

Minutes of the Construction Industry Advisory Committee (CONIAC)

Minutes of the M1/2006 meeting of the Construction Industry Advisory Committee (CONIAC) held on 30 March 2006

Present

Stephen Williams – Chair
Bill Belshaw
Carole Bonner
Kevin Fear
Paul Hayward
Peter Kent
Rob Miguel
Neil Moore
James Preston-Hood
Phil Russell
John Tebbit
Chris Tisi
Tony Wheel
Clive Young
Louise Brearey
Richard Boland
Cathy Kerby
Michael Ryan

Representing

HSE
Specialist Engineering Contractors Group
UCATT
CITB – ConstructionSkills
Association of British Insurers
Local Authorities
AMICUS
Construction Confederation
Construction Clients' Group
Federation of Master Builders
Construction Products Association
House Builders' Federation
Construction Confederation
DTI
HSE
Secretary
Secretariat
Secretariat

Apologies

Richard Ash (ECIA)
Bob Blackman (TGWU)
Danny Carrigan (HSC)
Tim Gough (CIC)
Clive Johnson (NSCC)
Bill Rabbetts (CC)
Alan Ritchie (UCATT)
Anne Hemming (DCLG)

Summary of Action agreed:

1. Phil Russell to submit a paper, with input from Members, suggesting reconstitution of the CONIAC Small Firms Working Group [Item 2]
2. Members to submit nominations for membership of the CONIAC CDM industry guidance working group. In conjunction with Kevin Fear, Secretariat to establish the CDM industry guidance working group and convene an initial meeting [Item 3] [Update: the first meeting was held on 24 April 2006]
3. Secretariat to circulate the draft CDM RIA to Members in due course [Item 3]

4. Secretariat to publish the draft CDM ACoP on the web community when available [Item 3]
5. Secretariat to prepare and circulate to CONIAC a timeline for the CDM revision project and provide information on planned HSC papers [Item 3]
6. HSE Programme Office to provide Members with a copy of the final version of the Construction Programme Plan; and an update on progress at the mid-year stage [Item 6]
7. Secretariat to find out if there is any information on typical audiences at publicly open HSC or advisory committee meetings [Item 7]
8. Secretariat to set up an initial open CONIAC meeting for 23 November [Item 7]

1. Chair's introduction and briefing on urgent business

1.1 Stephen Williams welcomed Members to the meeting and gave the apologies of those not present.

1.2 He began by mentioning his presentation to the 14 March HSC meeting, which had been very well received. Discussion had covered a variety of construction industry issues, including: the challenges ahead (particularly for SMEs); the occupational health drive; and how to maintain (and build on) the good work done by the larger contractors. He formally recorded his thanks to HSE colleagues for their input, and mentioned that he had written to stakeholders reporting on the HSC meeting and offering a copy of his presentation. He added that any CONIAC Member wishing to see it should contact the Secretariat, who would provide them with a copy.

1.3 He went on to say that he and Richard Boland had attended a European Construction Institute "Global Construction 10 Years On" Conference in Holland on 23/24 March. The conference had included interesting presentations on the long-term future of the industry, and the challenges of working with foreign organisations, which may have lessons for those dealing with migrant workers issues. Whilst in Holland, they had also met with Dutch construction policy officials and discussed the European Commission's (EC's) review of the TMCS Directive. The Dutch indicated some concerns about the EC's approach and agreed that it might be useful for national construction regulators to meet and agree common positions.

1.4 Richard Boland mentioned that he had attended the 27 March meeting of the Construction Industry Policy and European Regulation Group (CIPER). However, there was nothing of direct relevance to CONIAC to report.

1.5 Stephen Williams reported on the 28 March "Buying For Life" public sector client good practice in procurement event which had been held two days previously.

1.6 The attendance of public sector clients was less than had been hoped, but the presence of four ministers and the HSC Chair was important. The statements they had made in a public forum were a significant stimulus to improved performance by public sector clients. To take the issue forward, Lord Hunt was to have a series of bilaterals with key spending Departments and HSE was preparing a follow-up programme designed to improve public sector procurement. Members who had attended the event echoed Stephen's disappointment at the poor attendance by public sector clients.

1.7 Stephen concluded by briefly mentioning that Danny Carrigan had presented the "Considerate Constructor" Awards on 28 March; also that there would be a Worker Engagement Conference on 20 September 2006. The Conference is a joint Glasgow Caledonian University, Centre for the Built Environment and HSE event to discuss worker engagement approaches in the construction industry. He drew Members' attention to the flyer given to them that day, and which would also be provided electronically with the Minutes of the CONIAC meeting, so that they could disseminate it to their constituents in good time to book a place at the event.

