

Minutes of the Construction Industry Advisory Committee (CONIAC)

**Minutes of the M2/2006 meeting of the Construction Industry Advisory
Committee (CONIAC) held on 20 July 2006**

Present

Stephen Williams – Chair
Richard Ash

Shelley Atkinson-Frost
Bill Belshaw
Bob Blackman
Kevin Fear
Tim Gough
Paul Hayward
Clive Johnson
Peter Kent
Rob Miguel
Neil Moore
James Preston-Hood
Bill Rabbetts
Alan Ritchie

Phil Russell
John Tebbit
Chris Tisi
John Ioannou
Clive Young
Louise Brearey
Richard Boland
Cathy Kerby
Carole Lomax

Representing

HSE
Engineering Construction Industry
Association
Construction Confederation
Specialist Engineering Contractors Group
Transport and General Workers Union
CITB – ConstructionSkills
Construction Industry Council
Association of British Insurers
National Specialist Contractors Council
Local Authorities
AMICUS
Construction Confederation
Construction Clients' Group
Construction Confederation
Union of Construction, Allied Trades and
Technicians
Federation of Master Builders
Construction Products Association
House Builders' Federation
OGC
DTI
HSE
Secretary
Secretariat
Secretariat

Apologies

Danny Carrigan (HSC)
Anne Hemming (DCLG)
Kevin Toner (HSE NI)

Summary of Action agreed:

- 1. Members to provide the Secretariat with suggestions for occupational health and safety activities to promote the 2012 Olympics. [Item 2]**
- 2. Secretariat to ensure that a 2012 Olympics update is included on the Agenda for the 23 November CONIAC meeting; and to circulate the related HSC paper to Members when available. [Item 2]**

3. **Members to let the Secretariat have their views on how CONIAC could best support the Olympics project. [Item 2]**
4. **Secretariat to ensure the IER reference is removed from the RIA. [Item 4]**
5. **Members to provide written comments on the CDM package, and views on the implementation date of 6 April, to the Secretariat by 10 August 2006. [Item 4]**
6. **Peter Hornsby to draw up terms of reference for the ad hoc CONIAC SME WG with Phil Russell and Bill Rabbetts [Item 6]**
7. **Nominations for the WG to be sent to Peter Hornsby – email: peter.hornsby@hse.gsi.gov.uk [Item 6]**
8. **Members to send their comments on the proposed CONIAC workplan 2006/07 to the Secretariat by 31 August. [Item 7]**
9. **John Tebbit to provide the Secretariat with a background note on incorrectly CE-marked products, for onward circulation to Members. [Item 8]**
10. **Members to submit any OHWP nominations to Sue Parkyn (Chair) (email sue.parkyn@hse.gsi.gov.uk) [Item 8]**
11. **Members to write to the Secretariat if unhappy about any aspects of the proposed arrangements for CONIAC’s first open meeting. [Item 9]**

1. Welcome and apologies

1.1 Stephen Williams welcomed Members, including Shelley Atkinson-Frost (CC) who replaced Andy Sneddon and was attending her first meeting.

1.2 Danny Carrigan (HSC Commissioner and Construction Champion) had sent his apologies. A close Amicus colleague had died suddenly and he would be attending his funeral on the day of the meeting. He said that he was sorry, as he had particularly wanted to listen to the debates.

1.3 Stephen recorded his thanks to Andrew Large (FMB) who had stepped down as a member of the CONIAC CDM Working Group, due a change of job. Peter O’Connell had replaced him.

2. Chair’s introduction and briefing on urgent business

Introduction

- (i) Presentation on the follow up to the Constructing Better Health (CBH) pilot

2.1 Stephen referred to the presentation being given by Trevor Walker, Chair of CBH, at 1.30 pm to which CONIAC Members had been invited. The presentation was timely, since important decisions on how to take the pilot forward would shortly need to be taken. He encouraged Members to attend.

(ii) Attendance at CONIAC meetings

2.2 Stephen reminded Members of the Advisory Committee guidance on attendance¹. He understood the work pressures Members were under, but the value of their input could not be overestimated. He asked Members to arrange for senior deputies to stand in when necessary, but if long-term absence was envisaged (other than due to sickness or pre-arranged leave), Members should consider putting forward replacement nominations.

