

Minutes of the Construction Industry Advisory Committee (CONIAC)

Minutes of the M2/2007 meeting of the Construction Industry Advisory Committee (CONIAC) held on 22 November 2007

Present

Stephen Williams – Chair
Richard Ash

Shelley Atkinson-Frost
Peter Caplehorn
Kevin Fear
Paul Hayward
Clive Johnson
Rob Miguel
Alan Muddiman
James Preston Hood
Bill Rabbetts
Phil Russell
John Tebbit
Dörthe Weimann

Clive Young

Shona Dunn

Louise Brearey
Anthony Lees
Cathy Kerby
Carole Lomax

Members of the public

Apologies

Bill Belshaw
Bob Blackman
John Ioannou
Peter Kent
Alan Ritchie

Robert Sayers
Kevin Toner

Representing

HSE
Engineering Construction Industry Association
Construction Confederation
Construction Industry Council
ConstructionSkills
Association of British Insurers
National Specialist Contractors Council
Unite (Amicus Section)
Construction Confederation
Construction Clients' Group
Construction Confederation
Federation of Master Builders
Construction Products Association
Union of Construction, Allied Trades and Technicians
Department for Business Enterprise and Regulatory Reform (BERR)
Communities and Local Government
[Items 2 - 5]
HSE
Secretary
Secretariat
Secretariat

(Total: 19)

Specialist Engineering Contractors Group
Unite (T&G Section)
OGC
Local Authorities
Union of Construction, Allied Trades and Technicians (Dörthe Weimann was Deputising)
Home Builders Federation
HSENI

Summary of Action agreed:

1. Action: CONIAC Members to provide case studies for HSE's 2008 Slips, Trips and Falls Campaign to John Holland – by the first week in December 2007. [Item 2]
- 2 Action: Clive Johnson to provide details of BRE's (Building Research Establishment's) touch screen test for designers at CONIAC's spring meeting [Secretary's note: now 4 March 2008]. [Item 2]
3. Action: Peter Caplehorn to provide update on a "good practice" DVD for designers and architects at CONIAC's summer meeting [Secretary's note: now 23 June 2008]. [Item 2]
4. Action: Shelley Atkinson-Frost to provide an update/presentation on the WWT sub-group training package for SMEs at CONIAC's 23 June 2008 meeting. [Item 2]
5. Action: CONIAC discussion of "Government procurement and SMEs" to be included along with Shelley's presentation on WWT sub-group training scheme for SMEs at CONIAC's meeting on 23 June 2008. [Item 3]
6. Action: Secretariat to circulate clarification on basic REACH requirements with the draft minutes. [Secretary's note: Annex 2.] [Item 3]
7. Action: Secretariat to re-circulate REACH guidance leaflets. [Item 3]
8. Action: Secretariat to include presentation on the REACH Regulations at CONIAC's meeting on 4 March 2008 or 23 June 2008. [Item 3]
9. Action: Secretariat to clarify whether HSE carried out central analysis of failings in safety management systems for construction fatalities against the processes described in HS(G)65 , 'Successful Health and Safety Management'. [Item 4]
10. Action: Secretariat to check confidentiality status of those contacted for the Booster survey and inform Members. [Item 4]
11. Action: Secretariat to include discussion of occupational health in the construction industry on the agenda for CONIAC's meeting on 4 March 2008. [Item 4]
12. Action: Members to advise the Secretariat on (a) whether the CDM Review Working Group should re-convene sooner rather than later; and (b) if so, its Terms of Reference and deadlines for action. If the consensus were not to reconvene it soon, the issue would be discussed at CONIAC's summer meeting. [Item 5]
13. Action: If available, Members to send relevant data to help with the evaluation of the duty to manage asbestos in non-domestic premises. Contact Geoff Lloyd: geoff.lloyd@hse.gsi.gov.uk; Tel: 020 7717 6272. [Item 9]

1. Welcome and apologies

1.1 Stephen welcomed Alan Muddiman to his first meeting following his re-nomination. Alan had previously been a Member prior to re-constitution in 2004.

2. Chair's introduction and briefing on urgent business

2.1 Stephen reported on the following issues:

(i) The Construction Forum

2.2 Stephen provided background information on the Forum. Publication of workplace health and safety fatal injuries in July 2007 had shown that the 28% increase in construction fatalities in 2006/7 compared with the previous year related entirely to the housing sector (new build and refurbishment/repair). Secretary of State, Peter Hain, had announced he was going to call together clients, contractors, trade unions, suppliers and other key stakeholders to tackle the increase in fatal accidents within the construction industry and in particular in the housing and domestic refurbishment sector.

2.3 The "Construction Forum" met on 17 September and was well attended by government, including HSE, and a cross section of trade unions, industry bodies, suppliers, and contractors. The co-ordination of the Framework for Action agreed by the Forum was being developed and implemented by the Strategic Forum for Construction's Health and Safety Task Group, chaired by John Spanswick, Health and Safety Commissioner. HSE was assisting and facilitating as appropriate.

