

<b>Meeting Date:</b>	5 June 2007	<b>Open Gov. Status:</b>	Fully Open
<b>Type of Paper:</b>	Above the line	<b>Paper File Ref:</b>	
<b>Exemptions:</b>			

**Minutes of a meeting of the Health and Safety Commission held on 5 June 2007 in the Globe Room, Rose Court, London**

<p><b>Present:</b></p> <p><b>Bill Callaghan – Chair</b>  <b>Sandy Blair</b>  <b>Danny Carrigan</b>  <b>Judith Donovan</b>  <b>Sayeed Khan</b>  <b>Hugh Robertson</b>  <b>Elizabeth Snape</b>  <b>Robin Dahlberg</b>  <b>John Longworth</b></p> <p><b>Apologies: John Spanswick</b></p>	<p><b>Officials Present:</b></p> <p>Geoffrey Podger  Justin McCracken  Jonathan Rees  Alex Brett-Holt  Vivienne Dews  Colin Douglas  Neal Stone  René McTaggart  Lorraine Cassell  Ann Marie Farmer</p> <p>Alan Morley – Item 4  Stuart Bristow – Item 5  Ulrike Hotopp – Item 5  Tim Harris – Item 6  Jenny Eastabrook – Items 4 &amp; 5  Giles Denham – Items 6 &amp; 7  Andy Miller – Item 7  Patrick McDonald– Item 8</p>
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	<b>Welcome/Introduction</b>
	The Chair welcomed everyone to the meeting. He congratulated Danny Carrigan on his reappointment to the Commission and Sayeed Khan on his distinguished service award from the Royal Society for the Prevention of Accidents.
<b>1</b>	<b>Minutes of the meeting held on 15 May 2007 (HSC/M05/2007)</b>
1.1	Subject to the amendment of the minutes to reflect the election of Danny Carrigan to the North Lanarkshire Council, and not Cumbernauld and Kilsyth Council, the minutes were agreed.
<b>2</b>	<b>Urgent Business</b>
2.1	None.
<b>3</b>	<b>Chief Executive’s Report</b>
3.1	Geoffrey Podger highlighted the following issues as part of the Chief Executives report: <ul style="list-style-type: none"> <li>a. The recent crane incidents remain a concern. The latest incident, (a collapse in Croydon on 2 June 2007), was potentially serious but fortunately did not result in any fatalities or life threatening injuries. HSE are investigating the cause of the incident and the preliminary findings point towards errors in the erection of the crane rather than issues around maintenance as has been the case with the other recent incidents.</li> <li>b. Two reportable incidents (mechanical fires) occurred at Oldbury 2 and</li> </ul>

	<p>Hunterston B nuclear reactors following their re-activation. Neither incident resulted in a release of radiation.</p> <p>c. HSE are currently investigating the fire at the Aztec chemical works (Cheshire) which occurred on 4 June 2007 which, fortunately, did not result in any reportable injuries.</p>
3.2	<p>The Commission thanked Geoffrey for the update and made the following remarks:</p> <p>a. While welcoming the report on the Fine Tuning programme the Commission sought assurances that a firm management grip was being maintained (by the Executive and the Chief Executive in particular) to ensure that the Commission's strategy was delivered;</p> <p>b. The Commission agreed the need for a further discussion on the fine tuning project once the implications of SR 2007 are known;</p> <p>c. The Commission noted an inaccuracy in the Chief Executive's report on the CAA/UCATT adjournment debate as it stated that 'most of the MPs were sponsored by UCATT' where in fact only three of the eight MPs were UCATT sponsored. Geoffrey apologised for this error;</p> <p>d. The Commission also raised their concern more generally about the worrying trend of fatalities in the construction industry.</p>
3.3	<p>Geoffrey confirmed that HSE was fully committed to delivering the Commission's strategy. It was right, and indeed general good practice, to consult staff regarding the means of delivery and to benefit from that experience. That said, Geoffrey also confirmed that the delivery of the strategy would remain a managed process.</p>
<b>4</b>	<p><b>Responding to the Institute of Director's Consultation on draft New Guidance for Directors on their Responsibilities for Health and Safety (HSC/07/34)</b></p>
4.1	<p>Jonathan Rees introduced this paper, his comments included:</p> <p>a. The Commission had previously invited the Institute of Directors (IOD), with support from HSE, to lead a stakeholder steering group to produce new, clear and credible guidance for directors. The intention being to help further increase the number of boards that routinely consider and take effective action on health and safety performance (HSE research suggests the number that do so rose from 58% in 2001 to 79% in 2005);</p> <p>b. The Commission were being given an early opportunity to comment on the guidance as part of the consultation process (ie: before the guidance was finalised);</p> <p>c. HSE had considered the draft guidance and were content that it was broadly along the right lines, but perhaps should do more to emphasise the importance of, and make the case for, board leadership;</p> <p>d. HSE also considered that while it uses appropriate language to target directors it could be improved further by changing some of the case studies to focus on performance rather than on the process followed;</p> <p>e. The Commission were therefore asked:</p> <ul style="list-style-type: none"> <li>• for comments on the appropriateness of the draft guidance;</li> <li>• to consider the need for a SME specific version of the guidance;</li> <li>• for a steer on the need for a campaign to support the launch of the guidance.</li> </ul>
4.2	<p>The Commission agreed that this was not the right place to provide points of detail on the draft (they can do so in writing separately) but offered the following</p>