Urgent business

(i) Publication of fatal injury statistics 2005/06

2.3 Stephen drew attention to publication (via an HSE Press release and Press briefing) of the statistics on Thursday 27 July. The strict embargo on pre-release of the statistics precluded him from providing details at this stage, although he was cautiously optimistic about the construction sector position. He thanked Members for their contribution to what appeared to be a heartening “step change” in the industry.

(ii) Update on construction aspects of the 2012 Olympics

2.4 In providing an update, Stephen made the following points:

- Parliament had passed the London Olympics Bill. The Olympic Delivery Authority (ODA) had now been formally established and empowered to carry out the preparation work.
- Lawrence Waterman had been confirmed as Head of Health and Safety. (Stephen had met with him to discuss benchmarking current standards). Simon Wright as Director of Infrastructure and Utilities and Howard Shiplee as Director of Construction, responsible for managing all aspects of construction for the venues and facilities at the Games.
- Work was currently underway on site investigation, land remediation and the sinking of shafts in preparation for tunneling to divert overhead electricity cables (managed by the London Development Agency). HSE operational colleagues were keeping abreast of developments.
- The Strategic Forum for Construction's (SFfC's) "Construction Commitments²: Olympics 2012" had been launched on Monday 3 July.

¹ “Members who miss two consecutive meetings other than through sickness or pre-arranged long-term leave shall be deemed to have resigned their appointments.”

² The Construction Commitments describes six key areas (Procurement and integration, Commitment to people, Client leadership, Sustainability, Design quality, and Health and Safety) which, in the view of the Forum, are vital to delivering the Olympic vision to time and budget - and safely.

2.5 In addition, he and Stephen Wright had had a useful exchange with Michelle Patterson (responsible for health and safety regulation for the Sydney Olympic Games). The project had achieved an excellent safety record (no fatalities during the building phase or the event) and undertook innovative activities seeking to promote good occupational health and safety standards, e.g. sponsoring para-Olympians who had become disabled through a workplace accident, to talk about their accident on film. HSE was considering a similar initiative and would be interested in CONIAC Members' views. (A DVD is available, and any Member wishing to see it should apply via the Secretariat.) The Australians had also introduced standardised tendering documents in the form of a 'subby pack', setting out what documentation was expected of subcontractors in order to streamline the procurement process. (The "Subby pack" is available from the CONIAC Secretariat.)

2.6 Stephen Williams advised Members that Lawrence Waterman was seeking CONIAC involvement in support of the 2012 Olympic project, and had suggested a CONIAC Working Group, similar to one which had existed at the time of the Channel Tunnel development. HSE's view was that SFfC, rather than CONIAC, involvement would be more appropriate. He asked Members for their views on whether there should be specific CONIAC involvement, or whether it would be more appropriate to use extant industry groups.

2.7 Views were mixed, but generally against formation of "yet another" committee, in particular since a number were already either set up or being considered. Bob Blackman (who had been involved in the CONIAC Channel Tunnel group) believed that this had been worthwhile, and stated that any input on health and safety should include worker representation i.e. from the Trades Union side. Stephen commented that Lawrence Waterman was keen to ensure that there was strong worker engagement throughout the construction phase.

2.8 Stephen suggested that it would be useful to consider further how CONIAC could best support the Olympic project, without setting up another Working Group. He offered an Olympics update at the November CONIAC meeting, and suggested that the paper which was being prepared to update the HSC on 2012 Olympics issues, could be circulated to Members. In the meantime, he welcomed thoughts on the support issue, to be sent to the Secretariat in the first instance.

ACTIONS:

Members to provide the Secretariat with suggestions for occupational health and safety activities to promote the 2012 Olympics.

Secretariat to ensure that a 2012 Olympics update is included on the Agenda for the 23 November CONIAC meeting; and to circulate the related HSC paper to Members when available.

Members to let the Secretariat have their views on how CONIAC could best support the Olympics project.

