

## HEALTH AND SAFETY EXECUTIVE

### CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

Minutes of the M2/2013 meeting  
held on 17 July 2013 in Rose Court

#### ***Present***

Heather Bryant (Chair)  
Anthony Lees (Secretary)  
Richard Ash  
Nick Blundell  
Peter Caplehorn  
Andrew Dixon  
Kevin Fear  
Richard Habgood  
Paul Haxell  
Kevin Minton  
Alan Muddiman  
Susan Murray  
David Parsons  
David Pyle  
Paul Reeve  
Jason Rowley  
John Scott  
Dan Shears

#### ***Representing***

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

#### **Departmental Observers**

Gilbert Barron  
Andrew Butt

Business, Innovation and Skills  
Cabinet Office

#### **Officials**

Simon Longbottom  
Neil Stephens  
Michael Ryan (Secretariat)

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

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

16 were present

#### **Apologies**

Edward Fendt  
Rob Gutteridge  
Clive Johnson  
Steve Murphy  
Jerry Nelson  
Kevin Williamson

#### **Representing**

Specialist Engineering Contractors Group  
Federation of Master Builders  
Construction Clients' Group  
UCATT  
GMB  
Unite (Amicus section)

## 1. **Welcome and Chair's introduction**

1.1 Heather Bryant (Head of HSE Construction Division and Chief Inspector of Construction) welcomed everyone to the meeting. In particular, she welcomed Nick Blundell, Andrew Dixon, David Pyle, Paul Reeve and Dan Shears who were substituting for Steve Murphy, Rob Gutteridge, Clive Johnson, Edward Fendt and Jerry Nelson respectively. She gave the apologies of the absentees and added the apology of Kevin Williamson who had been appointed to represent Unite but unfortunately had not been able to attend what would have been his first meeting of CONIAC.

## 2. **Agreement of Agenda and matters arising**

2.1 Members agreed the Agenda.

2.2 Members did not request any other business.

2.3 Heather recorded that all the actions from the March meeting listed in the minutes had been carried out. She asked Anthony Lees (Secretary to CONIAC) to report on two matters.

(a) Anthony said that the review of the First Aid Regulations was progressing and the revised Regulations are expected to come into force on 1 October, subject to the usual approvals being obtained. The First Aid ACOP will be replaced by guidance.

(b) Anthony reported that the proposal in the Löfstedt Review to exempt self-employed persons from health and safety requirements if their work poses no potential harm to others will be implemented by an amendment to section 3 of the Health and Safety at Work Act. In connection with this a draft Deregulation Bill was published on 1 July. Additionally, it is expected that the proposed change in relation to the basis for civil claims for work-related injury/illness enacted by the Enterprise and Regulatory Reform Act 2013 will be in force next year.

2.4 Members approved the minutes of the 13 March 2013 meeting.

## 3. **CONIAC Members' reports on Working Group (WG) activities [No paper]**

3.1 Heather said that this was a standing item at CONIAC meetings but starting from this occasion a new approach would be adopted in which the reports as far as possible would be given by WG members rather than by HSE officials.

3.2 Richard Ash reported on the Safety Working Group (SWG). He said that the group last met in May and its next meeting would be in October. Its work could be divided into: (1) a strategic initiative on work at height; (2) broad oversight of the Strategic Forum for Construction's Plant Safety Group; and

(3) other issues. With regard to (1), SWG aspires to make unsafe work at height culturally unacceptable. It conceived a plan to tackle all work at height based around six workstreams (competence, stakeholder engagement, etc) and aimed particularly at short duration work by smaller construction businesses. However, at the May meeting the group agreed it would be sensible to concentrate on falls through fragile surfaces first, focusing on other work at height hazards in due course. The business plan for this work will be discussed at the October meeting and submitted to CONIAC after that. With regard to (2), SWG noted publication of guidance on *Medical fitness to operate plant*, a proposal to revise the *Telehandlers Guidance*, progress with publications on *Plant operator competence* and on *Management of ground conditions*. With regard to (3), SWG members agreed to report any adverse outcomes from the revocation of regulations on tower cranes and head protection. Members expressed a strong view that HSE should be more transparent on its policy and procedures for endorsement of guidance produced by industry.

