

HEALTH AND SAFETY EXECUTIVE

CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

Minutes of the M1/2013 meeting
held on 13 March 2013 in Rose Court

Present

Philip White (Chair)
Anthony Lees (Secretary)
Richard Ash
Nick Blundell
Peter Caplehorn
Kevin Fear
Edward Fendt
Rob Gutteridge
Richard Habgood
Paul Haxell
Clive Johnson
Kevin Minton
Alan Muddiman
Susan Murray
Jerry Nelson
David Parsons
Jason Rowley
John Scott

Representing

Health and Safety Executive
Health and Safety Executive
Engineering Construction Industry Association
UCATT
Construction Industry Council
ConstructionSkills
Specialist Engineering Contractors Group
Federation of Master Builders
Construction Industry Council
Home Builders Federation
Construction Clients' Group
Construction Plant-hire Association
Civil Engineering Contractors Association
Unite (T&G section)
GMB
National Federation of Builders
UK Contractors Group
National Specialist Contractors Council

Departmental Observers

Gilbert Barron

Business, Innovation and Skills

Officials

Heather Bryant
Gavin Bye
Neil Stephens
Ian Strudley
Michael Ryan (Secretariat)

Health and Safety Executive
Health and Safety Executive
Health and Safety Executive
Health and Safety Executive
Health and Safety Executive

Members of the public

13 were present

Apologies

Steve Murphy
Andrew Butt

Representing

UCATT
Cabinet Office

Summary of Actions agreed:

1. **ACTION: Secretariat to prepare a CONIAC Plan of Work for adoption at July meeting.** (See paragraph 1.3(b))
2. **ACTION: Secretariat to send link to Construction Division Plan of Work presentation to Members.** (See paragraph 4.5)
3. **ACTION: Secretariat to confirm to Members categories of musculo-skeletal disorders to be retained for reporting purposes.** (See paragraph 5.4)
4. **ACTION: Secretariat to send a link to leaflet CIS 70 to Members.** (See paragraph 5.5)
5. **ACTION: Secretariat to provide statistical information covering the four weeks of the refurbishment campaign to Members.** (See paragraph 8.1)
6. **ACTION: Secretariat to provide Members with information on limit of moneys generated by FFI that HSE may retain.** (See paragraph 8.5)

1. Welcome and Chair's introduction

1.1 Philip White (Head of HSE Construction Division and Chief Inspector of Construction) welcomed everyone to the meeting. In particular, he welcomed new members Richard Habgood and David Parsons, who were attending their first CONIAC meeting.

1.2 Philip gave the apology of Steve Murphy and welcomed Nick Blundell who was substituting for him. He informed CONIAC that John Poole had resigned from CONIAC and that HSE would now approach Unite with a view to obtaining a successor.

1.3 Philip briefed CONIAC as follows:

(a) *Head of Construction Division* – Philip said that from the end of March he would be moving to a new role within HSE. He introduced Heather Bryant who would succeed him as Head of Construction Division and Chief Inspector of Construction (and Chair of CONIAC). (A press release announcing this change had been issued on 8 March.) Heather said that she looked forward to joining Construction Division in early April. She was pleased to have this opportunity to attend CONIAC and took the opportunity to express her strong belief in the importance of working closely with stakeholders.

(b) *Constitutional preliminaries* – Philip said that as this was the first meeting of CONIAC as reconstituted for the term 3 March 2013 to 2 March 2016 it was necessary to deal with a couple of constitutional formalities before proceeding to the business of the meeting.

- Firstly, he noted that draft terms of reference had been circulated to Members previously and now asked them to confirm that they were content with these. Members indicated their approval of the terms of reference.
- Secondly, he asked Members to confirm that the four working groups (Safety WG, Health Risks WG, Working Well Together Steering Group and Catastrophic Events WG) established before CONIAC's reconstitution could continue in existence. Members indicated their agreement to the continuance of the working groups.
- Philip noted that a plan of work for CONIAC would be prepared and would be put to CONIAC for agreement at the July meeting.

ACTION: Secretariat to prepare a CONIAC Plan of Work for adoption at July meeting.

[**Secretary's Note:** a paper containing the plan has been prepared for the meeting on 17 July 2013]

Philip said that as Chair of CONIAC he had decided to bring Construction Division's Asbestos Liaison Group within the ambit of CONIAC by designating it as a CONIAC subgroup.

2. Agreement of Agenda and matters arising

2.1 Members agreed the Agenda.

2.2 Members did not request any other business. Philip said that he would use the AOB time slot to update CONIAC on experience with *Fee for Intervention* (FFI) (see paragraphs 8.2 to 8.5).