(iii) UK Euroweek 2006 Campaign (23 – 27 October 2006)

2.9 Stephen advised that the annual European Week for Health & Safety at work campaign ('Euroweek') would this year be dedicated to promoting the occupational safety and health of young people (slogan **Safe Start!**). Members may wish to consider how they might contribute, thereby raising awareness of the issues. More information could be found on the European Agency for Safety and Health at Work's website: <http://ew2006.osha.eu.int/>

3. Agreement of Agenda, approval of Minutes of last meeting and matters arising

3.1 Members agreed the Agenda, formally approved the Minutes of the 30 March meeting, and agreed that all Action Points had been discharged. There were no matters arising.

3.2 Two items were put forward under AOB. (i) Incorrectly marked construction products (John Tebbit); and (ii) Membership nominations for CONIAC's Occupational Health Working Party (OHWP) (Stephen Williams).

4. Revised CDM package: Consideration of the draft regulatory package [Paper M2/2006/1: Richard Boland, Construction Division]

4.1 Stephen Williams opened the discussion by saying that he was very keen to give Members adequate time to properly consult on such an important package. Following discussion of the key points and principles at the meeting, Members would have until 10 August to send in their comments on points of detail. The CDM Working Group was scheduled to meet on 16 August to consider the points made, and a decision would then be made as to whether written CONIAC clearance of the package was possible. If significant issues remained, requiring further discussion, another full CONIAC meeting would be held on 11 September, with the aim of submitting the cleared package to the HSC's 17 October meeting.

4.2 Richard Boland presented the main points of the CDM 2007 package, summarising the aims of the CDM/CHSW Regulations revision, and outlining the main changes and contentious issues, as set out in paper M2/2006/1. The discussion which followed was "Restricted Policy" and is therefore not covered in full in these Minutes.

The summary of the main changes:

- The combining of CHSW and CDM and the organising of the Regulations into five clearly-structured sections;
- A new dutyholder (the co-ordinator) to replace CDM 1994's Planning Supervisor.

Enhanced Client Duties

- Clients will be held more accountable for the impact they had on health and safety standards and should make sure that the arrangements made by others are adequate.

Co-ordinators

- Their main function will be to advise and assist the client in meeting the client's duties. They will be responsible for ensuring that the right information reaches the right people at the right time; ensuring that a suitable health and safety plan is in place before construction work starts; ensuring that Designers are taking account of health and safety issues in their design work and preparing the health and safety file.

Competence

- Three elements of competence are clearly identified in the ACoP. Dutyholders should have: (i) a basic understanding of the risks and their control; (ii) sufficient knowledge of the tasks to be undertaken and the risks which the work would entail, and (iii) sufficient experience and ability to carry out their duties safely, to recognise their limitations and take appropriate action in order to prevent harm. 'Core criteria' are established to assist with the assessment of competence.

ACOP and Industry Guidance

- At its meeting in December 2005, HSC had agreed to an ACoP which should be 'fit for purpose'. This should be supported by industry-produced guidance.

4.3 Stephen Williams cautioned Members about the restricted status of the discussion, and said that it would be useful to discuss the key contentious issues, the background to which was provided in the CONIAC paper M2/2006/1.

→[Paragraphs 4.4 to 4.6]←

The enhanced duties on clients

4.7 Stephen explained that CDM 2007 made two main changes to clients' duties: a strengthened role and the removal of the Client's Agent. These made existing duties in the Health and Safety at Work etc Act 1974 (HSWA) and the Management of Health and Safety at Work Regulations 1999 (MHSWR) more explicit in that they put a duty on the client to take reasonable steps to ensure that there are, and continue to be, suitable management arrangements to ensure health, safety and welfare on site, and that the design of any structure intended for use as a workplace complied with the Workplace (Health, Safety and Welfare) Regulations.