2.4 Shelley Atkinson-Frost, Secretary to the Health and Safety Task Group, reported that the Task Group met on 22 October and progress was made on a number of issues. She reported that in order to deliver the Framework for Action, three 'task and finish' working groups had been agreed to take forward the individual agendas:

- "Sharing Information" - chaired by Stephen Ratcliffe of the Construction Confederation which was to review methods of sharing information working towards establishing a single route to information on areas such as best practice and 'near hits';
- "Competence" - chaired by Simon Mantle of the National House Building Council – established to drive forward the competency agenda for site workers and review prequalification processes;
- "Worker Involvement" – chaired by Alan Ritchie of UCATT – the Group would seek to ensure effective worker engagement and consultation on construction sites.

2.5 Shelley added that the Working Groups were to meet before the end of the year and be in a position to report to the next Task Group meeting on agreed terms of reference and action plan. The "Competence" Group was

scheduled to meet on 18 December and the “Worker Involvement” Group on 19 December. The meeting of the “Sharing Information” Group was being arranged.

(ii) Tower cranes

2.6 A number of tower crane incidents had occurred in 2006 and 2007. Stephen asked Shelley to report on the high-level meeting of representatives of all elements of the crane industry (the Tower Crane Group) which had been held on 9 August. The meeting had been held with a view to representatives using their considerable commercial influence to resolve key issues. John Spanswick, as an HSE Commissioner and as chairman of the SFfC Health and Safety Task Group, had chaired the meeting.

2.7 Shelley reported that the Group of 35 attendees, had reached a consensus on an action plan covering seven short-term priority areas: *site-specific inductions, individual competency, operator working conditions, examination and maintenance regimes, communications on site, better sharing of information in relation to incidents and near hits, and improving communication to the public.* These areas had been put into an action plan and work would be carried out over the next six months to follow through with actions. The next meeting was scheduled for the following day, 23 November, where the intention was to drive the action plan forward.

2.8 Stephen said that he welcomed initiatives such as this where industry worked together with a view to solving problems.

(iii) The Construction (Design and Management) Regulations 2007 (CDM 2007) update¹

2.9 Stephen reported on three issues:

(a) *The Local Authority Construction Engagement (LACE) Project*

A Project team had now been established to take forward HSE’s work on how Local Authorities could influence the construction process, both as clients and enforcers. A major aspect of this work would be reviewing the potential for closer integration of Planning/Building Control/CDM regimes. Mike Harrison was to lead and three appointments had been made: an ex-Head of Building Control and two EHO secondees who had been engaged, initially until the end of March 2008. Work to develop a project plan was underway and a proposal for post-project research had been prepared. James Preston-Hood welcomed the update and the taking forward of this work.

¹ [Secretary’s note: For information: the total number of events at which HSE has helped promulgate CDM2007 messages now stands at 356. This has included 293 hours of HSE speaker time and circa 13537 persons reached.]

(b) *Electronic F10:*

Development of the prototype was well underway. The system was expected to “go live” in May or June 2008, before which it would be tested with the industry.

(c) *CDM Industry Guidance:*

Stephen said that the Industry Guidance had been well received. Statistics for “hits” on the Guidance on the “cskills” website² from April to October 2007 had been sent to HSE by Kevin Fear and circulated to CONIAC before the meeting. **[Secretary’s note:** the statistics are included at Annex 1.]

(d) *2012 Roadshows*

HSE was working in partnership with Constructing Excellence to deliver a series of regional “roadshow” presentations on CDM 2007 and its contribution to the ODA 2012 commitments. The roadshows had been well received, which was confirmed by Clive Young (BERR). He added that the roadshows covered three main elements: the 2012 Construction Commitments, the CDM 2007 regulations, and the Common Minimum Standards (CMS) (for procurement of built environments). The CMS were promulgated by OGC and are mandatory.

(iv) Campaigns

2.10 Stephen drew attention to two HSE Campaigns, one current and one scheduled for 2008:

(a) *Falls from vehicles campaign: Autumn 2007*

The HSE-wide Campaign had been in full swing during October and November, with a number of events held around the country aimed at raising awareness among drivers, transport managers and others of the risks faced by those involved in the road haulage industry. Discussions he had had with those in the industry had revealed that the Campaign had been a success. He asked CONIAC Members to raise awareness of the issues where they could and to promote the information on HSE’s website which included case studies and information sheets.

(b) *Slips, Trips and Falls Campaign 2008*

Stephen reminded members of this Campaign scheduled for spring 2008. HSE was keen to have a strong construction element where the focus would be on trips and falls from height. Some 42% of fatalities to construction workers over the last five years had been as a result of falling from height. In addition there were over 3,700 major injuries to employees in construction for 2006/07p, more than half of which were attributable to falls and trips. Unvalidated fatal accident figures for the first six months of the 2007/08 period

² <http://www.cskills.org/>

had shown that falls from height had increased from 30% of the total in 2006/07p to 54% of the total to date.

HSE was keen to receive good case study examples and would be grateful for CONIAC's assistance with these. Stephen welcomed UCATT's involvement to date. John Holland, the HSE contact for the Campaign, would be available during the working lunch to answer questions and hear views.

Action: CONIAC Members to provide case studies for HSE's 2008 Slips, Trips and Falls Campaign to John Holland – by the first week in December 2007.