3.3 Kevin Minton reported on the Health Risks Working Group (HWG). He said that the group last met in March and its next meeting would be in October. While occupational health (OH) is a major issue many dutyholders feel less able to tackle it than safety issues. To assist dutyholders HWG has agreed and published 8 key principles of good OH management and has developed guidance which should be published later this year. Following Dr Lesley Rushton's report highlighting the impact of occupational cancer, HWG has chosen to focus on cancer risks due to exposure to diesel engine exhaust emissions and due to painting and decorating work. These will be considered at the next meeting. The groups are considering OH aspects of mental health and the aging workforce for 2014.

3.4 Richard Ash reported on the Catastrophes Working Group (CWG). He said that the working group had met four times and work is now underway to prepare a final report for CONIAC in November. CWG's purpose is to develop proposals for industry-wide responses to the findings of the CIRIA report on preventing catastrophic events in construction (RR834). The group attempted to clarify the scope of "catastrophic event"; while no definitive solution was found some relevant factors to support the use of judgement have been agreed. CWG sought to identify leading indicators that might correlate with risk of a catastrophic event. A methodology using the effective management of temporary works risks as a proxy for effective management of catastrophic events risks has been devised and is being piloted by UKCG members, however, much more work is needed on this. RR834 identified competence as a major factor. The working group considered this and took the view that competence included personal characteristics and behaviours of key supervisory staff on site such as critical thinking skills and ability to challenge. Finally, it is clearly important to share information from previous catastrophic events and the working group noted factors that tend to limit this including legal and reputational sensitivities. This is a topic that will need further consideration. In response to a question from John Scott, Richard clarified that catastrophic events include large fires and is not limited to collapses of temporary works. Alan Muddiman suggested that involvement of insurers in the work might be helpful. Richard said that the group will take note of this point in its report.

3.5 Susan Murray reported on the Asbestos Liaison Group (ALG). Susan said that the ALG had been in existence since December 2000 and has a broad mix of members including HSE, local authorities, trade associations, trades unions and professional organisations. Its aims are to reduce the future incidence of asbestos-related disease by working strategically to prevent/control asbestos exposure, and to improve overall health and wellbeing of workers in the asbestos sector. ALG meets three times each year in January, May and September. Three subgroups have been established: Technical Working Group; Training and Competency Working Group and Leadership and Management Working Group to consider particular sets of issues. ALG itself is currently considering: handling of asbestos waste; worker involvement, policy issues, preparation of ALG Memos, OH provision, client actions and the work of analysts. Several ALG Memos have been produced and issued covering various topics. Susan commented that she was somewhat concerned that a Memo on employment status had not yet been released. Simon Longbottom clarified that the Memo was held up by other work including on internal guidance for inspectors on establishing employment status. He offered Susan sight of the internal guidance. Susan concluded by noting that UCATT is doing some analysis on worker involvement and that it has called for reinstatement of the successful *Hidden Killer* campaign.

3.6 Neil Stephens (HSE Construction Division – Programme and Communications Manager) reported on the Working Well Together Steering Committee (WWT). Neil explained that the WWT report was being given by an HSE official because persons from the industry served only on the local WWT groups and as a result could not give a national perspective. He said that 60 WWT events were planned for the year with 48 already delivered or in hand. There were proposals for new WWT groups in London and in Basingstoke. The existing London group is keen to recruit new members and he asked interested persons to contact him. Neil finished by saying that everyone involved in WWT is a volunteer and should be commended for their unpaid efforts to promote health and safety. He urged CONIAC member organisations to support the groups in any way possible. Heather echoed the request and remarked that she had been to a WWT event in Dartford which was very impressive and well received, and that she planned to attend more.

3.7 Heather concluded by thanking the presenters for their feedback on CONIAC's Working Groups.

#### **4. Update on work in relation to CDM Regulatory Package (Presentation by Anthony Lees, HSE) [Paper M2/2013/1]**

4.1 Anthony Lees gave his presentation and highlighted key features of the new Regulations. He said that HSE hoped to engage in a 12-week public consultation on its proposals towards the end of summer and would look to CONIAC Member organisations to help with publicising it.

