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**HEALTH AND SAFETY EXECUTIVE
CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)
Further consideration of the future and role of CONIAC
A paper by the CONIAC Secretariat
Cleared by Louise Brearey**

Summary

For information and discussion at CONIAC on 27 November 2008

This paper informs Members of a proposed interim arrangement for CONIAC pending a decision from the HSE Board on the committee's future. Additionally, it seeks further views from Members on the future role of CONIAC and on a Workplan for 2009/2010.

Issue

1. Further consideration of the future and role of CONIAC.

Timing

2. Routine

Recommendation

3. That Members note the proposal to continue CONIAC on an informal basis following 31 December 2008, and feed in to the process to develop a Workplan for 2009/2010.

Background

4. CONIAC was established as an Industry Advisory Committee (IAC) by HSC to advise it or HSE on health and safety in relation to construction. Its Terms of Reference, Strategy for 2004-2008 and Workplan for 2007-2008 were reproduced in paper **M2/2008/2** on the Future role of CONIAC. The terms of reference are attached as **annex 1**. A review of the activities of the various working groups was presented to CONIAC in June 2008 as paper **M2/2008/6** and is attached as **annex 2**.

5. Following the merger of HSC and HSE in April 2008, the HSC has been succeeded by the HSE Board. The HSE Board is reviewing the future and role of all bodies which previously existed to advise HSC, including IACs, in the light of its developing new Health and Safety Strategy. Upon completion of the review the Board will indicate whether it wishes to retain CONIAC, and in what

form. No information is currently available on when the Board may make its decision. However, the new Strategy is to go to public consultation in early December for a period of 12 weeks.

6. CONIAC discussed its future role at its meeting on 23 June, and some Members and others subsequently submitted written comments. There was unequivocal support for retaining CONIAC, with particular emphasis on:

- its very broad and tripartite representation of industry stakeholders, and the public nature of its discussions;
- its unique facility for stakeholders to engage directly with the regulator;
- its achievements, eg the collaborative development of the CDM 2007 Regulations.

7. There were strong representations in support of CONIAC's tripartism and its ability to seek views evenly from the whole of the construction supply chain, particular from the SME sector. It was asserted that this ability had achieved effective involvement of employers and trade bodies and trade unions galvanised together by the authority of HSE, and that this was the only credible way of achieving some of the targets set for HSE.

8. Similarly, the direct access to the regulator and consequent ability to react and contribute to policy formation and implementation at an influential level was highly valued. It reduced the need for political lobbying and made it easier to generate interest among Members' constituents. Conversely, CONIAC provided HSE with the opportunity to gain explicit consensual support for policy initiatives such as, for example, the decision to delay the introduction of the CDM 2007 Regulations by several months in order to get them right.

9. On the role of CONIAC, Members affirmed that it should deal with broader strategic and policy issues and oversee the work of its working groups. There was a suggestion that CONIAC should be able to make recommendations directly to the HSE Board. Finally, it was thought that CONIAC was somewhat bureaucratic and could benefit from less formality.

Argument

10. CONIAC's current term of constitution ends on 31 December 2008, at which point all CONIAC memberships lapse. It is not possible to formally reconstitute CONIAC until the Board's decision on its future and role is known. However, in light of the views expressed by Members it seems sensible to maintain the CONIAC function while awaiting the Board's decision. Consequently, the Secretariat proposes that CONIAC be continued on an informal basis from 1 January until further notice. While this may give rise to constitutional difficulties we expect a steer from the HSE Board before the first CONIAC meeting of 2009, and propose that we do not seek to alter membership in the meantime.

11. If and when clearance is given to formally reconstitute CONIAC it will be appropriate to consider formal terms of reference, strategy, membership, etc in light of its defined role. However, the Secretariat advises that urgent consideration needs to be given to a Workplan for 2009/2010, particularly given that some of the work delivered through CONIAC Working Groups has now run its course. This advice is prompted by a recent request from the HSE Chair to CONIAC Secretariat (and certain other IACs) to submit outline work plans.

12. CONIAC will have an opportunity to discuss this issue at its meeting on 27 November 2008. The workplan should support the new HSE Strategy, on which CONIAC will be briefed at that meeting.

13. A recent press article¹ has suggested that the future of CONIAC itself is in doubt. Its argument focuses on the overlap of roles between CONIAC and the Strategic Forum for Construction's (SFfC) Health and Safety Task Group, and the working groups which support them.