2.3 Philip recorded that the actions from the November meeting had all been carried out.

2.4 Members approved the minutes of the 14 November 2012 meeting.

3. Report on recent activities of CONIAC working groups (Oral update by Anthony Lees, HSE) [No paper]

3.1 Philip asked Anthony Lees (Secretary to CONIAC and Head of Construction Policy Team) to update CONIAC. Anthony reported as follows:

(a) The Catastrophic Events Working Group has not met recently but two meetings are planned for this year. The group has identified a number of leading performance indicators that are relevant to possible catastrophic events and is now piloting them with appreciated assistance from UKCG. The group would make a final report on its work by way of a paper for the November meeting of CONIAC, at which point it would be dissolved.

(b) The Health Risks Working Group last met on 10 December. It has been considering the implications for construction of the work by Dr Lesley Rushton and others on the burden of occupational cancer. The group is giving particular attention to risks to painting/decorating workers and risks arising from exposure to diesel engine exhaust (DEE) and is planning future initiatives in these areas. The working group has finalised its guidance on *Managing occupational health in construction*.

(c) The Safety Working Group has adopted a strategy of focusing on work at height (WAH) risks. It is pursuing a long-term project with the aim of making unsafe WAH culturally unacceptable and is continuing to develop its business case for this. At its meeting on 29 January it considered Health and Safety Laboratory (HSL) research on selection of equipment for WAH. Additionally, it took a report from the Strategic Forum for Construction Plant Safety Group on medical fitness to operate plant.

(d) Working Well Together Steering Group. A total of 48 WWT events were delivered by the end of 2012 and the full year target of 50 was surpassed in February 2013. The new Lancashire Group's first event was held on 14 November 2012 and attended by 180 delegates. There has been slower than expected progress in setting up the new Basingstoke Group which is now expected to become operational towards the latter part of 2013. A bid has been put in for funding of WWT events in 2013/14 at a similar level to 2012/13 and evaluation procedures for events have been revised. The WWT Steering Group will next meet on 26 March 2013 in Birmingham.

3.2 Philip asked Members for questions or comments. Kevin Fear identified himself as a member of the Catastrophic Events Working Group. He said that temporary works are a possible source of multiple fatality events and informed CONIAC that CSCS is in the process of developing a course for temporary works coordinators. Richard Ash (also a member of the working group) observed that the scale of events denoted by the term "catastrophe" was uncertain and that it would be necessary to clarify this. Philip suggested that a sensible and proportionate approach would be appropriate. He noted that CONIAC would be able to consider these matters in November.

4. Construction Division Plan of Work for 2013-14 (Presentation by Neil Stephens, HSE [No paper])

4.1 Philip introduced Neil Stephens, Programme Manager, and asked him to give his presentation. Neil outlined the programme for 2013-14. He stated that while priority areas would not change there would be some rebalancing to further increase inspection of smaller sites. He said that the four-week intensive inspection initiative for refurbishment sites was in progress and he gave CONIAC some preliminary statistics on numbers of inspections carried out. Inspectors were taking the opportunity to get out the "no change on head protection" message and were distributing a leaflet on this. In future the annual inspection initiative would be held in September. Neil described the various special projects that Construction Division would be taking forward

during the year including in relation to work on fragile roofs, and asbestos removal in retail premises. Members indicated support for the plan.

4.2 Jason Rowley referred to the programme of designating inspectors to liaise on an ongoing basis with individual major contractors and said that UKCG members valued this work but there was a perception among them that HSE was reducing its focus on it. Philip assured that HSE was strongly committed to the lead inspector programme and noted that over the next couple of years this would be extended to 60 larger contractors and clients.

4.3 Philip said that HSE seeks to engage with clients for major projects, eg HS2 and nuclear new build, as early as possible. He noted that the Office of Nuclear Regulation (ONR), currently an agency of HSE, is likely to become a separate regulator and this may have implications for conventional (ie non-nuclear) health and safety in construction work on licensed nuclear sites. In discussion a view was expressed that Construction Division involvement would be essential on nuclear sites to avoid the possibility of different standards of construction health and safety developing in this sector.

4.4 Rob Gutteridge said that he was pleased to see the planned increase in visits to smaller sites. Philip agreed that this was important and pointed out that many smaller sites were also included in the annual refurbishment initiative.

