

Meeting Date:	11 December 2007	Open Gov. Status:	Fully Open
Type of Paper:	Above the line	Paper File Ref:	
Exemptions:			

Health and Safety Commission

Minutes of a meeting of the Health and Safety Commission held on 11 December 2007 in the Globe Room, Rose Court London

Present:

Judith Hackitt – Chair
Danny Carrigan
Judith Donovan
Sayeed Khan
John Longworth
Hugh Robertson
Liz Snape
John Spanswick

Apologies: Sandy Blair, Robin Dahlberg

Officials Present:

Geoffrey Podger
 Jonathan Rees
 Justin McCracken
 Alex Brett-Holt
 Vivienne Dews
 Colin Douglas
 René McTaggart
 Lorraine Cassell
 Ann Marie Farmer

Giles Denham – Items 3 & 6
 Keith Wiley – Item 3
 Steve Dennis & Bill Tomkins – Item 4
 Teresa Quinn – Item 5
 Jane Willis & Patrick McDonald – Item 6
 Sarabjit Purewal & Stuart Clark – Item 7
 Rachel Radway – Item 9
 Jenny Eastabrook – Items 3 & 5

1

Agenda Item One: Welcome/Introduction

1.1

Judith Hackitt welcomed everyone to the meeting and highlighted that today was the 2nd anniversary of the explosion at the Buncefield oil depot. The Chair commented that there are still many lives being disrupted by the explosion, some families are still living in temporary accommodation and the Commission recognised their ongoing difficulties. The Chair commended the diligent work of the Major incident investigation Board and HSE since the explosion and noted that the Commission looked forward to the conclusion of the investigation and a return to normal life for those affected.

1.2

Judith announced that Jonathan Rees and Colin Douglas would be leaving HSE shortly and thanked them both for their work and contribution to the organisation.

1.3

Minutes of the November meeting
 Minutes of the meeting held on 06 November 2007 (HSC/M10/2007)
 The minutes of the November meeting were agreed as drafted.

1.4	<p><u>Matters Arising</u> The Chair reported on the progress on the actions arising from the 9 October meeting, the highlights included:</p> <ul style="list-style-type: none"> a) The fire at Thistle Alpha – On November a fire occurred in the turbine hall of the Thistle Alpha oil rig which burned for several hours. The investigation team served a Prohibition Notice prohibiting the use of the other turbines effectively shutting down production. The investigation is on going and the Commission would be kept informed of significant developments. b) Nuclear Inspectorate pay – HSE had now reached agreement with Treasury on increased pay scales for nuclear inspectors. The Commission were informed that the recruitment exercise to address the shortfall in nuclear inspectors was underway. c) Coryton oil refinery – The HSE investigation into the fire had made good progress. The results of the investigation would be used to ensure that adequate arrangements were made to the safety of the plant before it is restarted. d) Health and Safety Benefits statement – Colin Douglas had circulated an explanatory note to Commissioners on the evidence used to develop the statement and the plans to refine the statement for future use.
1.4	The Commission also noted the media coverage of the launch of the Offshore Division's asset integrity programme and ever present risks, highlighted by the Thistle Alpha fire, associated with the offshore industry.
1.5	<p><u>Urgent Business</u> There were no urgent business items.</p>
ACTION	Justin McCracken to keep the Commission informed of significant developments with the investigations in to the fires at Coryton and Thistle Alpha.
2	Chief Executive's Report
2.1	<p>Geoffrey Podger highlighted the following issues:</p> <ul style="list-style-type: none"> a. Work and Pensions Select Committee: Geoffrey and the Chair had appeared before the Work and Pensions Select Committee on 28 November. This had been a constructive discussion on issues including resources, performance targets and enforcement. The Committee had announced that they planned to hold three further oral evidence sessions in early 2008 and further written evidence was being sought by 7 January. The outcome of those discussions would be reported back to the Commission. b. ICI Plastics: The public enquiry into the circumstances of the ICL Plastics explosion had been announced, the Chair of the enquiry will be Lord Brian Gill. A dedicated response team had been set up to manage HSE's response to the enquiry and a legal team had been appointed to represent HSE's interests. c. Land use Planning: The issues around the redevelopment of Wyke Manor school continue to be difficult to resolve. The decision by DCSF not to fund the rebuilding of the school on this site, following advice from HSE about the risk posed by the adjoining top tier COMAH site had received unfavourable local publicity. d. HWWW: The negotiations with the HSE Trade Unions on the options package had been successfully concluded so that work to progress towards a single HQ in Redgrave Court Bootle was advancing.