4.8 James Preston-Hood (CCG) welcomed the consolidation of the package and the helpful restructuring arrangement, but had concerns whether the proposed CDM Regulations would have the desired effect. Key concerns raised were:

- Insufficient and late engagement/consultation generally, but in particular of small and one-off businesses (e.g. the Small Business Trade Association Forum had only had two briefings) and stakeholders from other government departments. Many SMEs were not aware of how CDM 2007 would impact on them;
- The weakness of the text relating to small firms in the Regulatory Impact Assessment (RIA) (section 9). For example, the FMB appeared to have been the only SME representative organisation engaged. This was not satisfactory since they were not representative of one-off clients and the general business community. More work was needed to make the RIA more robust with respect to small businesses;
- HSE had misunderstood the influence of the SME client. Small businesses had very little control at the SME end of the market and were at the mercy of suppliers and building control;
- CDM should be better integrated with Planning and Building Control Regimes;
- The sector to influence was not major construction companies but the myriad of smaller ones responsible for the thousands of smaller projects.

4.9 He concluded by saying that there were many positive gains to be had from the review, but CCG's view was that HSE should not proceed at this point; in particular more time was needed to engage with SMEs.

4.10 Stephen Williams questioned whether the small business community was not really prepared and, if so, what benefit a delay would provide. He pointed out that such clients already have these duties under the HSWA and the Management Regulations– CDM 2007 merely makes these duties explicit. He suggested that this issue was more one for the implementation phase and was already being considered in HSE's Benefits Realisation Plan.

4.11 Some CONIAC Members said that they would have been concerned if client's duties had not been enhanced; doing so helped to ensure that clients were held more accountable for the significant influence which they have over health and safety standards on projects. They recognised the significant challenge in publicising the requirements to all dutyholders, especially small and one-off clients. Paul Hayward (ABI) stressed the importance of provision of suitable guidance to assist clients in appointing competent contractors, and he felt that the chapter in the ACoP was particularly welcome in this respect. Insurers would find this helpful and the ABI could help promulgate.

4.12 Clive Young (DTI) reported that DTI had been involved at an early stage in the review, but certain presentational issues remained unclear e.g.

the context for the changes and the reason for the removal of the Client's Agent. John Ioannou (OGC) agreed that Government departments had not engaged as well as they could have done, although OGC had contributed at the pre-consultation stage. OGC was reasonably content with the current position but had concerns about the client's role in PFI (Private Finance Initiative) and PPP (Public Private Partnership) circumstances. Stephen Williams explained that the inclusion of Client Agent's provisions in CDM 1994 had been a necessary compromise in order to ensure that the Regulations were taken forward. The inclusion had not necessarily helped to clarify the legislation. He added that CDM 2007 did not prevent a client contracting out the client's functions, but did mean that the client would retain his/her legal health and safety responsibilities. This put these Regulations in line with all other health and safety law in this respect.

4.13 James Preston-Hood (CCG) asked when the CDM consultation analysis report would be published. Cathy Kerby (HSE) explained that publication was later than HSE would have liked both because of the high volume of responses, and the obligatory work required to respond to EC questions (to all Member States) about implementation of the Temporary or Mobile Construction Sites (TMCS) Directive. The consultation analysis report had been drafted but needed final checking for accuracy. Publication was anticipated shortly. [**Secretary's note:** - a summary of the analysis has been circulated to the HSC in a "below the line" paper for its 5 September meeting. Following the meeting, the full analysis report will be made available on HSE's website and a database of responses as well as the analysis report will be made available to the public from HSE's Knowledge Centre in Bootle.]. She added that prior to the CDM consultation, HSE had liaised with the Small Business Service, that the RIA had been included in the CDM Consultation Document and that this had been circulated to other Government departments. In response to a question from Peter Kent (LA/PI), Cathy Kerby said that HSE had consulted a number of LA representative bodies, including LACORS, and had received responses from several Local Authorities. She promised to follow up with details by email – subsequently sent on 28 July.

4.14 Stephen closed the discussion by saying HSE would look at its consultation processes but it had always been difficult to engage with SMEs. More importantly at this stage, HSE would need to focus on ensuring that the sought-for step-change was achieved, and this would be reflected in the package's Benefits Realisation Plan. He was concerned that a further delay would risk losing momentum and delaying the health and safety benefits to be gained from the improved Regulations.