(v) CONIAC and Diversity

2.11 Stephen introduced Sarah Page of HSE's External Diversity Unit who was taking forward a project related to HSC/E's statutory equality duties with respect to Race, Gender and Disability. Specifically, Sarah was approaching certain IACs with a view to obtaining an insight into how they worked and was seeking views on how Members ensured they brought representative views to CONIAC, including those of 'vulnerable workers'. Sarah would be available to talk with Members following the meeting.

(vi) Quick Hitch Devices

2.12 Stephen referred to the guidance for HSE Inspectors recently circulated to CONIAC members: "*Safe use of quick hitch devices on excavators*". The Guidance contained advice to HSE Inspectors, but it was also relevant to those using quick hitch devices, relating as it did to supervision, maintenance, training and inspection of plant. HSE was very concerned about the significant number of fatal and major injuries which had been associated with the use of the devices; another fatality had only very recently occurred – on this occasion by the dropping of a bucket. When properly used, the devices were safe but it was very difficult to manage in practice some of the issues on site.

(vii) HWWW

2.13 Stephen advised that at its meeting on 6 November, the Commission had fully endorsed the Board's proposal for a single Head Quarters in Redgrave Court, Bootle. However, there were no plans to move construction policy, sector or operational staff out of London.

(viii) Other Issues

2.14 Members raised a number of other issues:

- Clive Johnson referred to a Designers' CDM Proficiency (Competency) touch screen test currently being developed by the Building Research Establishment (BRE). It was expected to be available in January 2008;

Action: Clive to provide details of BRE's touch screen test for designers at CONIAC's spring meeting [Secretary's note: now 4 March 2008 (see Item 8)];

- Peter Caplehorn reported that a Working Group including RIBA, WWT, CC and Constructing Excellence, had been set up to develop an instructional DVD on health and safety issues aimed mainly at designers and architects. Publication was expected in the spring;

Action: Peter to provide update on a "good practice" DVD for designers and architects at CONIAC's summer meeting [Secretary's note: now 23 June 2008 (see Item 8)];

- Shelley reported on an initiative being taken forward by a sub-group of WWT to put together a package for SMEs/microSMEs to include information on health and safety, environment, business skills and continual training for workers. A draft framework was currently being prepared.

Action: Shelley to provide an update/presentation on the training package for SMEs at CONIAC's summer meeting.

- Clive Young reminded Members that the deadline for sending in comments to BERR on the *draft Strategy for Sustainable Construction* consultation was 30 November. The proposed joint strategy aimed to help the industry deliver more sustainable construction methods and products and included health and safety measures on which HSE was being consulted. The document could be found on the BERR website <http://www.berr.gov.uk/sectors/construction/sustainability/page13691.html>;
- Richard Ash informed Members that the Services Directive was now at the implementation stage. The Directive aimed to make it easier for businesses both to set up in other Member States of the EU and to provide services cross-borders or on a temporary basis. He reminded Members that the 'country of origin' principle, which would have entitled European traders to work in any of the 25 Member States while complying only with the relevant laws of their home state, had been removed and that such traders coming into the UK would be subject to UK legislation.

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

3.1 Members agreed the Agenda and formally approved the Minutes of the 25 June 2007 meeting.

3.2 Stephen made the following points in relation to the Action Points Update from 25 June 2007 meeting:

- Incorrectly CE-marked products: the action to circulate the background note could now be removed from the list;
- The provision and sharing of workplace information: Stephen urged members to send HSE, on an on-going basis, any statistical injury, intelligence or “best practice” information their organisations may have. Doing so would help better target activities and therefore benefit the industry;
- CONIAC discussion of “Government procurement and SMEs” to be included along with Shelley’s presentation on WWT/ConstructionSkills’ training scheme for SMEs at CONIAC’s summer meeting;

Action: CONIAC discussion of “Government procurement and SMEs” to be included along with Shelley’s presentation on WWT/ConstructionSkills’ training scheme for SMEs at CONIAC’s meeting on 23 June 2008.

HSE’s construction stakeholder communication strategy: Stephen advised that this item would be taken at a future meeting. In the meantime, he said that HSE’s Construction Division did have a comprehensive map of stakeholders;

- Report from John Tebbitt on meeting with HSE on REACH Regulations³: John explained that REACH was the new system for controlling chemicals in Europe. It had become law across the EU on 1 June 2007 and replaced a number of European Directives and Regulations with a single system. REACH affected manufacturers, suppliers, importers and users of chemicals and required every chemical substance to be registered, assessed and approved – or banned if unsafe. Issues concerning consistency of interpretation and implementation were still current across and within EU Member States.
- Registering the vast number of chemicals would be a huge task for both industry and regulators. To overcome this, the registration of those substances already being manufactured or supplied was to take place in three phases over the next 11 years. A key part of the process was pre-registration - manufacturers or suppliers needed to pre-register their substances from 1st June to 30th November 2008. The CPA was encouraging Members to do so this. Information would be held on a database in the European Chemicals Agency in Helsinki;
- John explained that there were arrangements for joint registration and data sharing i.e. that for any one substance, a single set of information on its intrinsic properties was produced that would be shared by all those companies that manufacture or supply that substance;

³ The Registration, Evaluation, Authorisation and Restriction of Chemicals Regulations 2007.