14. For the purpose of a discussion of its current and future role, the work of CONIAC may be categorised under five functions:

- Developing regulatory policy (*getting the right law and the right standards*)
- Informing regulatory practice (*working with and learning from others*)
- Sharing and encouraging best practice by the industry (*by and for all stakeholders*)
- Problem solving (*reacting quickly to developments to prevent injury and damage*)
- Public accountability (*all CONIAC meetings are now open to the public*)

15. CONIAC Members are therefore invited to address the key question of whether CONIAC or other bodies are best placed to deliver these functions.

16. In doing so, Members are invited to consider the following issues:

- The key role of CONIAC in setting regulatory policy and practice;
- The effectiveness of mechanisms existing within CONIAC or elsewhere in sharing and encouraging best practice;
- The relative speeds with which CONIAC or other bodies might move to react to specific incidents.

¹ Contract Journal, 29 October 2008

Action

17. Members are requested to follow up the discussion at the meeting with written comments in relation to the matters covered in paragraphs 10 and 11.

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CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC) TERMS OF REFERENCE

“Pursuant to the powers granted to the Health and Safety Commission (“the Commission”) by Section 13(1)(d) of the Health and Safety at Work etc Act 1974 and exercised on the Commission’s behalf by the Health and Safety Executive (“the Executive”) in accordance with the Commission’s Direction dated 4 September 2001, the Executive has decided to appoint on the Commission’s behalf a committee to be known as Construction Industry Advisory Committee (“the Committee”). The Committee shall consider and advise the Commission or the Executive, as appropriate, on:

- The protection from hazards to health and safety of those at work in the building, civil engineering and engineering construction industry and the protection of the public from related hazards; and,
- Associated matters as referred to them by the Commission or the Health and Safety Executive.

The Committee will:

- Agree and carry forward a workplan that will assist the industry deliver its ‘Revitalising Health and Safety’ targets set at the 2001 Summit;
- Work in support of the HSC/E’s Construction Priority Programme and, when appropriate, through free-standing ‘Task & Finish’ IAC Working Parties to carry forward specific work-streams;
- Be constituted for a period of five years;
- Meet three times a year;
- Consist of a Chair and members appointed by HSC/E.

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The role of individual CONIAC members is to:

- To speak authoritatively for their sector and to exercise influence and leadership therein;
- Play an active part in developing CONIAC’s strategy so that it will assist the industry in achieving the challenging RHS targets it has set;
- Act as a champion in bringing about change and in supporting the delivering of the strategy in their sector of the industry.

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HEALTH AND SAFETY EXECUTIVE

CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

Review of recent activities of CONIAC's Sub-Groups

Summary

This paper is for information only.

It summarises the activities carried out by CONIAC sub-groups for the period March 2008 to June 2008.

Issue

1. Update for CONIAC of sub-group activities.

Timing

2. Routine

Recommendation

3. That CONIAC Members note the activities of the sub-groups.

Background

4. CONIAC has asked to be kept informed of the work of its sub-groups. Currently these comprise the following:

- Working Well Together Steering Group (WWT WG)
- Occupational Health Working Group (OH WG)
- Safety Working Group (Safety WG)
- SME Working Group (SME WG)
- Vulnerable Workers Working Group (VW WG)

5. Updating information for each of the above is set out in the Annex to this paper.

Consultation

6. Chairs of Working Groups have contributed to and agreed this paper.

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CONIAC Working Groups: Update on activities undertaken from March to June 2008

Working Well Together Steering Group (WWT WG)

Background

The aim of the Campaign is to provide an opportunity for all with an interest in construction health and safety to work together to provide support to micro and small construction businesses to improve their health and safety performance.

The key success of the WWT Campaign remains the leadership and commitment given by a relatively small number of individuals, in particular the regional chairs and committee members. CONIAC's WWT Steering Group is chaired by HSE and the Secretariat is provided by HSE's WWT Campaign Manager. Its objectives are to:

- provide an opportunity for the chair's of WWT Regional Groups and key stakeholders to discuss and debate priority issues and resourcing for the WWT Campaign;
- discuss and develop more effective initiatives and ways of working to support micro and small construction businesses to improve their health and safety performance;
- ensure that WWT activities target the key causes of occupational ill-health and fatal and other causes of injuries ; and
- provide an opportunity for sharing good practice and knowledge.

