

## HEALTH AND SAFETY EXECUTIVE

### CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

Minutes of the M3/2012 meeting  
held on 14 November 2012 in Rose Court

#### ***Present***

Philip White (Chair)  
Anthony Lees (Secretary)  
Richard Ash  
Nick Blundell  
Greg Brown  
Peter Caplehorn  
Kevin Fear  
Edward Fendt  
Rob Gutteridge  
Paul Haxell  
Clive Johnson  
Kevin Minton  
Alan Muddiman  
Susan Murray  
Jerry Nelson  
Bill Rabbetts  
Jason Rowley

#### ***Representing***

Health and Safety Executive  
Health and Safety Executive  
Engineering Construction Industry Association  
UCATT  
Construction Industry Council  
Construction Industry Council  
ConstructionSkills  
Specialist Engineering Contractors Group  
Federation of Master Builders  
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

#### **Departmental Observers**

Gilbert Barron

Business, Innovation and Skills

#### **Guest presenter**

Dr Lesley Rushton

Imperial College

#### **Officials**

Gavin Bye  
Ian Strudley  
Michael Ryan (Secretariat)

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

#### **Members of the public**

7 were present

#### **Apologies**

Phil Davies  
Steve Murphy  
John Poole  
John Scott  
Andrew Butt

#### **Representing**

GMB  
UCATT  
Unite (Amicus section)  
National Specialist Contractors Council  
Cabinet Office

## Summary of Actions agreed:

1. **ACTION: Secretariat to send a link to paper HSE/12/63 to Members.** [See paragraph 1.3(a)]
2. **ACTION: Secretariat to send a link to the health and safety toolbox to Members.** [See paragraph 1.3(b)]
3. **ACTION: Secretariat to send a link to construction health and safety statistics for 2011/2012 to Members.** [See paragraph 1.3(c).]
4. **ACTION: Secretariat to circulate Dr Rushton's presentation to CONIAC Members.** [See paragraph 4.6]
5. **ACTION: Secretariat to circulate Dr Rushton's question set to the Health Risks Working Group for comment.** [See paragraph 4.6.]
6. **ACTION: Secretariat to circulate the report "Pre-Conditioning for success" to CONIAC Members.** [See paragraph 6.7]
7. **ACTION: Secretariat to send link to FFI multiple dutyholder guidance to CONIAC Members.** [See paragraph 7.1]
8. **ACTION: Secretariat to circulate the meeting dates in 2013 for the reconstituted CONIAC.** [See paragraph 7.6]

### 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 Edward Fendt (representing SEC Group in succession to Gerry Mulholland) and Clive Johnson (representing CCG in succession to Martin Winstone). He remarked that Clive had previously represented NSCC on CONIAC.

1.2 Philip gave the apologies of absent members and welcomed Nick Blundell and Jerry Nelson who were substituting for Steve Murphy and Phil Davies respectively.

1.3 Philip briefed CONIAC on several issues:

(a) Paper for HSE Board updating on work of Construction Division – This paper (**HSE/12/63**) was put to the Board at its meeting 22 August. In discussion the Board made the following comments:

- It welcomed the paper and noted that the Construction Plan of Work was in the second of its three years. It noted four key operational priority areas: small sites/duty holders, asbestos licensing, refurbishment and major projects/large contractors.

- It agreed that the supply chain was crucial in terms of having an impact on safety. In particular, it noted the very positive supply chain impact of the asbestos campaign and highlighted concerns at further possible delays on the re-run of the *Hidden Killer* campaign.
- It noted that HSE had been in discussions with UKCG to promote the Leadership and Worker Involvement Toolkit to smaller contractors, but further work was needed to facilitate arrangements for large contractors to work with those outside of the supply chain.
- The Board highlighted its concern related to refurbishment. It welcomed HSE's work with dutyholders in the retail sector in relation to refurbishment. It agreed the issue was less about small contractors operating on large sites but more about smaller contractors working on small sites. This was a large sector and targeting small contractors alone would not move the focus on safety forward but a change in culture and attitude was also needed.
- It noted the plethora of accreditation and qualification schemes and these needed to be addressed as part of work on the CDM regulatory package. HSE had been working hard to ensure mutual recognition between pre-qualification schemes. The Board agreed that the CDM Regulations provided the opportunity to highlight the role that Building Information Management (BIM) software could have in reducing paperwork. It noted HSE was in the process of working with industry on this issue.
- The Board acknowledged the major challenges faced by the construction industry and note that improvements had been made over the last 5 years. It concluded that the industry was moving in the right direction.