- There followed a discussion during which Members raised a number of points on the application of the Regulations which appeared to conflict. They sought clarification, in particular on the relationship between COSHH and REACH. Stephen suggested that CONIAC might find it helpful if HSE gave a presentation on REACH at one of the two forthcoming CONIAC meetings, subject to Agenda pressures.

Action: Secretariat to circulate clarification on basic REACH requirements with the draft minutes. [Secretary’s note: see Annex 2.]

Action: Secretariat to re-circulate REACH guidance leaflets

Action: Secretariat to include presentation on the REACH Regulations at CONIAC’s meeting on 4 March 2008 or 23 June 2008.

4. Construction health and safety statistics 2006 – 2007: Oral Report by Louise Brearey

4.1 Louise opened her presentation⁴ by saying that to talk of fatal injuries in terms of “percentage improvements” or “numbers” appeared to treat casually something which to the individual families was a devastating loss. People were not statistics. HSE took each fatality very seriously and construction staff scrutinised the circumstances with a view to seeking improvements.

4.2 Louise’s presentation included the following key points:
April – March 2006-2007

- The overall trend was downwards – (The rate of fatal injury to workers was 21% lower in 2006/07p compared to the base year 1999/2000 and 37% lower since the 2001 Construction Health and Safety Summit; the rate of reported major injury to employees had shown a downward trend over the last 7 years; the rate of reported over-3-day injury to employees has fallen over a 7-year period from 1999/2000);
- Causes of fatalities: - “Falls” remained the biggest cause of fatalities, although the number of workers killed in 2006/07p as a result of falls decreased to 23 (30% of total fatal accidents);
- Fatal injuries relating to electricity had increased;
- Self-reported illness – HSE had poor data on ill health and there were gaps, which needed filling. However; CBH⁵ was helping to improve standards significantly;
- Construction fatalities were to be found largely in the small contractor sector, but figures for large contractors had increased;
- HSE Enforcement: There was a marginal increase in the total number of convictions secured for health and safety breaches in construction in

⁴ The presentation can be found in the papers of the meeting on HSE’s CONIAC website at <http://www.hse.gov.uk/aboutus/hsc/iacs/coniac/index.htm>

⁵ Constructing Better Health: an industry-led initiative, supported by HSE, which has developed a national occupational health support scheme for the construction industry. CBH has developed a set of standards for occupational health surveillance, fitness for work checks for safety critical workers and occupational health provider competence. The scheme includes the development of a national occupational health database to facilitate OH coverage of peripatetic construction workers.

2006/07p (339) compared with 2005/06 (338), in contrast to the significant decrease in recent years (from 405 in 2004/05 to 338 in 2005/06).

April - November 2007 fatal injuries:

- 35 fatalities had occurred during period;
 - Falls from height had increased significantly from 30% of the total in 2006/07p to 54% of total to date;
 - Struck by a moving vehicle, Slips, Trips and Falls and handling/lifting – increasing
- 2006/07's increase was due to a significant rise in the latter half of the year and this was against the established seasonal trend. There were no signs of a repeat of this occurrence to date;
- Construction Sector undertook two types of survey work:
 - Omnibus Workers survey: 6000 workers had been interviewed. Phase 1 was complete and the results were in the Intelligence Report on HSE website⁶;
 - Construction Booster Survey – aimed to get industry views on health and safety changes and practices on site.

4.3 In conclusion, Louise urged Members to share any data they had with HSE; if it was easier to meet and talk through the information, arrangements could be made. HSE's data was limited and it was imperative to broaden Construction Division's understanding of trends and emerging issues which could then be fed into HSE's Construction Programme and other initiatives.

4.4 Kevin Fear asked whether consideration had been given to the review of RIDDOR, so that information gaps could be filled. Stephen said that such a review had been undertaken over 2005/06, but the HSC had decided⁷ that there was no appetite for change at that time but that there was a need to have a fundamental review in the future. [**Secretary's note:** At the time, an ad hoc CONIAC Working Group had convened to agree a response.] Stephen added that a balance needed to be struck between getting data on the one hand and Better Regulation issues on the other.

4.5 Dörthe Weimann asked whether HSE recorded whether a pre-existing condition impacted on a fatal injury. Louise explained that HSE did record whether a fatality was the result of medical complications following an accident. Stephen explained that someone falling off a ladder because of a heart attack did not count as a construction fatality.

4.6 Commenting on fatalities relating to electricity, Rob Miguel said that there was also likely to be a significant number of "near-misses" in this area. Separately, he saw the need to tighten up on occupational health management issues. Louise agreed that management of ill health, for example the control of toxic substances, should be equally as important as

⁶ HSE's Construction Intelligence Report provides an analysis of construction injury and ill health intelligence including background data on the construction industry, analysis of statistics, research and information from other sources on construction injuries and ill health, and fatal accident pen-pictures./analysis of construction fatal accidents over the eight year period 1997/98 to 2004/05.