Introducing an empowered co-ordinator (replacing the Planning Supervisor)

4.15 Referring to the key points made in the CONIAC covering paper at paragraphs 14 – 17 and adding that the draft Regulations reflected the requirements of the Directive, Stephen asked whether Members had concerns about the role of the co-ordinator.

4.16 Tim Gough (CIC) said that CIC's Health and Safety Panel's view was that draft regulation 14 required rewording to clarify the timing of the appointment of the co-ordinator. In addition, they had concerns about the title "Co-ordinator", preferring instead "CDM co-ordinator". He also informed the Committee that the Association for Project Safety (APS) had drafted CDM co-ordinator performance standards to complement the guidance in the ACoP. James Preston-Hood (CCG) agreed with the point made about clarification of timing but said that good progress had been made at paragraph 84 of the draft ACoP. Stephen said that HSE was looking again at the ACoP with regard to "initial design". He said that HSE would consider again the "co-ordinator title" point.

4.17 Shelley Atkinson-Frost (CC) supported the new co-ordinator role. She asked for clarification in guidance on the relationship between the co-ordinator and the contractor, asking that this include not only good, but also bad, practice. She also sought clarification on the role of the co-ordinator during the production of the health and safety plan. Stephen said that examples had been included in the ACoP to aid clarity, but we would look again to make sure that the guidance was clear.

4.18 Stephen closed the discussion saying that it appeared that Members were generally satisfied with co-ordinator requirements.

Strengthened designer duties

4.19 Stephen explained that the proposals clarified, rather than substantially changed, the duties on designers. In particular, he referred to the requirement to eliminate hazards giving rise to risks, and to reduce those risks which remained. Whether the "hazard/risk" provision was reasonable had been the subject of great debate; the CDM WG and the main designer stakeholder groups believed it was and that designers should be accountable for the decisions they made.

4.20 Tim Gough (CIC) said that CIC's Health and Safety Panel strongly supported draft regulation 11 – "Duties of Designers". It was a good regulation, which concurred with the aims of CDM 2007.

4.21 Responding to a query from John Tebbit (CPA), Stephen Williams explained that ensuring a building was safe in use was covered under other regulations, notably the Workplace (Health, Safety and Welfare) Regulations 1999. These placed duties primarily on the employer, but regulation 11 would make designers responsible for ensuring that any designs they produced would meet the relevant provisions of the Workplace Regulations if the structure will be used as a workplace. Richard Ash (ECIA) asked that guidance clarifying the terms "eliminate" and "hazard" be ready in good time for implementation.

Competence

4.22 Stephen asked Members in particular whether the ACoP material would help lead to significant reductions in bureaucracy.

4.23 Several Members expressed concern about the fact that the ACoP did not include a definitive, broad list of acceptable training courses, qualifications and pre-qualification accreditation schemes (e.g. the Contractors Health and Safety Assessment Scheme (CHAS) and the Client Contractor National Safety Group's (CCNSG's) Nationally Accredited Safety Passport Scheme). Members argued that problems would persist without such a list, which was vital for SMEs in particular. Bill Rabbetts said that the Construction Confederation, and the SFfC's SME forum, were strongly of the view that a clear steer should be given. Bob Blackman (TGWU) expressed concern that there was no reference to the Construction Skills Certification Scheme (CSCS), a portable certificate which had helped the industry go a long way to securing a competent workforce. Furthermore, not specifying it as a scheme undermined the Major Contractors Group's (MCG's) commitment that every construction trade worker on an MCG site must have, or obtain, an appropriate skills card including CSCS. Neil Moore (CC) agreed and asked that the scheme be given prominence in the ACoP. Its inclusion there would help give it added weight. Members felt that the weight of the broad church of industry representatives on CONIAC, together with HSE, should be able to drive the issue forward and provide a clear steer.

4.24 Richard Ash (ECIA) felt that a "tick box only" approach through the tables would not lead to effective health and safety management and should be clearly discouraged. One of the key beneficial developments of the revision was that competence was a question of judgement.