**ACTION: Secretariat to send a link to paper HSE/12/63 to Members.**  
**[Secretary's Note:** A suitable link was included in an e-mail to Members of 23 November 2012.]

(b) Health and safety toolbox – Philip drew CONIAC's attention to a new HSE free online resource for business. The Health and safety toolbox contains simple guides and interactive tools on a wide range of common hazards, for example, manual handling, noise, vibration, work at height, etc. It aims to help smaller businesses save time and money by guiding them to what is relevant for them and away from what is not.

**ACTION: Secretariat to send a link to the health and safety toolbox to Members.** **[Secretary's Note:** A suitable link was included in an e-mail to Members of 23 November 2012.]

(c) Provisional health and safety statistics for 2011/2012 – Philip noted that HSE had released provisional health and safety statistics for 2010/2011. Key points were:

<b>DAYS LOST</b>	<i>Per worker in 2011/2012p</i>
Due to work-related ill-health	0.87

Due to workplace injuries	0.34
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<b>INJURIES</b>	<i>2011/2012 provisional</i>	<i>Annual average previous 5 yrs</i>
Worker fatal injuries	49	59
Employee major injuries	2230	3139
Employee over 3-day injuries	5391	6427

**ACTION: Secretariat to send a link to construction health and safety statistics for 2011/2012 to Members.** [Secretary's Note: A suitable link was included in an e-mail to Members of 23 November 2012.]

## 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 early experience with *Fee for Intervention* (FFI) (see paragraphs 7.1 to 7.5) and on progress with CONIAC reconstitution (see paragraph 7.6).

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

2.4 Members approved the minutes of the 20 June 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 Unit) to update CONIAC. Anthony reported as follows:

(a) The Catastrophic Events Working Group was formed to consider issues around the potential for multiple fatality incidents following research on this subject conducted for HSE by CIRIA. The working group has now met three times and plans to hold a further two or three meetings before reporting back to CONIAC. It has systematically worked through the 8 issues identified in the original research report (RR834) and identified what is in place to address them or might be developed either by the group or others. Key matters under consideration are: (1) development of performance leading indicators – the group has produced and tested an audit process which might help with the development of a suitable indicator; (2) improved understanding of the competencies required of key personnel to ensure high consequence risks are managed effectively; and (3) potential improvements for sharing key lessons from incidents as quickly as possible.

(b) The Working Well Together Steering Group met on 3 October in Birmingham. The new Lancashire Group is up and running with a first event planned for 14 November. It is hoped that a new Basingstoke Group will be established before the end of the year which would result in a total of 18 regional groups. The groups had so far this year delivered 39 events and therefore remain well on course to reach their full-year target of 50. However,

this figure may be exceeded as experience has shown that WWT groups often deliver more than planned.

(c) The Safety Working Group met on 25 October. In relation to its ongoing project on work at height, it received a presentation about Health and Safety Laboratory human factors research into selection and use of equipment for working at height on domestic and small commercial premises. This confirmed the importance of cost effective solutions and intermediaries such as hire companies and its conclusions will be worked into communications proposals. The group's business plan for the work at height project is being reordered in light of HSE work in response to recommendations in the reports by Lord Young and Professor Löfstedt. Also work on communications is delayed until Spring 2013 to take account of changes HSE is making to guidance material. However, work is proceeding on two gap analyses – one on training/competence and another on equipment. The group heard from the Strategic Forum for Construction's Plant Safety Group about progress with guidance on Medical Fitness for Operating Plant (publication expected in December 2012) and on revised Telehandler Guidance (including guidance cards for operators and managing competence). Finally, working group members have seen and commented on a proposed Busy Builder sheet on head protection and agreed to help promote messages when forthcoming associated legal changes occur.

(d) The Health Risks Working Group has not met in the period since the last CONIAC meeting in June. Instead it has agreed to postpone the meeting it was going to have until 10 December to allow it to consider any issues emerging from Dr Lesley Rushton's presentation to CONIAC on the occupational burden of cancer. This will also give the group more time to revise its guidance on what occupational health means in the context of construction.