⁷ At its meeting 25 July 2006: <http://www.hse.gov.uk/aboutus/hsc/meetings/2006index.htm>

that of safety. Phil Russell appealed to Members to support Constructing Better Health (CBH) seeing it as a route through which occupational health deficiencies could be addressed. The REACH Regulations might appear overwhelming, but they could serve industry well in the future with their comprehensive approach to chemicals. Rob Miguel was concerned that workers' medical data on CBH's proposed "Smart Card" might preclude people from getting work. Phil explained that such cards would not include personal medical records or condition details but would simply flag up to an employer that he/she should seek further advice before giving the individual safety critical work. Louise also reminded members that the launch of "*Construction Occupational Health Management Essentials*"- COHME, a web-based tool for employers designed to provide advice to the industry on the management of occupational health, was planned for January 2008.

4.7 James Preston Hood noted that the presentation included rates, effectively showing a correlation between industry activity and those injured. James queried the nature of HSE's analysis of causes of fatal accidents in the construction industry. He asked whether HSE carried out central analysis of failings in safety management systems for construction fatalities against the processes described in HS(G)65, '*Successful Health and Safety Management*'. Stephen agreed to clarify in the minutes. [**Secretary's Note** - HSE does not routinely carry out this kind of analysis for all construction fatalities. However, it does do so where evidence of particular trends is present, and has carried out this form of analysis in, for example, the homebuilding sector.]

Action: Secretariat to clarify whether HSE carried out central analysis of failings in safety management systems for construction fatalities against the processes described in HS(G)65 , '*Successful Health and Safety Management*'.

4.8 Richard Ash asked whether the people contacted in the Booster survey could be re-approached for further information.

Action: Secretariat to check confidentiality status of those contacted for the Booster survey and inform Members.

4.9 In conclusion, Stephen said that there was a need to discuss occupational health matters in more detail and this would be placed on the agenda for the next meeting.

Action: Secretariat to include discussion of occupational health in the construction industry on the agenda for the next meeting – 4 March 2008.

5. CONIAC's Working Groups: Presentation on Plans of Work: [Paper M2/2007/01]

5.1 Stephen reminded Members that at its meeting on 25 June 2007, Members expressed a wish to monitor more proactively the activities of its Working Groups (WGs). The paper, which was usually brought below the line

to CONIAC at its spring meeting, provided information on the Programmes of work for all WGs, including those newly established (SME and Vulnerable Workers (VW)). The CDM Review WG had not been overlooked but excluded on this occasion because it would be re-convened at an appropriate time when its remit/tasks would be agreed.

5.2 Shelley queried the CDM review timeframe. She predicted that research would form a large part of the review and that the SFfC was already preparing in this respect. Louise explained that research on the first 12 months of CDM had been put in hand by HSE and would be reported on after April 2008. Alan Muddiman favoured setting up the CDM Review Working Group immediately, if only on a low-key basis, because it would provide a link between the industry and HSE. Kevin Fear thought that the Group should only be re-convened if it had a clear task and a deadline for completion, which concurred with Members' views expressed at CONIAC's meeting on 25 June 2007. Stephen suggested that CONIAC should consider the matter of setting up the Group at its summer meeting, but he would welcome views on whether it should reform earlier and if so, what its focus should be and to what timescales.

Action: Members to advise the Secretariat on (a) whether the CDM Review Working Group should re-convene sooner rather than later; and (b) if so, its Terms of Reference and deadlines for action. If the consensus was not to reconvene it soon, the issue would be discussed at CONIAC's summer meeting.

5.3 Members reported on various aspects of how CDM2007 was working out in practice. Bill Rabbetts said that there was disappointing anecdotal evidence of lack of awareness by certain dutyholders of their responsibilities under the Regulations, particularly in the SME sector. Stephen promised to consider what HSE could do further to promulgate messages but pointed to the significant amount of activity HSE had already undertaken in this respect. Paul Hayward said that the insurance industry was doing all it could to raise awareness. Peter Caplehorn also confirmed the lack of awareness, citing instances of national organisations continuing to issue a variety of pre-tender qualification documents and confusing CDM2007 and MHSWR (Management of Health and Safety at Work Regulations 1999). Alan Muddiman said that pre-tender documents were still being issued with "CDM 1994". Stephen promised to address this.

5.4 Kevin Fear referred to the dip in "cskills" website CDM Industry Guidance "hits" during September and October. He felt that renewed publicity in the New Year would help. Stephen said that he would consider this in the context of the Slips, Trips and Falls Campaign in February 2008.

5.5 Referring to the meeting of the CONIAC Vulnerable Workers Working Group, Dörthe Weimann asked whether self-employed workers were to be included in the definition of vulnerable workers. Rob Miguel commented that migrant workers employed through agencies were a main source of concern. It was agreed that Dörthe would await the circulation of the draft

minutes, but Stephen said that the term “self-employed” covered a range of workers from those who were legitimately self-employed to those referred to as bogus, or false, self-employed and who were possibly exploited.

5.6 Stephen drew Members’ attention to the importance of attendance at WG meetings. Whilst recognising that it was not always possible with their busy schedules, he asked that every effort be made to be actively involved in the WG activities, since much of CONIAC’s work was carried out through them.