4.25 Richard Boland said that it was difficult for HSE to recommend one scheme over another. On accreditation schemes he could really go no further than the text in paragraph 207 of the ACoP, which essentially advised, as an alternative to self-assessment, the use of an independent accreditation organisation to assess competence. However, he encouraged the industry to recommend schemes as they saw fit. Stephen added that HSE would not wish to be continually updating the ACoP, which would be the case if schemes were listed then changed or ceased to run. He suggested that it may be possible for the SFfC or the CITB to maintain a list on a website, which would be much easier to update. John Tebbit pointed out the need for policy consistency since Appendix 4 had cited specific qualifications. Richard Boland explained that any scheme mentioned in the ACoP was an example only, and the ACoP could not promote one scheme over another.

4.26. Rob Miguel expressed concern that the ACoP gave no guidance on the competence standards required by health and safety officers. He felt that this was a serious omission from the chapter. Richard Boland explained that competence standards for safety officers was more a matter for the

Management Regulations and its associated ACoP, and that the CDM ACoP only covered those appointments required by the Regulations.

4.27 Stephen closed the discussion by promising that HSE would look again at the points made above, but noting the general support for what was proposed.

Demolition

4.28 Stephen explained that CDM 94 required formal appointments and a written construction phase plan for all projects involving demolition. Under the new proposals demolition or dismantling would be treated the same as all other work, and would not automatically trigger formal appointments and a written health and safety plan. However, he drew CONIAC's attention to draft regulation 29 which makes specific provision for a written plan whenever demolition work is carried out. There are no changes to the current arrangements for notification of demolition work. (Demolition is treated in the same way as any other construction work in respect of notification). The draft Regulations are considered to be a sufficient lever in maintaining health and safety standards in demolition.

4.29 Members did not contest the demolition provisions.

ACoP

4.30 Members were content with the length and "appropriateness" of the ACoP.

Other points

4.31 Alan Ritchie questioned the distinction between "contractors" and the "self-employed" as drafted in Chapter 5 ("Contractors and the self-employed") of the ACoP, when they were one and the same person. Richard Boland agreed to check that this section was clear. He also asked that the reference to the UCATT-commissioned IER report be removed from the section on "Atypical workers" in the draft RIA. This isolated reference should not be made without the provision of the context and detail.

ACTION: Secretariat to ensure the IER reference is removed from the RIA.

4.32 In response to a number of other questions, Stephen confirmed that:

- *Health and Safety in Construction* (HSG 150) and other existing guidance would be reviewed in the light of the CDM revision;
- Comments on the draft RIA could still be sent to the Secretariat at this late stage;
- The ACoP was intended to support the management provisions of the Regulations, and did not cover the practical provisions in part 4 of the Regulations, which would be covered in industry guidance;

- It was possible to move the date of implementation from that of 6 April,³ but a special case would have to be made which was strong enough and credible enough to convince central government that there were serious, extenuating circumstances for a move away from the Common Commencement Dates. He asked that Members send comments to the Secretariat on the issue;
- HSE's systems did not capture statistics nationally on the number of Client's Agents appointed since CDM was introduced in 1994. It was therefore not possible to use this information in the RIA; and
- the client should secure top-level management access for the co-ordinator.

4.33 Closing the discussion, Stephen thanked the Policy Team and Members of the WG for the work to date. He said that the package appeared well on course for consideration by the HSC at its meeting on 17 October. He asked Members to provide the CONIAC Secretariat with written comments on the CDM package by 10 August 2006. If there were significant issues to clear, an extraordinary meeting would be held on 11 September. If there was little left to contest, he hoped that approval could be signed off by correspondence. (In addition, he said that Members might wish to liaise with their lawyers for confirmation that the draft Regulations would, in practice, achieve what was intended.)

ACTION: Members to provide written comments on the CDM package, and views on the implementation date of 6 April, to the Secretariat by 10 August 2006.

5. Developments with CDM Industry Guidance [Oral Report by Kevin Fear]

5.1 Kevin Fear (CITB-ConstructionSkills) (Chair of the CDM Industry Guidance Working Group (GWG)) provided an update on developments with the Group which had been formed with CONIAC's agreement at its March meeting. GWG had met twice to date (24 April and 5 July) and finalised its Terms of Reference (ToR). He used the tabled ToR (which included a list of Members and the purpose of the WG) as the basis for his update.