3.2 No questions or comments were raised by Members.

#### **4. Occupational cancer in construction (Presentation by Dr Lesley Rushton, Imperial College) [Paper M3/2012/1]**

4.1 Philip introduced Dr Lesley Rushton. Dr Rushton is Reader in Occupational Epidemiology at Imperial College, London, is a statistician and epidemiologist with extensive experience in occupational health and is leading a major project to estimate cancers caused by occupation in Great Britain. He invited her to give her presentation to CONIAC and following it asked Members for comments.

4.2 Nick Blundell said that the situation with cancer in construction is deplorable and doing nothing about it is not an option. He mentioned that he believed that HSE has only 3 occupational health physicians and 18 occupational health inspectors and asked what can HSE and CONIAC do? Philip replied that occupational health issues were addressed by all inspectors and general inspectors carry out most of the enforcement on the health aspects of health and safety. Occupational health issues were part and parcel of the arrangements that an organisation has for managing health and safety.

For its part Construction Division is doing a lot and its inspectors are familiar with the issues.

4.3 Richard Ash was interested to know if the tool Dr Rushton had described could quantify and compare the effect of methods of reducing exposure, for example, wet working? Dr Rushton said that specific exposure data in construction is poor and consequently the focus has had to be on the effect of possible general reductions in exposure but not on particular methods of exposure reduction.

4.4 Bill Rabbetts wondered if the research could be used to illustrate a comparison between the impact of the preventive measures that had been taken in the industry over the last 10 years and what would have happened if they had not been carried out. He thought that such a comparison could be used to persuade companies, especially SMEs, of the value of further efforts. Dr Rushton considered that this would be possible although it had not been done in the study.

4.5 Susan Murray noted that the UK has no statutory limit for workplace exposure to diesel engine exhaust (DEE) and asked about the effectiveness of the limit in Austria. Dr Rushton said that she had no information about this, however, DEE exposure (which creates both cancer and non-cancer health risks) should be watched carefully.

4.6 Dr Rushton concluded her presentation by suggesting that the research provides HSE with a strong evidence base to concentrate minds in relation to the burden of occupational cancer and to explore possible strategies to address the issue. She closed by asking for help with refining a question set that she was preparing. Philip agreed to circulate the questions to CONIAC's Health Risk's Working Group for comment. He thanked Dr Rushton for her presentation.

**ACTION: Secretariat to circulate Dr Rushton's presentation to CONIAC Members. [Secretary's Note: The presentation was attached to an e-mail of 17 January 2013].**

**ACTION: Secretariat to circulate Dr Rushton's question set to the Health Risks Working Group for comment. [Secretary's Note: The Health Risks Working Group has discussed issues arising from Dr Rushton's presentation at CONIAC.]**

4.7 Philip introduced Ian Strudley, Head of Health Risks Management Unit and Chair of CONIAC's Health Risks Working Group. He asked Ian to update CONIAC on Construction Division's work on occupational health.

4.8 Ian referred CONIAC to paper **M3/2012/1**. He noted the scale of the problem by observing that more than twice as many working days in construction are lost due to ill health as due to injuries. Nevertheless, he believed it was important to celebrate the successes the industry has had in, for example, in manual handling, noise and vibration. Additionally, due to the slow onset of occupational cancer, it will be some time before the benefit of recent improvements in practice will appear in figures for cancer registrations.

Ian then briefly highlighted some points of interest in his paper: work was progressing with the roofing industry on possible risks from exposure to polycyclic aromatic hydrocarbons (PAHs); about 20% of Construction Division's proactive inspection effort is on licensed asbestos work, particularly in refurbishment and demolition; there has been a big increase in Prohibition Notices in connection with work creating exposure to respirable crystalline silica; and work with industry is in progress to produce guidance on on-tool dust extraction where water suppression is not appropriate. He remarked that construction inspectors are constantly refreshed on occupational health risks and methods of control, for example, they have had recent briefings on respiratory risks. Finally, HSE continues to support IOSH's *SunSafe* project for construction workers. Philip thanked Ian and asked for comments or questions.