4.2 With regard to the production of guidance on the Regulations, HSE envisages that this would comprise:

- a concise legally authoritative guide on the key features of the Regulations (to be published twelve weeks before the Regulations come into force),
- a practical guide to managing health and safety on small construction projects generally, and
- a number of very short guides specific to typical small construction projects, for example, loft conversion.

4.3 Additionally, there is a need for dutyholder specific guidance and HSE considers that this should be prepared by industry in a process that would be coordinated by HSE and with HSE seeking to endorse the finished products through “joint badging”. Construction Division Management Board would be meeting the following day to confirm that approach. Heather asked for comments including, in particular, on what role CONIAC saw for itself in the production of guidance.

4.4 Susan Murray said that CONIAC had not yet seen the draft Regulations and asked, bearing in mind that the HSE Board had considered the proposals in closed session, why this was? Heather said that HSE was adhering to a well-established process for the production of draft legislation which allowed for confidentiality where appropriate, for example, when there were considerations of European law. Additionally, HSE was constrained by a very tight timetable and wished to avoid pre-empting the public consultation exercise. Heather acknowledged the frustration of Members in not seeing actual text but pointed out that HSE officials had held very many bilateral meetings with industry representatives, including from the trades unions, to fully describe and explain the proposals.

4.5 Alan Muddiman noted that CDM 2014 is the third attempt by HSE to get these Regulations right and in light of this it is essential that Members see the regulatory text itself if they are to contribute effectively. Jason Rowley endorsed the views expressed by Susan and Alan and said that Members should be able to see the draft in advance as he believed that this would enhance the consultation process. Nick Blundell added his agreement with Jason’s view. Richard Ash said that he could understand that HSE did not wish to release the draft regulatory text early and expected that it would be possible for CONIAC to give a view on the proposals in the November meeting. Heather responded offering to explore the possibility of an extraordinary meeting of CONIAC before consultation opens.

4.6 Heather repeated her earlier question about the role of CONIAC in the production of guidance. Paul Reeve agreed that CONIAC should play its part in this. Anthony Lees emphasised that while HSE would wish to see HSE endorsement of, and use of the HSE logo on, any industry-produced guidance this would need agreement on an overall approach to guidance at the outset. Peter Caplehorn expressed a view that CDM 1994 and CDM 2007 were broadly alright in themselves but had suffered from incorrect application by dutyholders. Consequently, it was essential that guidance achieved absolute clarity and, where it was produced by industry, had the authority of HSE endorsement. Heather suggested that it would be natural for CONIAC and entirely in line with CONIAC’s terms of reference to pick this up, either drafting or overseeing the drafting of guidance. Heather asked members if, in

principle, they were prepared to take the responsibility on and consider how best to facilitate this, for example via a CONIAC Working Group or Steering Group.

4.7 Kevin Fear said that CONIAC had the broadest representation and should play a role in the production of guidance. He mentioned that he had chaired a working group to steer the production of guidance by and for specific dutyholder groups for CDM 2007; he believed that this had worked well and suggested that this model could be used again. Alan Muddiman agreed that CONIAC should be involved and emphasised that guidance must be clear as the many of the problems with CDM arose from mistaken interpretations of its requirements by dutyholders.

4.8 John Scott agreed that CONIAC should have a role but noted the challenging timetable and the need for consistency between all of the various types of guidance foreseen. He stated that the legally authoritative guidance should have priority so as to deliver it before the Regulations took effect. He considered that there should be an extraordinary meeting of CONIAC about the time the public consultation began. Anthony clarified that Government policy required publication of guidance no less than twelve weeks before the Regulations came into force. This would be met with the legally authoritative guidance thereby allowing more flexibility for the other publications.