5.2 Key points he made were:

- GWG would not provide funding for the preparation of guidance;
- GWG was intended to be inclusive, not exclusive, and Industry Groups, whether represented on the GWG or not, wanting to produce guidance for "their" duty holder were to submit a proposal to the WG Secretariat for consideration by the GWG. GWG would act as a clearing mechanism;
- Members of the GWG, independent of the Industry Group drafting the guidance, will be assigned as reviewers responsible for the initial check and review of guidance before it is submitted to the GWG for approval;

³ 6 April being one of the two government-initiated annual common commencement dates for legislation bearing on business (the other being 1 October),

DRAFT – EXTERNAL VERSION (EXEMPT MATERIAL REMOVED FROM PARAGRAPHS 4.4 TO 4.6)

- The GWG will, where necessary, identify particular groups in industry or particular subject matter where guidance is needed and will seek a sponsor to prepare a proposal and to draft guidance;
- Endorsement of guidance will only be given if it has the broad support of the GWG and having been submitted to CONIAC. Guidance that has been endorsed will be produced as a branded set with an acknowledgement to all organisations involved in the production/approval process. This would help demonstrate stakeholders working together;
- It was not the intent to repeat what was in the CDM Regulations/ACoP and existing industry guidance, but to fill gaps;
- One of the suggested principles of the guidance was that it should consider the needs of SMEs and one-off clients;
- Leading industry groups and reviewers had been assigned to “main duty holder” (e.g. designers) guidance. Kevin thanked all for their co-operation, in particular IOSH for agreeing to be involved as reviewers for all industry groups’ guidance.

5.3 Kevin said that the project was developing well. The Construction Confederation had prepared introductory guidance pulling together elements common to all. Others had adopted this standard text in order to negate repetition. FMB intended to use a question and answer approach in their guidance for small firms. The intention was to publish the industry guidance alongside the ACoP (currently scheduled for January 2007). The timescales were therefore very tight, in particular since sight of the near final ACoP was required in order to ensure that gaps only were filled. He asked about the status of the guidance and whether it needed to be processed formally e.g. similar to that for HSE guidance.

5.4 Bill Belshaw pointed out that the SECG was not listed as a member of the GWG, or the sub-group producing guidance for contractors. Peter Walker from the British Constructional Steelwork Association had been nominated by the SECG to sit on the GWG, and he was also a member of the sub-group producing contractors guidance. Kevin Fear agreed to correct the membership lists to reflect the fact that the SECG were represented on these committees. [**Secretary’s note:** unfortunately the membership lists were not updated in time for the SECG representation to be reflected in a press release announcing the creation of the GWG which was issued on 16 August. Action has now been taken to correct the membership lists, and we acknowledge that Peter Walker has been a member from the Group’s inception. We apologise for any confusion this has caused.] Bill also asked about GWG’s lifespan.

5.5 Stephen said that given the meeting’s earlier discussions on the CDM package, the ACoP could now be regarded as almost finalised with broad support having been given for the draft. GWG could therefore safely proceed using the text as it currently stood. The Group had agreed procedures for clearance of the industry guidance, which would receive HSC/E endorsement as appropriate. Responding to the question on the lifespan of GWG, he suggested that the Group might usefully review whether further guidance was needed following the launch of CDM. If not, their task could be considered as

completed. Stephen Williams thanked GWG for driving forward with the guidance.

6. Small Construction Firms representation and involvement with HSC/E [Paper by Phil Russell FMB [Paper M2/2006/2]

6.1 Phil Russell presented a brief résumé of the key points made in the paper. CONIAC's previous Small Firm's Working Party had been disbanded in 2004, largely because CONIAC was taking a more strategic approach to dealing with small firms' (and other) issues. In particular, the paper sought to find a construction-specific strategy which adequately addressed the varying needs/characteristics of the significantly diverse construction SME audience, many of whom did not have structured management systems.