Activities undertaken during 2008/09 to date

- The Steering Group met on 8th April 2008 in Birmingham. The purpose of the meeting was to review last year's programme of work, share good practice and agree priority areas of work the this year. A presentation was given from the findings of the recent WWT review carried out by an external company, "Discovery". The report was well received and a meeting has been set up for early June to look at how we can take the recommendations forward.
- The only activities undertaken so far are a joint event with the ODA in London, (this targeted local SMEs with the purpose of informing them what they need to do to get on the tender list. The plan is then to offer H&S training events to help bring them up to the required competency levels), a series of Builders Merchants events and a 4-week White Van Roadshow across South Wales.

Planned activities

- The network of Regional Groups continues at 17.
- To date we have a further 12 SHAD type events planned, 2 White Van Roadshows and 1 Designer Awareness Days. Other events will come on

stream once groups have finalised their planning and funding has been agreed with HSE.

- The WWT team continue to work with WWT Groups to trial new ways of engaging with the micros SMEs, the hard to reach.
- The WWT website is being completely revamped this year, with relaunch planned for the Autumn. Work is currently underway with the Anglia Group to pilot new Regional Group pages.
- This year WWT is sponsoring Building Magazine's Small Firms Award at their Health and Safety Awards Dinner on 17 June. Talks are progressing with Constructing Excellence as a possible partner to host the WWT Campaign Award next year.

Occupational Health Working Group (OH WG)

Background

The OH WG's terms of reference are to provide "a forum in which health risks common to the construction industry can be identified and ways found for removing and minimizing them. The Group contributes to projects to increase the awareness of occupational health issues and sets an agenda for change in the industry."

Current programme of work

This includes:

- work to promulgate and promote the Construction Occupational Health Management Essentials (COHME) web-based guidance - WG Members have agreed to speak at promotional events and to focus on COHME at events in their parts of the construction sector;
- support for the Construction Sector Supply chain project - WG Members will work with supply chain co-ordinators to take forward work on manual handling of panel products and drainage products, to develop further the work on kerb and paving handling and to begin a further strand of work on dermatitis in tillers;
- review and sourcing of good practice case studies on occupational health from member organisations. The OH WG has provided useful feedback on draft case studies and has agreed to source further examples; and
- the OH WG is providing excellent information and feedback to other HSE programmes, eg on the silica and asbestos work of the Disease Reduction Programme and the noise and vibration work of the Injuries Reduction Programme, who see them as an essential first point of call for accessing the views of construction stakeholders.

There have been no meetings of the OH WG since the last report to CONIAC.

Safety Working Group (Safety WG)

Terms of Reference

To contribute to a year on year reduction in the rate of injuries to workers in the construction industry by:

- providing support and a consultation mechanism for the safety-elements of the work plan being taken forward through the Construction Programme;
- assisting in evaluations initiatives and providing feedback to HSE;
- sharing best practice and identifying successful initiatives;
- identifying areas where safety initiatives are needed or where existing initiatives have not achieved the desired outcome.

Programme of Work

- Contributing to 2008/09 planning and priorities;
- support of the Construction Programme's safety projects;
- further consideration of major accident potential;
- support for and information-sharing on specific safety topics e.g. tower cranes, quick hitches on excavators, emerging issues;
- feedback on HSE's Campaign "Falls From Vehicles" ;
- feedback on Construction Division's inspection initiative on refurbishment, falls and good order;
- continuing support for the "Shattered Lives" campaign;
- consideration of trends in underlying causes of fatal accidents.

Activities undertaken since report to CONIAC's meeting 4 March 2008

The group met on 19 February 2008 and will meet again 17 June and 21 October 2008.