	<p>remarks:</p> <ol style="list-style-type: none"> <li>The Commission congratulated the authors and commended the draft as it achieved its aim of being clear, credible, not prescriptive and in a businesslike format;</li> <li>The Commission agreed that there should be a stronger emphasis on leading/values and that the case studies should be made more compelling with less focus on public sector</li> <li>The Commission agreed that further consideration needs to be given on the branding of the guidance. For example, whether to make this a HSC endorsed publication produced by the IOD;</li> <li>The Commission did not agree on the need for a SME specific version of the guidance; the guidance should set the standards across the piece and so be in language which makes it accessible to SMEs;</li> <li>The Commission also agreed that the publication of the guidance should be supported by an event and a campaign.</li> </ol>
4.3	The discussion was concluded with the Commission endorsing the further development of the guidance with a view to a final endorsement (September) prior to publication in the Autumn.
<b>5</b>	<b>Worker Involvement – Outcome of discussions with Social Partners (HSC/07/34)</b>
5.1	<p>Jonathan Rees introduced the paper which provided an update on the action taken following the Commission’s discussions at the March open meeting in Aberdeen. Jonathan’s update included:</p> <ol style="list-style-type: none"> <li>A summary of the agreements reached at the March meeting which primarily were: the production of improved guidance and the need for further discussion with social partners to try and reach consensus on the legislative/ACoP changes to legally bind employers to consulting employees on risk assessments and to respond points made by safety representatives;</li> <li>That despite considerable effort by both HSE and the Chair, no consensus could be reached with the social partners on regulatory change.</li> </ol>
5.2	<p>The Commission made the following comments in response:</p> <ol style="list-style-type: none"> <li>The Commission was disappointed that no consensus could be reached on the need for regulatory change but agreed the need to progress the areas of work where there was consensus (for example the production of guidance);</li> <li>There was disappointment from the Trade Union Commissioners that agreement to change the ACoP to reflect what good employers are already doing in practice could not be reached. Equally they were disappointed that a consensus to make legislative changes, which they believe would only be closing a loophole in the law, could not be found;</li> <li>The Commission welcomed trade union proposals to gather evidence to show where failure to consult with safety representatives on risk assessments and/or failure to respond to safety representatives had led to a reduction in health and safety protection;</li> <li>The Commission also noted that any changes to the ACoP or legislation would only affect workplaces with union recognition and would therefore not apply to the majority of the British workforce.</li> </ol>