2.2	The Commission thanked Geoffrey for his report and noted that the leader of Bradford Council had stated his intention of raising the case of Wyke Manor School as a national issue as the redevelopment of other schools may be affected by HSE's policy.
ACTION	Geoffrey Podger to report back on the outcome of the discussion with the DWP select committee.
3	Agenda Item Three: Improving the impact of the health and safety law poster and leaflet (HSC/07/81)
3.1	<p>Giles Denham and Keith Wiley introduced the paper on modernising and improving the impact of the health and safety law poster with the following comments:</p> <ul style="list-style-type: none"> a. The paper had been produced in response to the Commission's request that options be considered for producing a more accessible poster. The paper outlined the options explored and recommended that option 2 be adopted as it would allow the development of a new poster and provide reduction of the administrative burden on business. b. HSE's legal advice is that the implementation of option 2 via minor changes to the existing legislation was the safest and most transparent means of achieving the desired effect. c. To achieve the legislative change a limited consultation exercise that states the proposed change, rather than seek views on options, will need to be undertaken. Due to its limited nature it was being recommended that the consultation document could be cleared by the Chair, rather than wait for a formal Commission meeting. d. The Commission would be kept informed of developments and the results of the consultation exercise.
3.2	<p>The Commission thanked officials and made the following comments in response:</p> <ul style="list-style-type: none"> a. The Commission agreed to the proposed way ahead on the condition that the consultation exercise emphasises the positive nature of the change and that this was an exercise to simplify and make the poster more user friendly rather than just an admin burden reduction exercise. b. The Commission acknowledged that while an electronic/internet version of the poster may be desirable for some, it would not necessarily be the best way of ensuring the poster was always visible. c. The Commission also agreed that any change to the regulations should allow flexibility to make further amendments to the poster rather than require further legislative changes down the line. d. The Commission were agreed that external advice including from Judith Donovan should be sought to help design the poster to ensure it has maximum impact. The Commission also requested that at an appropriate stage they would be consulted on the design of the poster.
3.3	The Chair concluded the discussions by thanking Giles and his team for their presentation and agreed with the proposed way ahead subject to the Commission being kept informed of any significant developments.
ACTION	Keith Wiley to produce and clear a limited consultation document with the Chair and report back to the Commission on significant developments.

4	Agenda Item Four: Extending the scope of cost recovery and the Health and Safety (Fees) Regulations 2008 (HSC/07/76)
4.1	<p>Vivienne Dews, Justin McCracken, Steve Dennis and Bill Tomkins introduced the paper and made the following remarks:</p> <ol style="list-style-type: none"> a. The paper set out proposals for increasing and changing the scope of cost recovery in the COMAH, offshore, gas transportation and nuclear regimes and suggests that HSC recommends that Ministers make the appropriate changes to the Health and Safety (Fees) Regulations. b. The Commission were reminded that Ministers had asked the Commission and Executive to consider proposals for increasing cost recovery some time ago. c. The proposals set out in the paper would bring the charging regimes closer in line with the HM Treasury guidelines on full cost recovery and would bring about greater consistency of approach between the regimes for which HSE recovered its costs. d. Industry had been notified formally about the proposed scale of the increases in October so they would have at least six months before the increases became effective. Although the absolute costs of the increases were not large in proportion to the scale of the industries, the percentage increases were high. e. In undertaking this work the HSC/E would be seeking to ensure that it did not result in perverse outcomes which lead to the industry avoiding participating in discussions about prevention of incidents through fear of being charged for inspector time. f. As part of the roll out of the new cost recovery regime HSE will share its outline intervention plans for COMAH sites with industry so that they can more effectively budget and plan for anticipated inspection work.
4.2	<p>The Commission thanked Vivienne, Justin and their team and made the following comments in response:</p> <ol style="list-style-type: none"> a. The Commission agreed that it was important to ensure the terminology used to describe this work was correct. They emphasised that this exercise was about cost recovery and not raising revenue and must be communicated as such. b. The Commission was assured that HSE will continue to develop their intervention plans based on hazard and risk and priorities. There will be no skewing of activities to those that might raise the most revenue. c. The Commission acknowledged that while there is some understandable nervousness within industry about the proposals that it was necessary to recover the full cost of inspection from the industry. d. The Commission was assured that there were only a relatively small number of SME's in the COMAH sector and that in relation to preventative inspection they would be treated proportionately under the proposals since their operations and the amount of hazardous chemicals they held were both likely to be smaller than larger companies. The size of increase for the lowest quartile of COMAH companies would be around £100. e. The Commission agreed that while these proposals were the most appropriate way forward in the short term that in the longer term a fundamental review of the way HSE recovered its costs in the offshore and COMAH sectors should be undertaken. The Commission was also inclined to the idea that those that if at all possible a means should be sought to reward those who perform well with some form of reduction in charges and poorer performers should be encouraged to improve their performance by paying more.