4.9 Nick Blundell noted the work on refurbishment but emphasised the need for risks to maintenance workers to be kept in mind. Philip responded that HSE has a comprehensive legislative framework for the control of risks arising from exposure to harmful substances during maintenance. Richard Ash recalled that HSE published a document for construction inspectors on work at height issues suggested that it may be useful for similar documents on occupational health to be put in the public domain. Ian Strudley agreed that this could be done.

4.10 Susan Murray said that safety representatives must not be victimised and asked how HSE is going to deal with this issue. Philip expressed disappointment that such practices may occur and drew a contrast with the exemplary approach adopted on the Olympics sites. He advised that in any case where individuals have concerns about health and safety on site they may approach HSE in complete confidence.

4.11 Jason Rowley called for more work on DEE and the true size of the risk. He could see that there would be a risk in confined spaces. Ian supported this and also in connection with painting and decorating.

4.12 Kevin Fear said that *ConstructionSkills* had sought to push the health agenda. However, even offering free courses had not resulted in a rush of delegates. He wondered what could be done to raise awareness of health issues. Ian acknowledged the difficulties. He suggested that part of the challenge is the lack of immediacy of health impacts.

4.13 Philip thanked Members for their comments and closed the discussion.

## **5. Report of progress of HSE work resulting from Löfstedt Review (Oral report by Anthony Lees, HSE) [Paper M3/2012/2]**

5.1 Philip asked Anthony to speak to his paper.

5.2 Anthony said that HSE is considering the responses to the RIDDOR Consultative Document but no decisions on the way forward have been made yet. Work will be done to review the guidance on the *Work at Height Regulations* with a view to simplification. A Parliamentary Bill will be needed

to implement the proposed exemption from health and safety requirements for workers in low risk activities and the HSE Board will consider a paper on this early in the New Year. The HSE Board agreed to recommend revocation of the *Construction (Head Protection) Regulations* and the *Notification of Conventional Tower Cranes Regulations* to Ministers and these are now likely to be take effect in April of next year. The HSE Board took a preliminary paper on the Review of ACOPs in late September and indicated broad support for some of the proposals. It will take a further paper in February and CONIAC will be updated on the outcome at its March meeting.

5.3 Nick Blundell asked about the application of the low risk exemption and Philip confirmed that it will not apply to self-employed persons in construction. Nick said that UCATT opposes the proposed removal of reporting requirements for occupational diseases. Anthony responded that the low rate of reporting reduces the value of the requirement, and suggested that self-reporting is of limited effectiveness for data gathering.

5.4 Susan Murray said that Unite regarded the proposed health and safety exemption for the self-employed as both confusing and dangerous and, consequently, it favoured the “do nothing” option. With regard to the proposal to prevent civil liability from attaching to breach of health and safety provisions and the implementation of this by way of an amendment to the Enterprise and Regulatory Reform Bill currently before Parliament, Unite was very concerned at the lack of public consultation that seemed to be inherent in this approach. Philip replied that Professor Löfstedt had engaged very widely with stakeholders when carrying out his review. He observed that implementation of the proposal on civil liability necessitated amendment of the Health and Safety at Work etc. Act 1974 and therefore required primary legislation. He said that the Bill would be subject to the usual exhaustive Parliamentary scrutiny before enactment. Philip concluded by saying that CONIAC would receive a further update on these matters in March.

## **6. Update on revision of Construction (Design and Management) Regulations Fee for Intervention (Oral report by Gavin Bye, HSE) [No paper]**

6.1 Philip said that HSE was developing revised CDM Regulations with the aim of bringing them into force in 2014. The revision will maintain health and safety standards. He asked Gavin Bye (Head of Construction Sector and Construction Policy) to update CONIAC.

6.2 Gavin said that HSE briefed on the changes it is planning to make to the Regulations in a series of one-to-one meetings with industry representatives. Additionally, it convened a panel on 4 October to seek views. The panel gave general support to HSE’s proposals: to focus management of the pre-construction phase on a Lead Designer; to reposition competence assurance outside the Regulations and place it with professional and other bodies; to maintain all existing requirements on technical standards for the carrying out of construction work; to ensure that if the ACOP is removed it is replaced by equally effective guidance. Formal public consultation was likely to be in the Spring of next year. HSE envisaged that there would be public

events to supplement the consultation and hoped that CONIAC member organisations would be able to help with this.

6.3 Philip added that the project was proving more complicated than originally anticipated and this had resulted in delay in taking proposals to the HSE Board. The public consultation would indicate the approach that would be adopted on guidance.

