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HEALTH AND SAFETY COMMISSION

CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

CONIAC Response to the RIDDOR Discussion Document

Issue

1. To inform members of CONIAC's response to the RIDDOR Discussion Document.

Background

2. During the CONIAC meeting on the 31st March members agreed to provide a joint response to the RIDDOR discussion initiated that day through the publication of a Discussion Document.
3. The timescale for discussion did not allow CONIAC to develop its response during its July meeting and members agreed to set up an ad hoc group of all those with an interest to ensure that CONIAC made a contribution.
4. This group met on 7th June and discussed the questions raised in the Discussion Document (a full list of those attending the meeting is at Annex 1).

Current Situation

5. During the meeting there was a general welcome for the new ideas contained in the Discussion Document particularly where these were felt to have the potential to change behaviour in the industry. Members identified opportunities in some of the suggestions for strengthening the approach being taken to accident and ill health reporting and analysis required by the Management of Health and Safety at Work

Regulations 1999 and being promoted through the Strategic Forum. However, there was a feeling that simpler legal requirements for reporting would need to be supported by clear guidance to avoid the development of over bureaucratic responses from the industry.

6. The more detailed responses to the questions in the Discussion Document are at Annex 2 and these have been passed to HSE as CONIAC's formal response to the discussion.

Action

7. CONIAC members are invited to:
- Note that the consultation ended on the 30th June;
 - Accept this paper as the record of CONIAC's official response to the consultation.

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CONIAC RIDDOR DISCUSSION GROUP

- Richard Ash - Engineering Construction Industry Association
- Kevin Fear - CITB-Construction Skills
- Clive Johnson - National Specialist Contractors Council
- Peter Kent - Local Government Association
- Neil Moore - Construction Confederation
- Peter Wilson - Union of Construction and Allied Technical Trades
- Gavin Bye (Chair) - HSE
- Francis McGuigan - HSE
- Simon Pilling - HSE
- Bob Tunnicliffe - HSE

CONIAC's RESPONSE TO THE RIDDOR DISCUSSION DOCUMENT

Question 1 (para. 20) - What are your views on using RIDDOR to trial alternative penalties such as administrative fines or fixed penalty notices?

This was felt to be an impractical idea that would create additional bureaucracy without improving reporting or recording levels. It was considered unlikely that HSE would have the resources to routinely investigate either failure to report or keep records as in both cases the initial incident would have to be thoroughly investigated.

Question 2 (para 24) – Should a more explicit link be made between the reporting and recording requirements of RIDDOR and the requirements of the Management of Health and Safety at Work Regulations 1999?

This was considered to be a beneficial proposal that had the potential to provide real improvement in health and safety management and in influencing behaviour change. Shifting the emphasis from reporting an accident to a more generic form of reporting that asks for information about what happened and what action has been taken to control the associated risks provides a much better opportunity to identify those with robust safety management systems and those who need help to develop them.

Question 3 (para 24) – How can RIDDOR's reporting and recording requirements be used to drive or influence duty holder behaviour?

There was a feeling here that not enough was known about why reporting and recording levels were as low as they are and that research was needed to provide a sound basis for future action. That said there was a generally held view that key organisations in the construction industry, such as the Strategic Forum for Construction, could promote the value of RIDDOR in monitoring and improving the health and safety performance of the industry. The blame culture that surrounds RIDDOR was also seen as an impediment to improving reporting and recording levels so any action to change it would be welcomed. Gaining credit for reporting good management responses could reduce the reluctance to report, but care will be needed to avoid provoking new bureaucracy in this respect. The insurance industry was seen as one driver for improving reporting and recording by checking that adequate systems were in place before agreeing to provide cover.

Question 4 (para 27) – Should the collection of statistical information on injuries from accidents arising from work and on occupational ill health be disconnected from other RIDDOR objectives?

There was a strong view that, where possible, information should be obtained from other authorities and government departments better placed to provide it, such as the NHS and the Department of Health. However, there was considered to be value in continuing to collect ill health information where employers were able to make the link between the health problem and the workplace.

Question 5 (para 35) - Do you agree that these are the key objectives for any future revised notification and reporting system or should we prioritise the objectives in another way?

While these were agreed to be key objectives there was a feeling that others could be added to the list and that more should be done to build up a relationship with those reporting and to use the system as a vehicle for behaviour change. The seriousness of incidents should be used as a means of prioritising.