	<p>f. The Commission also registered its unease with the principle of charging and their belief that health and safety in the UK needs to be properly funded. However, it is ultimately a matter for Ministers to decide and in the light of current Government guidelines it is unavoidable that the full costs must be recovered from industry.</p>
4.3	<p>The Chair summarised the discussions by:</p> <ul style="list-style-type: none"> a. stating that while there is a general discomfort with the cost recovery regime that it is necessary for HSE to be able to recover its costs and sensible to ensure a consistent approach across all its charging regimes. b. acknowledging that the proposals will allow an integrated approach to the management of major hazard and “conventional” risks on high hazard sites. c. agreeing that the Commission would recommend to Ministers that they adopt the proposals set out in the paper in full and clearly stating that the proposal is driven by financial pressures on HSC/E. d. requesting that the HSE commit to undertaking a review of the cost recovery methods in place with a view to establishing a better more predictable way of cost recovery and in the longer term to review the impact of charging on HSE’s work.
ACTION	Bill Tomkins to produce a submission to Ministers on the proposals that take account of the Commission’s discussion.
ACTION	Steve Dennis/ PFPD to take forward discussions with industry on alternative approaches to cost recovery.
5	Agenda Item Five: Hampton Implementation Review of HSE – key findings from the draft report (HSC/07/67) (The HSC paper is open but the Draft Report is Closed under section 35 of FoI Formulation of Government policy)
5.1	<p>Geoffrey Podger introduced the paper and made the following comments:</p> <ul style="list-style-type: none"> a. HSE was one of five major regulators to be reviewed on their progress in implementing the recommendations of the Hampton Report. HSE had volunteered to be the first regulator to be reviewed. b. As part of the process regulators were involved in peer reviewing each other. Kevin Myers was taking part in the review of the Food Standards Agency. c. The draft report is generally positive and in most respects HSE is considered to be Hampton compliant. Areas highlighted for further improvement include: the level at which HSE’s guidance was targeted and the need to improve communication with staff in the field on central policy issues. d. HSE is still in discussion with BRE on some of the recommendations including gathering information from and providing advice to business. This work would have to be balanced against value for money and HSE’s other priorities. In addition, inaccuracies in the draft report were addressed through a letter from the Chief Executive that provides clarity on HSE/C’s position. e. The Commission was informed that HSE had already taken steps to address many of the recommendations for action through implementation of the fine-tuning review. f. The draft report recommends a review of progress in six months. HSE has clarified that this is a matter for the Commission and not the BRE or NAO.

5.2	<p>The Commission thanked Geoffrey and made the following comments in response:</p> <ul style="list-style-type: none"> a. While broadly accepting the recommendations of the report the Commission did not agree with its questioning of whether inspection and enforcement were an effective way of influencing outcomes on health. Before accepting this they agreed that evidence would need to be provided. b. The Commission agreed that it should welcome the final report and proposals as this was a useful exercise that followed good business practice of obtaining an external viewpoint. Following receipt of the final report, it looked forward to a further paper on how HSE is responding or planning to respond to the recommendations for action. c. The Commission strongly endorsed HSE's view that it was the Commission who should steward progress on implementing the recommendations.
ACTION	Geoffrey Podger agreed to circulate a copy of the letter he sent to BRE/NAO on HSE's key concerns and the inaccuracies in the report.
6	Agenda Item Six: Update on HSE action on work related cancer (HSC/07/73)
6.1	<p>Jane Willis introduced the paper and made the following points:</p> <ul style="list-style-type: none"> a. The paper provided an update on the previous paper including details of the results of the first phase of research undertaken on the burden of occupational cancer. b. The result of the first phase of the research, which looked at the 6 cancers most associated with workplaces, was that the proportion of cancer deaths in 2004 attributable to occupation was estimated to be 4.9% c. This suggests that the estimated occupational burden once the second phase of research has been completed will be higher than the 4% estimated by Doll and Peto in 1981. d. Much of that increase was due to long latency asbestos related cancers. e. The results of the first phase were due to be published tomorrow in the journal of "Occupational and Environmental Medicine". f. HSE had held a workshop for stakeholders earlier in the year to discuss the evidence base for and explore potential future interventions on occupational cancer. Further work was planned for next spring. g. The strategy was to continue to build the evidence base in relation to work related cancer while at the same time focusing interventions on reducing the risk of workplace exposure to carcinogens and thus prevent new cases.
6.2	<p>In response the Commission made the following comments:</p> <ul style="list-style-type: none"> a. The Commission welcomed the good work being done in this area and noted the revised figures. b. The Commission noted the criticisms from Hazards Campaign and Professor Watterson of the results of the HSE sponsored research and agreed that HSE should engage with them in a bid to gather evidence and increase our understanding. c. The Commission also agreed that there was a need for all parties to act responsibly to help tackle the risk posed by occupational cancer. d. The Commission welcomed the speed of the research being undertaken by HSE and agreed that there was little to be gained from using valuable resources to debate the results of others research given that the differences are unlikely to influence the timing or direction of the work to be undertaken.. e. The Commission noted the recent report where an association has been made between Breast Cancer and shift work and welcomed the intention of the 3rd phase of the research which would explore this type of issue.

	f. The Commission also welcomed the work of HSE to involve stakeholders.
6.3	The Chair thanked Jane, Patrick McDonald and Kevin Walkin for their presentation and concluded the discussion by agreeing that occupational cancer should be considered with other priorities when developing the strategic/delivery plan for HSC/E over the next spending review period.