6.4 Jason Rowley said that a consultation exercise on regulatory changes that did not include the guidance on the regulations was not optimal. Philip responded that the consultation would seek views on the role of guidance as this would bear on the type of guidance that would then be produced. Alan Muddiman said that the guidance must give very clear advice on compliance while closing off loopholes. Richard Ash added that the guidance should clarify what is not needed so as to deter excessive and bureaucratic responses to duties.

6.5 Greg Brown asked if the consultation would offer various options for coordination. Gavin said that, as is standard for consultation exercises, a particular model would be presented and views on it would be sought. It would be open to respondents to suggest alternatives.

6.6 Susan Murray asked when CONIAC would see the draft Regulations. Philip said that this would be after the HSE Board had given its view. He and HSE colleagues were happy to meet with individual organisations.

6.7 Philip concluded by referring to the below-the-line paper on London 2012 Learning Legacy Research (**M3/2012/3**) and mentioning that research report, **RR955** – *Pre-conditioning for success: characteristics and factors ensuring a safe build for the Olympic Park* - would be published on 30 November. He said that the Secretariat would copy this to Members for information. Nick Blundell commented that the report makes no mention of the role of construction trade unions. Philip indicated that a copy of the research had yet to be seen outside of those carrying it out and limited number of people in HSE.

**ACTION: Secretariat to circulate the report “Pre-Conditioning for success” to CONIAC Members.** [Secretary’s Note: A link to the report was included in an e-mail of 17 January 2013.]

## 7. AOB

7.1 Philip said that several weeks had passed since *Fee for Intervention* (FFI) was introduced on 1 October and it was appropriate to update CONIAC on experience with it so far. The basic principle of FFI is that where an inspector observes a material breach of health and safety law that requires them to notify the dutyholder of that opinion in writing HSE will seek to recover from the duty holder the cost it incurred for the time spent on the matter. In construction it is possible that several duty holders may be involved in the same material breach and HSE has prepared guidance for its staff on how to

assign charges in such cases. The Secretariat will send a link to the guidance to Members for information.

**ACTION: Secretariat to send link to FFI multiple dutyholder guidance to CONIAC Members.** [Secretary's Note: A suitable link was included in an e-mail of 4 February 2013.]

7.2 Philip stressed that FFI does not change HSE's priorities in regulating the construction or indeed other sectors and there are no targets to bring in money. Key priorities are to ensure FFI beds in and inspectors gain confidence in working with it.

7.3 HSE is monitoring implementation of FFI. Initial feedback is that most duty holders have accepted the new regime. HSE has not seen the level of hostility that some predicted. However, there have been some teething problems with IT and paperwork. Additionally, the scripted talk that inspectors give to duty holders on arriving at their premises to explain FFI has been found to be rather cumbersome. Construction Division staff are keeping detailed logs to feed into the centre. The first invoices will be issued in January.

7.4 Overall it appears that the introduction of FFI has gone about as well as could be expected and there are some indications that it may be concentrating minds constructively in the industry.

7.5 In response to a comment from Jason Rowley, Philip clarified that HSE is required by law to recover its costs when there is a material breach and that it has no discretion in the matter. Richard Ash said that he had no feedback to offer yet but ECIA is keeping a close eye on developments. Philip said that if Members have issues they wish to flag up they should send them to Gavin Bye. A further update will be given at the next CONIAC meeting.

7.6 Philip said that CONIAC was being reconstituted from next March and pursuant to this letters had gone out to selected stakeholder organisations some time ago asking for nominations of Members for the reconstituted committee. The closing date for receipt of nominations is the end of November and following this the nominations would be considered and letters of appointment to the reconstituted committee sent out later this year or early next year. The Secretariat would circulate dates of meeting in 2013 for information.

**ACTION: Secretariat to circulate the meeting dates in 2013 for the reconstituted CONIAC.** [Secretary's Note: The dates were given in an e-mail of 23 November 2012.]

[Secretary's Note: The dates of CONIAC meetings in 2013 are: 13 March, 17 July and 20 November.]

#### **Conclusion of meeting:**

Philip recorded that this was the last meeting of the current incarnation of CONIAC. He thanked Members for their service and hoped to see some of them at the first meeting of the reconstituted committee in March.