Question 6 (para 61) – What are your views on the removal of the current requirement on duty holders to report occupational diseases? We would also welcome your views on the likely impact and costs to your business or organisation.

The view was taken that reporting of occupational diseases was important to ensure that the risks were properly understood and managed, however reporting could be made less onerous by restricting the reporting responsibility to HSE's occupational health priorities. There was agreement that removing the reporting requirements for diseases would send out the wrong message about occupational health at a time when we were trying to raise its profile.

Question 7 (para 63) – What are your views on removing the current reporting requirement on duty holders to notify and report some dangerous occurrences? We would also welcome your views on the likely impact and costs to your business or organisation.

It was felt that dangerous occurrences should continue to be notified and reported although the process should be broadened out to become more risk based. The effect of this was unlikely to raise workload and costs for those currently reporting who would maintain their current systems without a legal requirement to report.

Question 8 (para 63) – Should we adopt a more goal-setting rather than prescriptive approach to dangerous occurrences e.g. by developing a more generic list of dangerous occurrences?

The consensus was that greater use should be made of reporting to influence behaviour and to support the development of a risk based health and safety management system. There was support for the development of a carefully crafted, more generic list of dangerous occurrences although there was recognition that this would lead to a need for carefully crafted guidance to allow those reporting to exercise their own judgement on what to report. However, taking the suggested action would have the benefit of also helping to meet the requirements of the Management of Health and Safety at Work Regulations. There was strong consensus that knowledge of dangerous occurrences and other accident precursors was vital to an effective health and safety management system.

Question 9 (para 63) – What are your views on developing a wider system for sharing information and safety lessons from a range of accidents and incidents?

There was a very positive response to this idea as a means of promoting good practice. The construction industry was changing and sharing information, particularly about near misses, which was seen as an important driver of that change. The Construction Confederation's Major Contractors Group was already running an accident and incident information sharing system that was helping the industry to manage risk more effectively. Many organisations were concerned about the negative commercial implications of appearing on HSE's Notices and Prosecutions Databases or the Offences and Penalties Report, but the idea of sharing best practice was seen as providing the opportunity to balance this with the opportunity to gain a positive commercial advantage by being seen to be at the forefront of improving health and safety performance. The proposed enhanced CDM client duties could significantly amplify these commercial drivers.

Question 10 (para 64) – What are your views on removing the current reporting requirement on duty holders to notify and report 'major injuries' replacing it with a requirement to report and record all work-related over-3-day absences? We would also welcome your views on the likely impact and costs to your business or organisation.

There was agreement that this would be of benefit to duty holders responsible for reporting accidents, but that it would not help HSE to prioritise accident investigation. The latter problem could be reduced by emphasising the duty to notify as soon as practicable. There was support for reporting accidents leading to one days lost working time, which was already the norm in a number of European countries. The effect on costs for those currently reporting was expected to remain unchanged, as they would only need to make a minor adjustment to their existing system.

Question 11 (para 66) – What are your views on making ‘at work’ work-related road traffic incidents reportable under RIDDOR? We would also welcome your views on the likely impact and costs to your business or organisation.

The peripatetic working arrangements for a significant number of workers in the construction industry makes this a key consideration. There was an acceptance that defining “at work” work-related road traffic accidents presented a challenge. However, there was strong support for obtaining data on these accidents to determine the extent of the problem and to support action for managing the risks. It was felt that the information could be more easily provided by authorities such as the police rather than by using RIDDOR. This was seen as a cost neutral issue if others were responsible for obtaining the information, but one that would have a positive impact on the ability of the industry to manage and control its risks.

Question 12 (para 67) - What other proposals or areas should HSC/E examine further?

The following issues were selected as in need of more consideration:

- **data protection – there was a need to clarify whether information obtained via RIDDOR could be communicated more widely without being in breach of the Data Protection Act requirements where it related to an individuals accident and the Discussion Document was felt to offer an opportunity to flag up the need for guidance in these matters;**
- **the development of a construction specific F2508 – this was needed to reflect the more complicated working relationships in the construction industry, for example there was a tendency to assume that accidents involving falls from roofs always happened to roofers, but this was not the case;**
- **reducing the level of bureaucracy associated with recording and reporting – attempts by the EU to require more statistical information or pressure to achieve harmonisation with the ILO Protocol on reporting and recording of occupational accidents and disease should be resisted, while the search for methods of effecting a reduction in the current level of bureaucracy should be stepped up.**