5.3	The Commission concluded its discussion by agreeing that without consensus it could not recommend legislative change to Ministers. However, it was acknowledged that failure to reach consensus did not detract from the strength of feeling on this issue or the ability of the social partners to continue to state their case to Ministers. The previously agreed work to improve worker involvement, including the drafting of better guidance, would continue.
<b>6</b>	<b>REACH Developments (HSC/07/35)</b>
6.1	<p>Giles Denham provided the Commission with an update on the new EU requirements for the Registration, Evaluation and Authorisation of Chemicals (REACH) that came in to force on 1 June 2007 and made the following comments:</p> <ol style="list-style-type: none"> <li>a. HSC will perform the functions of REACH Competent Authority (CA) on behalf of UK Government (including the Devolved Administrations). HSE has had a helpdesk in operation to provide advice on the requirements of REACH for several months;</li> <li>b. The legal powers for HSC to act as the CA across the UK need to be formalised through agency agreements. HSC will then need to direct HSE to carry out its functions;</li> <li>c. DEFRA have the lead on REACH in the UK and have consulted on the enforcement arrangements. HSE had worked with DEFRA in the development of the consultation and are broadly content with the proposal that each enforcer (HSE, EA, SEPA and LAs) applies their own regime. HSC are invited to respond;</li> <li>d. Macrory penalties will not be available to all REACH enforcing authorities and therefore further discussions with DEFRA will be needed before further advice could be provided to the Commission.</li> <li>e. The Commission were asked to respond to points b and c above as per recommendations in paper HSC/07/35.</li> </ol>
6.2	The Commission thanked Giles and his team for their work and endorsed the proposed mechanism for formalising the legal arrangements and noted and agreed the proposed response to the DEFRA consultation.
<b>7</b>	<b>Regulations on the control of inhalable dust in coalmines (HSC/07/06)</b>
7.1	<p>Giles Denham and Andy Miller presented the paper and made the following comments:</p> <ol style="list-style-type: none"> <li>a. The paper represented the final stage of the process (prior to submission to Ministers) of updating the regulations and the producing new ACoP material for this a single industry issue;</li> <li>b. There had been a delay in reaching this stage due to technical measurement issues which had now been resolved. The cost benefit analysis demonstrated that the proposals had clear benefits. They also had the had the support of the industry and the trade unions;</li> <li>c. The Commission were asked for their endorsement of the proposed new regulations and ACoP.</li> </ol>
7.2	<p>Andy provided the following remarks in response to the Commission's question about the use of RPE as a means of protection:</p> <ol style="list-style-type: none"> <li>a. Working conditions in the industry (heat, humidity and confined spaces) meant that there were real difficulties in making the use of RPE mandatory in all circumstances;</li> </ol>

	<ul style="list-style-type: none"> <li>b. While the regulations emphasised that engineering controls would be the primary means of controlling exposure there would be circumstances when RPE would need to be worn. Managers would need to specify when the use of RPE would be mandatory and there would need to be more education and awareness raising to promote the use of RPE;</li> <li>c. In situations where the wearing of RPE was necessary, managers would have to consider whether there is scope for adopting working arrangements to minimise the need for prolonged wearing of RPE (eg rotating workers between different parts of the mine).</li> </ul>
7.2	<p>The Commission thanked Giles and Andy for their presentation and for the clarity the response on RPE. The Commission were also content with the proposals set out in the paper and agreed:</p> <ul style="list-style-type: none"> <li>a. The draft regulations and covering letter to Ministers;</li> <li>b. The publication of the accompanying ACoP and guidance; and,</li> <li>c. The exposure limits and the method of calculation set out in the Notice of Approval (Annex 3 of the paper).</li> </ul>
8	<p><b>This item consists of four linked papers from NuSAC which had been brought above the line from the May meeting:</b></p> <ul style="list-style-type: none"> <li><b>a) HSC Coordinated programme of Nuclear Safety Research Evaluation report for 2005/06 (HSC/07/38)</b></li> <li><b>b) HSC Coordinated programme of Nuclear Safety Research for 2007/08 (HSC/07/40)</b></li> <li><b>c) HSC Coordinated Programme of Nuclear safety research for 2007/08 (Supplementary advice from HSE) (HSC/07/40 – Supplement</b></li> <li><b>d) Annual Report on HSC Coordinated Nuclear Safety Research programme (HSC/07/41)</b></li> </ul>
8.1	<p>Justin McCracken presented the papers and outlined the background, his comments included:</p> <ul style="list-style-type: none"> <li>a. Due to the number of reactors coming to the end of their useful life the nuclear research programme has naturally been diminishing; under these circumstances and the current resource challenges, it is natural that HSE should reprioritise its efforts and devote less time to the management of this programme;</li> <li>b. An outline of the steps taken by HSE to address the concerns of the NuSAC on the resources to maintain the Nuclear Research Index and the non-commissioning of research in human factors. This work includes the review of work across HSE on human factors by HSE’s Chief Scientific Advisor.</li> </ul>
8.2	<p>The Commission thanked Justin for the presentation and made the following remarks:</p> <ul style="list-style-type: none"> <li>a. The Commission were content that the steps taken by HSE to address the concerns of NuSAC were appropriate;</li> <li>b. The Commission noted the evaluation of the 2005/06 programme and approved the Nuclear Safety Research programme for 2007/08;</li> <li>c. The Commission agreed that the Chair would write and thank Professor Moray for his contributions as the Chair of NuSAC’s research sub-committee.</li> </ul>

	<b>Miscellaneous</b>
<b>9</b>	<b>Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work (MISC/07/11)</b>
9.1	The Commission noted the progress and the policy lines adopted by HSE in discussion with the Office for National Statistics.