6. Competence in the construction industry: [Paper M2/2007/02]

6.1 Andrew East opened his presentation by saying that it had been an objective of the revision of CDM that the industry adopts the Core Criteria contained in the CDM2007 ACoP against which the competence of organisations could be judged at the pre-qualification stage. HSE had been encouraged by the improvements it had found in standards of competence by both organisations and individuals. There was also evidence that the introduction of CDM 2007 had had an effect on the efforts of the industry to secure a competent workforce for example - the number of candidates taking the ConstructionSkills Health and Safety Test had increased sharply in 2007 and the number of NVQ qualifications obtained was increasing.

6.2 Through the Safety Schemes in Procurement – Competence Forum, a Forum initiated by HSE. HSE had met with a number of organisations that used the core criteria as the basis for assessment of organisational competence, and provided services to clients. Discussions were now taking place in this Forum to develop a UK-wide approach to third party accreditation, which would help small firms by reducing the need to duplicate prequalification questionnaires. HSE was working with CHAS - The Contractors Health and Safety Assessment Scheme – a national scheme run by the London Borough of Merton, Achilles, Exor, National Britannia, Constructionline and NHBC.

6.3 Bill Rabbetts was encouraged with the progress that had been made and said that standardization would be helpful in particular to SMEs. If SMEs were tested to an accredited standard, they could automatically avail themselves to one-off and occasional SME clients. He referred to the CHAS accreditation scheme and said that it was an excellent tool for raising standards; in particular, the bar had been raised because of CDM2007. More SMEs should be encouraged to register, not least for the business benefits. Re-registering was not easy and was more demanding, for example, on worker consultation. Stephen said that he was pleased to hear that companies had had to raise their game to achieve accreditation.

6.4 Peter Caplehorn said that “paper-chasing” still persisted with questions still being asked which were not relevant to or necessary for the task in hand. He explained that the CIC was working to develop a core set of competences for

professionals. Completion was expected in six months time. The aim was to help refocus and sharpen the process considerably.

6.5 James Preston Hood welcomed the paper and in particular to hear of the Safety Schemes in Procurement – Competence Forum. The CCG had tried to actively engage with some of the corporate schemes to determine the value to clients. John Tebbit wondered how far it might be possible to align these schemes with the ISO 9000 framework. Doing so would help reduce paperwork and bureaucracy and make health and safety an intrinsic part of the business operation.

6.6 Alan Muddiman felt that the industry should not think that HSE was accrediting schemes and that Guidance should make this clear. He added that the point should be made that membership of specified schemes was not compulsory insofar demonstrating competence was concerned; and that clients should not demand repeated demonstration via questionnaires of basic competence/qualifications. Alan referred to the reference to the Construction Clients National Certification Scheme on page 48: Paragraph 219 of the CDM ACoP. He said the reference was incorrect and should read the "Client Contractor National Safety Group (CCNSG) scheme". Andrew advised that the error had been corrected in the latest reprint of the document.

6.7 Rob Miguel drew attention to the numerous schemes currently available, some of which were not recognized leading to refusal to accept certain cards on site. Employees were being asked to duplicate skills cards and sit and re-sit tests – all of which involved costs. As an example, he said that the CCNSG health and safety test was not being accepted in other schemes such as the plant operators scheme, despite it being of the highest quality. Some in the plant operator sector were refusing to re-sit tests. Clearly, skills cards were the way forward but schemes needed to be looked at for their quality. He asked CONIAC Members to help raise the profile of the ACE scheme ('Assuring Competence in Engineering Construction'), the aim of which was to provide proof of competence for the whole UK onshore, site-based engineering construction workforce by the end of 2009. He asked for the scheme to be widely accepted as proof of competence on civil sites as well as engineering. Work was in progress to affiliate the scheme with CSCS. Stephen commented that the duplication, proliferation and costs of skills cards was outside HSE's remit which was to seek to ensure competence. Kevin Fear wished to correct a misunderstanding about card schemes; they were not training schemes but demonstrated competence against set criteria. Peter Caplehorn said that the CIC wanted to support the CSCS card, but from the outset had had concerns about aspects of it. The CIC was shortly to set up a Working Group to look into the concerns.

6.8 Phil Russell said that good schemes were available but that they were often met with scepticism by contractors because when tendering, clients would insist that they complete further paperwork regardless of schemes,

qualifications or membership. Schemes did help people raise their game but they became discredited if people were sceptical. James Preston Hood said that organisations had not demonstrated sufficiently well to clients the corporate value of the schemes and that many preferred to carry out interviews and their own checks. Furthermore, it was important to dispel the notion that joining a scheme was a guarantee of work. Stephen advised that the Public Sector Construction Clients' Forum might be able to facilitate on this matter. Richard Ash advised that a fundamental point made in the ACoP was that competence was a matter of informed judgement and that there was a danger of placing too much focus on possession of the scheme thereby removing the need for individual judgement. There was still a need to look at whether the organisation had the capacity to do what was needed, in specific circumstances and the necessary resources.