4.5 Clive Johnson referred to the issue of asbestos management in retail premises and informed CONIAC that CCG expected to publish a document on this in May. Susan Murray said that she was impressed by the range of work in the plan. She asked for more detail on efforts in relation to asbestos, eg in schools. Philip replied that about 20% of proactive work is inspection of sites where licensed asbestos work is taking place. On all construction site visits inspectors routinely consider possible asbestos risks. Asbestos is a key priority for HSE.

ACTION: Secretariat to send link to Construction Division Plan of Work presentation to Members.

[Secretary's Note: the presentation was included with an e-mail of 17 June 2013]

5. Update on implementation of Löfstedt Report (Oral report by Anthony Lees, HSE) [Paper M1/2013/12]

5.1 Philip asked Anthony to speak to his paper. Following Anthony's talk he asked for questions or comments from Members.

5.2 Nick Blundell asked for news about the reinstatement of the duty in RIDDOR to report non-fatal injuries to members of the public. Anthony confirmed that the HSE Board had agreed this and would recommend it to the Minister. Nick registered UCATT's concern over the proposal to exempt self-employed persons from health and safety duties where their work poses no risk to others. He emphasised that there are many ways to falsely claim self-

employment in construction so clarity was needed on the interpretation of genuine self-employment. Philip said that there will be no exemption for the self-employed in construction: the key issue for HSE is control of the work, not employment status.

5.3 John Scott asked about timescales for review of the ACOP on first-aid. Anthony said that he would take an action on this.

5.4 Susan Murray asked if the RIDDOR guidance would be retained and Anthony confirmed that it would be. She asked what HSE would do to publicise the changes to RIDDOR. Philip said there would be publicity and that regardless of any changes businesses should be learning from incidents. Susan said that, for its part, Unite encouraged health and safety representatives to ensure that everything is reported; the RIDDOR developments provide a good opportunity to emphasise this.

ACTION: Secretariat to confirm to Members categories of musculo-skeletal disorders to be retained for reporting purposes.

[**Secretary's Note:** information on this was included in an e-mail of 9 July 2013]

5.5 Philip referred to the revocation of the *Construction (Head Protection) Regulations 1989* and the need to get out the message that this did not mean that head protection was no longer required. He mentioned that site visits during the refurbishment campaign had revealed that contractors are generally aware of this message although about 5% of sites had PPE issues. HSE has produced a leaflet on head protection (*Hard hats: what you need to know as a busy builder* (CIS 70)) and he asked Members to disseminate it widely.

ACTION: Secretariat to send a link to leaflet CIS 70 to Members.

[**Secretary's Note:** CIS 70 was included with e-mail of 17 June 2013]

6. Update on guidance and communications (Presentation by Neil Stephens, HSE) [Paper M1/2013/2]

6.1 Neil Stephens gave his presentation highlighting a number of points. He said that HSE was striving to simplify the information it produced and was moving to web-based delivery (in line with Government policy of "digital by default"). Construction Division would keep a small portfolio of key guidance documents available for purchase in hard copy form. It would also seek to work with other parties to produce specialised guidance that might be endorsed by HSE and carry the HSE logo. Neil described the criteria which determine whether the HSE logo may be used on a non-HSE document. Neil said that while much official information was now centralised under the new "GOV.UK" brand (www.gov.uk) HSE and WWT had retained independent web presences. An evaluation of WWT had found that over 50% of attendees were SMEs and 28% were micro-businesses. He expressed gratitude to CSkills (now CITB) for assisting with finance for the WWT website and

requested that CONIAC Members consider if their organisations could also help.

6.2 Following the presentation, Philip asked for questions or comments. Nick Blundell asked about funding for the *Hidden Killer* campaign. Neil said that HSE was keen to continue the campaign and was investigating how the impact of a possible future campaign could be increased. John Scott recalled the initiative that had provided free asbestos awareness training. Neil said that had been part of the *Hidden Killer* campaign and he was not aware of any plan to rerun it. However, WWT groups may offer free asbestos training.

6.3 Jason Rowley expressed disappointment at a suggestion he had heard that *The safe use of vehicles on construction sites* (HSG144) would be archived. Philip said that the Secretariat would investigate what if anything was proposed in respect of HSG144. [**Secretary's Note:** It was planned to archive HSG144, that is, retain it as a free download only and without any commitment to further updating the text. However, following expression of concern at CONIAC this policy is being reviewed.]

6.4 Richard Ash said that case study material is very powerful and there is quite a bit of it on the HSE website but finding it is not so easy and this should be improved. Additionally, he suggested that the CDM ACOP or guidance should link to all relevant guidance.

