Commission agreed;</p> <ul style="list-style-type: none"> • The publication of the draft guidance including the revised text concerning sensible risk; • The plans for promotion and publicity; and • The plans for evaluation concerning its success in reaching the target audience (in 6 months time) and on changing behaviour (18 months after launch). <p>It was further agreed that results of the first evaluation would be put to the Commission in Summer 2008.</p>

6	Amendments to the Regulations on the Manufacture and Storage of explosives (HSC/07/59)
6.1	Giles Denham presented the paper which sought the Commission's agreement to amend the manufacture and Storage of Explosives 2005(MSER).
6.2	The Commission noted the proposal on consultation; and approved the proposed amending regulations and the draft letter for the Chair to send to Lord McKenzie.
7	Simplification Project: Proposed Consultation on Health and Safety information for Employees Regulations 1989(HSIER) (HSC/07/64)
7.1	<p>Giles Denham presented the proposal to consult on the administrative burden which arises from the requirement under the HSIER for every employer to display a HSE approved poster or give employees a HSE approved leaflet. The BRE estimate the cost of this burden at £25 million per annum.</p> <p>There is a good case for reviewing the current legislation and the poster in particular as there is scope for improving presentational impact. Key to this would be addressing the needs of diverse audiences, especially vulnerable and migrant workers.</p> <p>The options for consultation on simplification are detailed at paragraph 15 of the paper and the Commission was asked if it thought they were broadly right.</p>
7.2	<p>The Commission made the following comments :</p> <ul style="list-style-type: none"> • Concerned that consulting on amending/revising the health and safety poster would be a self-fulfilling prophecy. Nervous about commencing a costly and time consuming process with a foregone conclusion. Not necessary to consult on whether or not there should be a poster. • Clear from the available evidence that the poster could be improved significantly and made much more reader friendly. It agreed that the current poster was archaic and needed redesigning but it was the only piece of health and safety information in every premise in the country. HSE had to hold on to this important publicity tool but improve design and visibility. • Queried the basis of the calculation for the estimated administrative burden of £25m. • The use of not insignificant resources on consultation on regulatory reform could not be justified at this stage of the project. • The need for businesses to fill in enforcing authority details was helpful, but there was a case for including safety representative details. <p>Giles advised that significant re-design of the poster would in all likelihood require regulatory change. He also clarified the calculation of the administrative burden.</p>

	<p>The Commission asked for further advice on how far the poster could be redesigned and improved, within the existing regulations. It wished to consider this approach first and only then consider consultation on regulatory changes if it was concluded that was necessary.</p>
7.3	<p>The Commission agreed that officials should explore the feasibility of revising the health and safety poster within the current regulations and report back to the Commission with details of their findings.</p>
	<p>Closed session</p>
→8	
8.1	
8.2	

8.3	← Below The Line
→9	
9.1	←
10	Miscellaneous Gas Safety review – a new Gas Installer Registration Scheme (MISC/07/09)
10.1	The Commission noted progress and the timetable for delivering the new scheme.
11	Department for Business Enterprise and Regulatory Reform (BERR) announces the Better Regulation executive's (BRE) review of health and safety regulation and low risk businesses, especially SMEs (addendum to MISC/07/21) Partially Closed
11.1	The Commission noted the information.
→12 12.1 ← 13	Update on Health and Work (MISC/07/24)
13.1 →14	The Commission noted the information in the paper.
←	