4.9 Jason Rowley stated that UKCG wished to see guidance in place three months before the Regulations came into force and if this was not possible then the Regulations should be delayed. If the intention is to remove the CDM ACOP then the new guidance produced must be fully clear and authoritative. Susan Murray stated that there should be no watering down of guidance and in particular there should be an ACOP. Heather responded that the public consultation will seek views on the need for an ACOP. Paul Reeve suggested that guidance could contribute to cost effectiveness of projects and in this connection he would wish to see guidance addressing essential processes such as prequalification. Richard Ash believed that guidance should aim to deter excessive responses by dutyholders by including clear statements on what is not needed for compliance.

4.10 Heather asked CONIAC to confirm that it agreed that it had a role in the process of producing guidance and that the way forward was by means of a steering group along the lines described by Kevin Fear. CONIAC agreed subject to it having all necessary information. HSE to produce proposals.

## **5. Forward look [No paper]**

5.1 Heather began by noting that HSE had published provisional construction fatality statistics indicating 39 workers deaths in 2012/13 (a rate of 1.9 per 100,000). This compared with 48 deaths in 2011/12 and an average of 53 per year for the previous five years and showed that the industry was making good progress. It should be kept in mind, however, that these figures relate to deaths from accidents and do not reflect the very big issue of occupational ill-health.

5.2 Heather referred to the draft plan of work for CONIAC set out in paper **M2/2013/2** and asked for Members to indicate their approval of the plan as a working document. Members approved the plan of work. Heather said that she would like to use this time for CONIAC to take stock of general issues around its activity, namely, provide assurance that the working groups remain current, priorities or resources are appropriate, the pace is appropriate and priorities for the future have been correctly identified.

5.3 Heather said that plan of work is for one year but it could be modified to three years so as to look forward and have annual milestones. Additionally she asked if CONIAC's representation was sufficient and if any important stakeholders had been omitted. Kevin Fear thought that notwithstanding that the plan described itself as for one year it in fact looked like a three-year plan. He observed that the insurance industry is not represented on CONIAC but accepted that it may be difficult to engage. Heather wondered if it might be worthwhile inviting an ABI representative to a future meeting. Susan Murray said that while some input from ABI might be useful she was not sure that it would be an appropriate member of CONIAC. Kevin Minton acknowledged that CCG was represented on CONIAC but argued for increased representation of public and private sector clients. Heather responded that these might be accomplished by way of guest invitations.

5.4 Paul Reeve raised the issue of competence and asked where does it fit in? Anthony Lees responded that while HSE encourages the development of a fully competent workforce it does not consider that a purely regulatory approach is the best way to deliver this. He thought there might be a role for a CONIAC working group to consider appropriate aspects of the competence issue in the future. Susan Murray asked if it was intended to remove the requirement for competence from the Regulations. Anthony said that HSE would consult on removal of the existing regulation 4 from CDM and the corresponding annex on competence assessment that appears in the ACOP. Richard Ash thought that there might be a need for a CDM Working Group but as competence is a CDM change issue he could see no need for a working group devoted exclusively to competence

5.5 Following on from the statistics and the report back from the Health Working Group Heather asked members if it would be appropriate to devote a future meeting, or add an exceptional meeting, to focus on occupational health with a view to moving things forward in this area? Richard Ash recalled that CONIAC had given this topic attention in previous meetings. He indicated that he was in favour of a meeting devoted to the subject but that it would need to be very well prepared. Members indicated agreement to the suggestion of a dedicated meeting.

## 6. **AOB**

6.1 Alan Muddiman said that he chaired the CECA Health and Safety Committee and had been asked by his members to raise their concern that they are seeing low morale among HSE field inspectors and are worried that inspectors may be leaving HSE as a result. Heather replied that while HSE had lost people for a number of reasons, in particular retirement, it is also

recruiting more inspectors. She could not comment on morale but noted the concern raised by CECA.

**Conclusion of meeting**

Heather concluded the meeting by expressing her thanks to all particularly those who had reported on the activities of the working groups. She said that the next scheduled meeting of CONIAC is on Wednesday 20 November. Additionally, there is the possibility of an extraordinary meeting with regard to CDM issues and HSE would seek to provide provisional dates as soon as possible.