

HEALTH AND SAFETY EXECUTIVE			
CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)			
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Update on work to deliver Löfstedt recommendations

A paper by Anthony Lees, Construction Policy Unit

Purpose of the paper

At its June 2012 meeting CONIAC agreed there should be a standing agenda item to update members about progress with work to deliver recommendations in Professor Löfstedt's report 'Reclaiming Health and Safety for All'. This paper provides updates on those areas of work felt to be particularly relevant to the construction industry.

Löfstedt review: Review of Progress one year on

1. In January, Professor Löfstedt completed a review of the progress made in implementing the recommendations in his original report. A copy of this report can be found on DWP's website¹. In summary, he concluded that all of the recommendations in his original report have either been delivered or are on track to be completed by the agreed date. However, he notes the significant work that he believes remains to be done to ensure that the regulations and Directives emanating from Europe are both risk and evidence based. He also specifically welcomes HSE's commitment to reduce occupational ill-health.

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)

2. HSE's consultation on a second set of amendments to RIDDOR closed on 28 October 2012. The proposal to simplify reporting requirements arose from Professor Löfstedt's review of health and safety regulations. HSE's consultation proposed revised regulations which would simplify reporting requirements in a number of ways. The consultation proposed removal of the requirement to report:
 - cases of occupational disease other than those caused by biological agents;
 - non-fatal injuries to people not at work;

¹ <http://www.dwp.gov.uk/docs/lofstedt-report-one-year-on.pdf>

- dangerous occurrences other than those in prescribed high-risk sectors (construction is considered to be high risk);
 - the self-reporting of injuries or cases of occupational disease by the self-employed.
3. In addition the consultation proposed simplifications to the categories of reportable major injuries and simplification of the criteria for reporting domestic gas incidents.
 4. The HSE Board considered the 450 responses to the consultation on 30 January 2013. In light of the responses, the Board considered a revised proposal which reinstates the requirement to report injuries to members of the public and the notification of six key industrial diseases which represent over 90% of those that are currently reported. The requirement to report occupational cancers and diseases attributable to biological agents is to be retained. The Board will advise the Minister for Employment to agree to the modified proposal.
 5. A summary of the consultation responses will be available shortly on the HSE website. It is currently expected that the amendments will take effect in October 2013.

Self-employed exemption

6. The consultation on proposals to exempt the self-employed whose work poses no risk to others closed on 28 October 2012. The 176 responses have now been analysed, and the HSE Board considered these at their meeting on 30 January 2013. The Board recognised that this is a sensitive policy area, particularly with regard to ensuring that the implications of the proposals are communicated properly. To that end, the Board has asked HSE to prepare a full communications handling plan.
7. The Board endorsed HSE's preferred option as described in the consultative document. This option is for an exemption based on the potential of harm to others with a list of high hazard/high risk sectors prescribed by the Secretary of State where no exemption would operate. This list would include the construction industry.
8. The proposal will remove approximately 800,000 self-employed workers from health and safety requirements, leaving 2.3 million workers – some 75% - still covered by legal requirements.
9. The legal vehicle by which the required changes to the Health and Safety at Work, etc. Act 1974 will be made is yet to be confirmed.

Approved Codes of Practice

10. The consultation on proposals to amend, consolidate or withdraw 30 Approved Codes of Practice (ACoPs) closed on 14 September 2012. The HSE Board considered the 413 responses received at its meeting on 5 December 2012. The supporting Board paper and minutes are available on the HSE website², along with a paper covering the specific recommendation to withdraw the ACoP supporting the Management of Health and Safety at work Regulations 1999.
11. CONIAC members will be aware that the CDM ACoP is not within scope of this exercise, due to ongoing work on the CDM package. Members will wish to note, in particular, the following proposals considered by the Board:
 - consolidation of the five ACoPs supporting the Dangerous Substances and Explosive Atmospheres Regulations 2002;
 - consolidation of the two ACoPs regarding asbestos;
 - consolidation of the two ACoPs regarding gas safety;
 - revision of the ACoP supporting the Control of Substances Hazardous to Health Regulations 2002;
 - revision of the ACoP supporting the Workplace (Health, Safety and Welfare) Regulations 1992;
 - withdrawal of the ACoP supporting the Management of Health and Safety at Work Regulations 1999.
12. The Board supported the proposals for consolidation and amendment, It is expected that these changes will be delivered by the end of 2013. The Board further considered a separate paper regarding the proposal to remove the Management Regulations ACoP. The Board agreed that it should be possible for this ACOP to be withdrawn in due course but a decision on whether it is replaced by a shorter version or elements included in the new HSG65 is required first.
13. The Board did not support the proposal to set a 32-page limit on the length of future ACoPs on the basis that a majority of respondents to the consultation felt it was arbitrary.

Proposal to revoke fourteen regulatory measures

14. At its meeting in August 2012, the HSE Board agreed to recommend to Ministers proposals to revoke the Construction (Head Protection) Regulations 1989 and the Notification of Conventional Tower Cranes Regulations 2010 (and their amending Regulations). Following Ministerial scrutiny of the proposals, the Statutory Instrument (SI) that

² <http://www.hse.gov.uk/aboutus/meetings/hseboard/2012index.htm>

revokes these and 10 other legislative measures will be laid in Parliament. Subject to Parliamentary scrutiny, the Health and Safety (Miscellaneous Repeals, Revocations and Amendment) Regulations 2013 will come into force on 6 April and revoke these two sets of Regulations.

15. The Board agreement to these proposals was conditional that further work should be done – in particular to ensure that smaller construction companies understood that head protection must still be provided and worn. HSE has already taken action by adding head protection to the issues on which the refurbishment inspection initiative which finishes on 15 March is focused, and inspectors will be distributing a ‘busy builder’ leaflet covering this subject as part of the initiative. Head protection will also be a focus of the further inspection initiative planned for September and more generally at interventions on small construction projects.
16. On the assumption that revocation proceeds on 6 April, in addition, HSE:
 - will publicise the changes through a press release, Construction Infonet and the Construction Forum as well contact all those who have notified tower cranes to the Register;
 - will publish in the near future the Busy Builder leaflet, a toolbox talk and a standard article for use in health and safety newsletters on its website;
 - will continue to work with the industry to further improve standards of safety in the erection, use and dismantling of tower cranes;
 - will have discussed with the industry re-energising the safe crane campaign and wider use of its poster as a means of re-assuring the public about the safety of cranes.
17. HSE is seeking support from industry to deliver the message about the continuing need to provide hard hats on construction sites and ensure they are worn. CONIAC Members have a key role in this.

Action: CONIAC members are asked to consider what help they can provide in publicising the messages about the continuing need to provide head protection and ensure it is worn on construction sites.

Strict liability

18. The amendment to section 47 of the Health and Safety at Work, etc. Act 1974 which will deliver this recommendation is included in the Enterprise and Regulatory Reform Bill. This Bill is currently under consideration in the House of Lords and will reach report stage on 26 February. It is expected that the clause relevant to this measure will be debated on 6 March. The outcome of this debate will be reported at the March 2013

meeting of CONIAC.

19. The expected date of the amendment coming into force is October 2013.

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