6.9 Rob asked whether the competence requirements were being enforced by HSE and referred to a particular site in the south of England where there were concerns over the competence of agency workers. He recognised that industry had to accept responsibility but it was also HSE's duty to enforce. Stephen confirmed that HSE was enforcing the requirements as appropriate and in line with HSC's Enforcement Policy - but added that it reflected poorly on the industry if it only performed under those circumstances. Standards could not be improved by enforcement alone, but by working together and by the industry taking ownership of the problems. He could not comment on the site mentioned but Rob was welcome to put in a complaint via the usual procedures. In conclusion, on the subject of enforcement, Stephen said that Construction prosecutions accounted for 40% of all HSE's prosecutions in 2006/07p (339 out of 848).

6.10 Stephen closed the discussion by informing the Committee that Lawrence Waterman, Head of Health and Safety at the Olympic Delivery Authority, was considering how best to address supervisor competence, possibly by way of a training academy or something similar.

7. Behavioural Change: Presentation by Martin Worthington Chair of the Behavioural Change and Worker Engagement (BCWE) Forum [Paper M2/2007/03]

7.1 Martin Worthington's presentation⁸ gave an overview of the work being carried out by the Forum, explained its purpose and objectives, noted the achievements to date and the benefits of BCWE programmes. He concluded by explaining how the Forum was moving forward.

7.2 In answer to a question from Kevin Fear, Stephen explained that Gordon Crick (HSE) sat on both the BCWE Forum and the SFfC's Worker Engagement Task Group to ensure synergy of activities and thinking.

7.3 Richard Ash said that the perception was that there was a lot of mystery surrounding the subject. There appeared to be two types of

⁸ The presentation can be found in the papers of the meeting on HSE's CONIAC website at <http://www.hse.gov.uk/aboutus/hsc/iacs/coniac/index.htm>

organisations, those that took it on board - and these generally had the right mindset from the start - and those that did not. The latter believed that the practice would turn the organisation on its head and require significant change. Martin said that if an organisation set up the system without full commitment, it would fail.

7.4 Shelley said that the topic of behavioural change was exciting with the potential for a huge and positive impact on the industry as well as cultural change. She offered the Forum support and asked how they were engaging with SMEs. Martin said that the Forum was currently looking at identifying “sector champions” who in turn would have links with SMEs.

7.5 John Tebbit said that there was a strong analogy between behavioural programmes and quality. The quarrying and cement sectors had embraced the approach. When the latter was found not to be achieving targets, senior management presented a united front and made a highly visible commitment following which significant improvements were seen.

7.6 Responding to a question from Rob Miguel about TU involvement, Martin said that the Forum had engaged with UCATT. Rob said that engaging with workers was vital for success.

7.7 Martin concluded by saying that one had to caution against being too evangelical on the subject and that messages were being tailored accordingly. Stephen thanked Martin for presenting what were very interesting developments.

8 Other Business

Dates of CONIAC meetings in 2008

8.1 Stephen asked CONIAC to consider moving the scheduled 2008 CONIAC meeting dates of 27 March, 24 July, and possibly the 27 November. He explained that the 27 March date followed the Easter weekend (Good Friday 21 March - Easter Monday 24 March) - Members may be away from the office during this period, and the July date was very close to the beginning of traditional summer leave. Stephen suggested possible dates but advised that the Secretariat would contact Members following the meeting to firm up arrangements. [**Secretary’s note:** The dates have subsequently been agreed: 4 March 2008 and 23 June 2008. The 27 November 2008 meeting date has not been re-scheduled.]

9 Below the line item: Evaluation of the Duty to Manage Asbestos [Paper M2/2007/04]

9.1 Stephen drew attention to the paper and advised Members that if they had any relevant data to feed into the evaluation, to contact Geoff Lloyd whose contact details could be found in the paper. The paper informed CONIAC of the arrangements being put in place to evaluate the duty to manage asbestos in non-domestic premises (which came into force on 21 May 2004). The main way in which HSE intended to obtain this information was through research conducted by an outside company via a survey of dutyholders and those involved in the maintenance and repair of buildings.

However, it would like to supplement this research with information-gathering exercises such as analysing relevant data that stakeholders may have and are willing to share with HSE and carrying out limited surveys among such stakeholders.

Action: If available, Members to send relevant data to help with the evaluation of the duty to manage asbestos in non-domestic premises. Contact Geoff Lloyd.

To Note: CONIAC's next meeting is at 10am in the Globe Room on Tuesday 4 March 2008.

Annex 1

Guidance for Construction Design and Management Regulations 2007 (CDM): "Hits" on "cskills" website