19 Feb 2008 Meeting

- Heard an update on the Shattered Lives Campaign and members undertook to promote the campaign.
- Heard a description of the Good Order inspection/enforcement campaign in refurbishment during February and was advised that the main CONIAC meeting on 4 March would be provided with results.
- Was provided with an update of the work being done on tower cranes by both the industry (particularly the Strategic Forum for Construction's tower crane group) and HSE. The working group was appraised of the guidance currently in preparation on range of topics including site induction, competence and maintenance inspection and thorough examination.
- Received initial feedback about sharing details of the causes of fatal accidents. There was a discussion about the specific information which group members sought. HSE's current information systems do not permit easy preparation of such material but the group agreed to take a paper on what might be possible at the meeting in June. In the meantime group members were directed to HSE's published Construction Industry intelligence report which at least identifies trends.
- Received feedback on the Falls from Vehicles campaign and were very supportive of the work – it had had an effect beyond raising awareness and was leading to improved controls. The members were encouraged to

continue supplying case studies to HSE to expand the examples available on our web site.

- Agreed that a paper should be prepared for the June meeting on major accident potential – this will be remitted to the October meeting as we HSE is now out-sourcing this work.
- Heard an outline of the HSE field delivery plan for 2008 – 9. Members were supportive of the plan. One commented that the outcomes listed were not SMART – HSE welcomed ideas from group members about how to improve.
- Discussed controls on mobile elevating work platforms (mewps) and action being undertaken to prevent their inadvertent operation and involvement in crushing accidents. The industry is taking this work forward at the moment. HSE is publishing a Construction Information Sheet on managing mewps which will touch on the subject but not cover in any great detail.

17 June 2008 Meeting will

- Take a paper on information about accident causes
- Hear update on cranes guidance
- Hear update on fatal accidents so far this year
- Hear update on the work relating to quick couplers
- Be asked to remit the major accident potential work to 21 Oct meeting 2008
- Hear formal feedback on February Good order campaign
- Discuss the Wirral scaffolding protocol
- Discuss collective protection on scaffolds
- Be asked to consider what specific issues should be included in 2009 – 10 work plans of a) the working group b) HSE inspectors field work c) nationally guided work including research

SME Working Group (SME WG)

Terms of Reference

To help HSE's Construction Division develop and deliver a strategy for improving health and safety performance in construction SMEs.

To take ownership of identified problems and lead in delivering them in partnership with HSE's Construction Division.

Programme of Work

Key priorities are:

- To undertake a mapping exercise of SME-related initiatives already underway or which have been tried; including feedback on their impact, i.e. what has worked and what has not;
- To identify gaps in SME coverage and consider how these might be addressed by the industry; and

- To make recommendations to CONIAC for future industry action to address construction SME health and safety issues.

Activities undertaken since the WG's report to CONIAC's meeting 4 March 2008²

The WG has continued to develop the mapping document of SME-related initiatives. At its meeting on 11 April 2008 the WG:

- welcomed Shirley Williams (HSE) who was soon to start a six-month construction SME project with Construction Division;
- had two useful presentations: (i) providing an overview of current HSE/wider government thinking on SMEs and a forward look from Tony Bandle (Head of HSE's Business Involvement Unit) and (ii) an update on the Local Authority Construction Engagement (LACE³) project from Mike Harrison (HSE: Project Manager);
- discussed the mapping document (which it agreed was virtually completed) and a number of issues which might feed into its final recommendations to CONIAC including provision of SME-related electronic material; developments with WWT; external contributors to the WG, pre-qualification;
- noted that its Terms of Reference required a final report on its work to be given to CONIAC's meeting in November 2008. The report would include feedback on SME-related initiatives (contained in the mapping document), the identification of gaps in SME initiatives (e.g. those relating to clients) and recommendations. The next meeting, scheduled for 13 June 2008, would largely be devoted to discussing the content of the Report which was to be finalised in subsequent weeks;
- agreed to invite (i) a representative of the Builders' Merchants Federation and (ii) Andrew Owst (General Manager of the Building Safety Group) to its meeting on 13 June 2008.

To date, the WG has agreed to make the following three recommendations to CONIAC:

² This report covered developments and discussions arising from the WG's meetings of 9 October 2007 (its inaugural meeting) and 31 January 2008. These included the WG's agreement to gather information on SME-related initiatives in order to facilitate making recommendations on how construction SME health and safety issues should be addressed (see Programme of Work) and that the WG was to consider how individuals, organisations and stakeholders could usefully contribute to the work of the Group and the Programme of work.

³ Local Authorities (LAs) have a considerable potential influence on and interest in construction. The LACE Project was established to identify how this interest and influence can be harnessed to help improve standards of health and safety in construction. Potentially, LACE is very wide-ranging with all aspects of LA involvement in construction in scope.