6.5 Nick Blundell raised the issue of Blacklisting and said that HSE should make a statement supporting trades unions health and safety representatives for the good role that they carry out. Philip responded that HSE has already made clear that worker involvement is vital and that TU representatives perform a significant role. Therefore there is no need for a further statement.

7. Update on work in relation to CDM regulatory package (Presentation by Gavin Bye, HSE) [No paper]

7.1 Philip asked Gavin Bye, Head of Construction Sector and Construction Policy, to give his presentation. Following the presentation Philip asked for questions or comments from Members.

7.2 Susan Murray asked if the engagement of interested persons included representatives of the trades unions. Philip confirmed that it did and that HSE had spoken to Trade Union officials.

7.3 John Scott predicted that it would be difficult to persuade dutyholders to reduce bureaucracy related to risk assessment. Gavin agreed although he thought that fundamentally this is an issue more closely connected to the *Management of Health and Safety at Work Regulations* regime than CDM as such. Richard Ash responded that people think that risk assessment is part of CDM and therefore something should be done to address the point of excessive bureaucracy; HSE should have the nerve to say that bureaucracy is positively bad. Gavin said that it was intended to provide assistance for dutyholders in the form of template health and safety plans and Philip added that HSE is clear that its focus will be on outcomes not paperwork.

7.4 Richard Habgood drew attention to the use of the phrases “More than one contractor ... “ and “Two or more contractors ... “ in the Regulations and in the Directive and wondered if these phrases were always equivalent. Philip believed that they were equivalent in practice but agreed that care should be taken to ensure that the wording of the Regulations is consistent throughout.

7.5 Alan Muddiman stated that CECA supports the initiative to revise CDM. Philip thanked Alan for this and said that HSE was happy to speak to Members’ organisations as needed to explain its plans.

8. AOB

8.1 Philip reported on the first three weeks of the four-week Intensive Inspection Initiative on Refurbishment. There had been inspections of 1880 sites with 2176 contractors; 369 Prohibition Notices (PN) and 139 Improvement Notices (IN) had been served; and 355 notices of contravention had been issued. This equated to about one site in three being found to be in material breach of health and safety law and about one site in five requiring a PN or IN.

ACTION: Secretariat to provide statistical information covering the four weeks of the refurbishment campaign to Members.

[**Secretary’s Note:** a link to the information was included in an e-mail of 17 June 2013]

8.2 Philip said that from HSE’s perspective the first six months of *Fee for Intervention* (FFI) had gone as well as can be expected. He remarked that some dutyholders have made positive comments about FFI especially in view of undercutting by businesses with lower standards of health and safety.

8.3 In response to a comment from Kevin Fear, Philip stressed that FFI has not changed HSE’s approach to inspection; in particular, there are no financial targets or quotas. However, there is an expectation that each inspector will serve about 20 enforcement notices (PNs or INs) per year but this is a personal performance indicator and not driven by FFI.

8.4 Across all sectors (not just construction) 1418 invoices with an aggregate value of £728,000 were sent out in connection with inspections in October/November 2012. In relation to these 76% of recipients felt that the fee was appropriate and 53 had raised queries. One formal dispute had been lodged but not upheld by the Disputes Panel which is drawn from people for a variety of sectors. Invoices for inspections in December/January would go out shortly and for inspections in February/March would be sent on Monday 13 May.

8.5 Nick Blundell asked if the moneys received via FFI were reinvested into enforcement/inspection activities. Philip said that the receipts go to HSE unless they exceed a limit set by Government, these limits have been made public.

ACTION: Secretariat to provide Members with information on limit of moneys generated by FFI that HSE may retain.

[**Secretary's Note:** the information was included in an e-mail of 17 June 2013]

Conclusion of meeting

Philip said that he wished to recognise the invaluable support provided by CONIAC Members and Working Group Chairs and Members to the work of Construction Division and to him as Head of Division. Looking to the future, he saw big challenges for CONIAC and the industry that would require more support, notably CDM where reform is needed and the eventual package must work, and in the area of SMEs where increased partnership working is essential if improvements are to be delivered. Nick Blundell interjected to say that he wished to convey the UCATT General Secretary's appreciation for Philip's help and assistance. In particular, his attendance and robust exchanges at UCATT conferences had demonstrated his willingness to engage with the union and its members. Philip concluded by expressing his thanks to CONIAC Members and officials.

[**Secretary's Note:** The next meetings of CONIAC are on Wednesday 17 July and Wednesday 20 November.]