	April	May	June	July	August	September	October	TOTAL TO DATE
<i>Visits to the CDM Section</i>	8,531	8,767	7,367	8,174	11,155	6,168	6,333	56,495
<i>Visits to the Guidance Section</i>	7,062	6,931	5,218	6,186	8,422	4,163	3,927	41,909
	April	May	June	July	August	September	October	TOTAL TO DATE
Visits to the Clients page	4,389	4,192	3,046	2,811	3,303	1,421	1,338	20,500
Visits to Clients PDF file			723	1,698	2,270	956	890	6,537
Visits to the Co-ordinators page	4,130	4,126	3,035	3,638	4,097	1,572	1,391	21,989
Visits to Co-ordinators PDF file	PDF stats unavailable - fault with the tag							
Visits to the Designer page	4,107	3,273	2,189	2,207	2,966	1,150	1,153	17,045
Visits to the Designer PDF file	2,494	2,063	1,090	1,292	2,242	845	794	10,820
Visits to the Principal Contractor page	2,860	2,140	1,473	1,601	2,082	897	889	11,942
Visits to the Principal Contractor PDF file	1,610	1,255	701	961	1,549	655	648	7,379
Visits to the Contractor's page	2,586	1,868	1,170	1,262	1,719	718	686	10,009
Visits to the Contractor PDF file	1,788	1,091	551	738	1,283	518	522	6,491
Visits to the Worker's page	2,218	1,496	963	1,054	1,442	624	571	8,368
Visits to the Workers' PDF file	1,219	854	406	589	1,033	437	422	4,960
TOTAL visits to Guidance Pages	20,290	17,095	11,876	12,573	15,609	6,382	6,028	89,853
TOTAL visits to PDF files	7,111	5,263	3,471	5,278	8,377	3,411	3,276	36,187

This Annex provides CONIAC with information on two areas of the REACH Regulations: (i) the relationship between REACH and COSHH; and (ii) the scope of REACH.

(i) REACH and COSHH

1. Under REACH, manufacturers, importers, suppliers and downstream users of chemical substances should demonstrate that the manufacture/import/supply/use of a substance does not adversely affect human health or the environment and that risks are adequately controlled. This is in line with the principle in the Health and Safety at Work Act (HSWA) that responsibilities should be placed on those best placed to assess and manage risk – here, manufacturers, importers, suppliers and users of chemicals.
2. COSHH will not be revoked or substantially amended by REACH, as the latter does not repeal either the Chemicals Agents Directive or the Carcinogens and Mutagens Directive, both of which COSHH implements. Employers will have to meet the requirements of both REACH and COSHH.
3. There are clear differences in scope and approach between REACH and COSHH.
 - a. REACH is a very broad ranging Regulation, encompassing occupational health and safety, environmental safety, and public health; COSHH is focussed solely on worker health.
 - b. COSHH places duties on employers to assess the risks to the health of their employees from exposure to hazardous substances. REACH introduces a scheme for registering, evaluating, authorising and restricting chemicals, and creates a fundamentally new approach to chemicals control by moving the responsibility for risk assessment to manufacturers and importers.
 - c. COSHH applies to all potentially hazardous substances in the workplace, including process-derived materials e.g. wood dust, rubber fumes, etc., which are not within the scope of REACH, and places the burden for assessing and deciding how to manage risks on the employer.
4. REACH and COSHH duties relate to each other in that they both contain duties designed to ensure the safe use of substances hazardous to health.
5. The fundamental difference is that COSHH requires employers to control **all chemical** risks on their site, with the COSHH assessment being site specific. REACH places the onus on the manufacturer or importer of a chemical to establish the measures for its safe use, which the downstream user must follow. The risk management measures, as supplied via REACH, are likely to be more generic. Although REACH shifts responsibility up the supply chain for the identification of chemical hazard, the risk associated with a given use and for specifying the necessary risk management measures for that use, this **does not** change the

responsibility COSHH places on the employer for assessing risks and deciding how to control them in the individual workplace. REACH should result in much more information being available to support that assessment and will help employers meet the challenge of risk assessment and management under COSHH.

6. Both REACH and COSHH establish acceptable chemical exposure levels for humans. In COSHH these are called Workplace Exposure Limits (WELs). In REACH they are called Derived No-Effect Levels (DNELs) and, for environmental exposure (which is not controlled by COSHH), Predicted No-Effect Concentrations (PNECs).
7. REACH should lead to greater knowledge about a substance and may in some cases lead to more stringent risk controls, as the way REACH establishes adequate control is different:
 - a. DNELs are derived for all routes of exposure, where WELs only apply to inhalation;
 - b. The methodology for deriving DNELs is more precautionary than for WELs. The REACH guidance for deriving DNELs uses the principle of standardised, multiplicative uncertainty factors employed in consumer and general public protection legislation, rather than the more judgmental, case-by-case approach often used for occupational exposure limits;
 - c. Standards for consumers tend to be higher than are traditionally adopted for workers.
8. To help mitigate possible tensions between WELs and DNELs, the European Commission is discussing whether existing indicative occupational exposure level values (IOELVs) can be used as the DNEL for the same exposure route (i.e. inhalation) and duration. IOELVs are harmonised at the European level (though member states can choose to vary the value they set) and are health based, making them potentially useful reference points for establishing DNELs.

(ii) **Scope of REACH**

The following HSE website link provides information on the REACH Regulations:

website: <http://www.hse.gov.uk/reach/index.htm>

Scope and exemptions

REACH applies to substances manufactured or imported into the EU in quantities of 1 tonne per year or more. Generally, it applies to all individual chemical substances on their own, in preparations or in articles (if the substance is intended to be released during normal and reasonably foreseeable conditions of use from an article). Some substances are specifically excluded:

- Radioactive substances
- Substances under customs supervision
- The transport of substances
- Non-isolated intermediates
- Waste
- Some naturally occurring low-hazard substances.