6.2 By way of background, Stephen Williams explained that when he presented an update on the Construction Programme to the HSC at its March 2006 meeting, the HSC had expressed an interest in construction sector SMEs⁴. In particular, they had questioned whether there were sufficient initiatives in this area and whether we had a developed strategy. The CONIAC paper recommended that an ad-hoc CONIAC SME WG be established to assist HSE in producing an SME Engagement Strategy, the outcome of which would be presented to the HSC later in the year.

6.3 Whilst expressing general support for short-term groups, Bill Rabbetts had some misgivings about the formation of this WG, in particular since, as was evident during discussions at the meeting, Members had all sought to ensure that SMEs had not been overlooked. At the time, he had welcomed the strategic approach and continued to favour the approach whereby specific issues were "marbled" through all discussions. The formation of a separate WG might serve to dilute such input. Members agreed and asked that the task of the proposed Group be very specific and clear.

6.4 Stephen recognised the concerns raised, but said that CONIAC's help with the SME Strategy would be valuable. He introduced Peter Hornsby whose responsibilities included management of the sector's communications strategy as well as management of the outreach programmes to small/micro businesses. Peter would Chair the proposed WG if it were to be formed.

ACTIONS:

- **Peter Hornsby to draw up terms of reference for the ad hoc CONIAC SME WG with Phil Russell and Bill Rabbetts;**
- **Nominations for the WG to be sent to Peter Hornsby – email:**
peter.hornsby@hse.gsi.gov.uk

7. Proposed CONIAC Workplan 2006 - 2007 [Paper M2/2006/3]

7.1 CONIAC's Terms of Reference require that CONIAC agrees and carries forward a workplan and, when appropriate, carries forward specific workstreams through free standing 'Task & Finish' IAC Working Parties. The paper proposed a CONIAC workplan for 2006–2007, which reflects both HSC and CONIAC Strategies and supports HSE Construction Division's Business Group Delivery Plan 2006–2007. It included CONIAC approval of the CDM package for submission to the HSC, and of key Working Group activities.

7.2 Due to time constraints following the lengthy discussion of the CDM package, Stephen Williams advised that this item be cleared in correspondence. He asked Members to send any comments to the Secretariat by 31 August.

ACTION: Members to send their comments on the proposed CONIAC workplan 2006/07 to the Secretariat by 31 August.

8. Any Other Business

(i) Incorrectly CE-marked and counterfeit products

8.1 John Tebbit expressed concern about the increased incidence of incorrectly CE-marked and counterfeit products (e.g. structural plywood) finding their way on to the market. He asked Members to email him if they had similar concerns or evidence of, what essentially was a serious safety issue. He thanked Peter Kent (LA/PI) for suggesting an approach to the Local Authorities Co-ordinators of Regulatory Services (LACORS), and said that he was currently in discussion with the Trading Standards Institute.

8.2 Stephen Williams advised that this was not directly a matter for HSE, although s.6 of HSWA could be invoked. He suggested that John provide a background note to the Secretariat for onward circulation to Members, who could then contact him if able to assist.

ACTION: John Tebbit to provide the Secretariat with a background note on incorrectly CE-marked products, for onward circulation to Members.

(ii) OHWP membership

Background

8.3 Stephen Williams explained that, due to resignations over the last year, the current OHWP membership did not properly reflect the industry in the way CONIAC would wish. He asked Members for nominations and suggested they might like to consider somebody to represent Constructing Better Health (in its new legacy form) and, to replace those who had recently resigned, (a health and safety consultant and an occupational health physician). Nominations from the "employee" constituency would be particularly welcome. Nominations should be sent to Sue Parkyn (Chair).

ACTION: Members to submit any OHWP nominations to Sue Parkyn (Chair) (email sue.parkyn@hse.gsi.gov.uk)

BELOW THE LINE ITEM

**9 Proposed Arrangements for CONIAC’s First Open Meeting: 23
November [Paper M2/2006/4]**

9.1 Due to the lengthy discussion at Item 4, and the imminence of the CBH presentation, Stephen asked that Members write to the Secretariat about any aspect of the proposals with which they were not happy. In the meantime, the Secretariat would proceed with initial arrangements, as outlined in the paper.

ACTION: Members to write to the Secretariat if unhappy about any aspects of the proposed arrangements for CONIAC’s first open meeting.

DRAFT