- 1) **Workers' Safety Advisers (WSAs).** Recommendation: that the Committee support funding for the WSA project which the WG supported in principle⁴;
- 2) **Director's guidance for construction SMEs:** Recommendation: that Directors' guidance be produced specifically for construction SMEs. The WG agreed that the IoD/HSC Director's Guidance: "*Leading health and safety at work – Leadership actions for Directors and Board Members*" - was too high level to be of practical use or relevance to construction SMEs. The WG suggests that the construction guidance might be drafted by CONIAC's CDM Industry Guidance Group.
- 3) **RoSPA's work on SMEs:** RoSPA's National Occupational Safety and Health Committee is currently researching into occupational safety and health assistance in SMEs – reports can be found ROSPA's website at <http://www.rosipa.com/occupational-safety/sme/index.htm> The WG recommends this work to CONIAC.

Vulnerable Workers Working Group (VW WG)

Terms of Reference

The Group aims to help Construction division develop and deliver a strategy for improving the health and safety protection afforded to vulnerable workers.

The group has identified three categories of vulnerable workers, young workers on work experience, the older worker and foreign/migrant workers. In developing recommendations to present to the main CONIAC Committee, the group will aim to:

- a. Make clear through examination of the evidence base, the extent to which each group may be considered to be vulnerable
- b. Make recommendations which aim to increase workers own awareness and capacity to protect themselves
- c. Make recommendations which identify messages or specific interventions to reduce the risks of vulnerable workers being denied their employment rights
- d. Make recommendations which support and work with other stakeholders to improve the impact of their work

Progress Update

⁴ The WG recognised that HSE was not in a position to support funding for WSA since HSE's 2004-2007 WSA initiative was discontinued because it would have been very expensive to roll out more widely and the benefits generally would be unlikely to justify the costs.

Young Apprentices on Work Experience – The group is monitoring the progress made by a separate working group (consisting of representatives from HSE, LSC and Construction Skills) which has been meeting to develop guidance for employers in Construction who are considering providing up to 50 days work experience for 14-16 year old Young Apprentices as part of their school based curriculum. From September 2008 there will be over 2,000 schoolchildren on the Young Apprentices programme, for Construction.

Older workers – the group will receive a presentation from Loughborough University at its meeting on June 16th on this topic. This will include an analysis of the quantitative data available from examination of a number of data sources, including data supplied by Construction Skills.

Foreign Migrant Workers – The group is pursuing the following work streams under this heading

- a. An examination of fatal accident data held by Construction Division, and industry data, to determine whether foreign/migrant workers involved in fatal accidents are vulnerable, using the BERR definition of vulnerability, and to make recommendations on new preventive strategies.
- b. Working through the stakeholders represented on the group to identify whether a Code of Practice or similar can be proposed which will raise standards of health and safety protection for agency workers. The Group has noted with interest the initiative by HVCA to set up the Building Services Engineering Employment Agency Alliance.
- c. An assessment of existing guidance provided for employers who engage foreign/migrant workers, to identify whether there is a need for new guidance.
- d. Monitoring the work of stakeholders who are carrying out research into issues of language and supervision of non English speaking workers.
- e. Supporting the work of the Migrant Workers Task Force of the Institution of Civil Engineers in its development of a web portal, to facilitate access to information to foreign/migrant workers.

Examples of work delivered through CONIAC working groups

Regulatory Policy – Right law; right standards

- **European** - direct - TMCS Directive
- indirect - Chemicals Directive
- **UK** - direct - CDM 1994
- indirect - CDM 2007
- indirect - Work at Height regulations

Regulatory Practice - Working with others; learning with others

- **European** - International Association of Labours Inspectorate
- Exchanges with other regulators
- **UK** - Working with:
 - Building Control
 - Environmental Health
 - LACoRS
 - Scaffold licensing schemes

Best practice – by all stakeholders; for all stakeholders

- **The individual agenda** - protecting vulnerable workers
- engaging the workforce
- promoting competence
 - Directors
 - Supervisors
 - Businesses
 - Workers
- **The systems agenda**
 - Influencing small firms
 - Mutual recognition of pre qualification schemes
 - Promoting occupational health
 - Identifying major accident potential

Problem solving - moving fast to prevent injury and damage

- Tower cranes
- Quick hitches
- Fire in timber framed buildings