2. Agreement of Agenda, approval of minutes of last meeting and matters arising

2.1 The Agenda was agreed.

2.2 Stephen asked if Members wished to raise any matters. Phil Russell (FMB) suggested that reconstitution of the former CONIAC Small Firms Working Group should be considered, as it had been a good forum for small businesses to disseminate good practice. Stephen agreed that influencing SMEs was a key challenge, but that there were a number of existing fora for discussion of these issues. He therefore suggested that the way to take this forward was for Members to pass ideas to Phil Russell who should then submit a paper (via the Secretariat) for discussion at the next CONIAC meeting. Reconstitution would then be considered, against the background of other existing Small Firms Groups.

ACTION: Members to let Phil Russell have their views regarding reconstitution of the Small Firms Working Group, to inform a paper to be submitted by him for discussion at the 20 July 2006 meeting

2.3 The minutes of the 24 November 2005 meeting were formally approved and the Committee agreed that the items on the Action Table had been discharged.

3. CDM update [Paper M1/2006/1: Richard Boland, Construction Division]

3.1 Stephen Williams invited Richard Boland to make an oral report on progress with revising the CDM Regulations.

CDM consultation - key issues

3.2 Richard began by saying that approximately 440 written responses to the CDM revision consultation document had been received. These had amounted to around 10,000 comments and consideration of this large volume of material had been time consuming. However, it was expected that copies of the responses and HSE summaries of the general thrust of comment would be on the HSE web site soon.

3.3 While good support for the proposals overall had been expressed, two main areas of concern had emerged. The first was the extension of client duties, especially its impact on small and one-off clients. In the light of obvious misunderstanding of the duties by some respondents, it was clear that the wording of the regulation would need to be revisited and that we will need to be clear as to exactly what is expected of clients. An industry secondee – Tim Kind – was looking into this and was due to report shortly. The second area of concern was in connection with designer duties and the continuing challenge they presented. Here, again, it was important to get the message right and designers onboard. A second industry secondee – Dave Watson – was considering key messages and best routes.

European Commission review of TMCS Directive

3.4 Richard mentioned that analysis of the CDM consultation responses had been delayed by the need to prepare and submit a (60-page) response to questions the EC had asked on UK implementation of the TMCS Directive. A meeting had been held between HSE and EC officials in January. At the meeting, the EC clarified that it was gathering information from Member States on their implementation, as part of a review of the Directive. It was concerned that there appeared to be differences in national approaches.

3.5 The meeting had focussed on EC questions about two aspects of UK implementation. These were: (i) our exemption of domestic clients from the Directive's client duties; and (ii) our criteria triggering appointment of health and safety co-ordinators (i.e. the planning supervisor and the principal contractor) and production of the health and safety plan. (Our criteria are different from those in the Directive.) HSE officials had argued that the UK's approach did not compromise health and safety and was consistent with "Better Regulation" principles. However, EC officials were not convinced by this explanation. HSE is making a number of adjustments to the revised CDM to achieve better implementation taking account of "Better Regulation" principles.

Production of guidance

3.6 Richard said that consultation had shown strong support for retention of an ACoP. Subsequently, in December, the HSC decided CDM should be supported by a "shortish", fit-for-purpose ACoP complemented by industry-produced guidance. The ACoP and guidance should be issued at least 3 months before the Regulations came into force.

3.7 Drafting of the ACoP was making good progress. With regard to the industry guidance, HSE thought that a sensible approach would be for a

CONIAC sub-group to be established, under industry chairmanship, to coordinate its production. It was important that other industry bodies were happy with the sector-specific guidance produced by the main duty holder umbrella groups. The group would encourage particular industry organisations to take the lead in production of guidance in an area of key relevance to them. Additionally, it would ensure that the guidance products complemented each other and the ACoP. Consequently, HSE now asked CONIAC to approve the setting up of such a group, under the Chairmanship of Kevin Fear of CITB-ConstructionSkills. CONIAC agreed the formation and chairmanship of the group.

3.8 Members wondered what the legal status of the industry-produced guidance would be - there would be concern if it did not have the authority of HSE. Others enquired whether the final industry guidance would be available free on the HSE website. Some Members thought that free printed versions of the guidance should also be available, as not all workers had Internet access. Additionally, it was stressed that there should be a consistent style across the various industry guidance documents, and the aim should be to publish them more than 3 months before the Regulations so that industry could adjust its management systems. Also the proposed Working Group should have a good spread of representatives, including contractors.

3.9 Stephen Williams said that the industry guidance would be endorsed by HSE and the relevant industry stakeholders. He emphasised that participating in the work of the new Working Group was an opportunity for the industry to buy in to the production of guidance that was backed by HSE and reflected industry's views in a unified way.

ACTION: Members to send in nominations for membership of the CONIAC CDM industry guidance working group. In conjunction with Kevin Fear, HSE to establish a Secretariat and convene an initial meeting of the CONIAC CDM industry guidance working group

Regulatory Impact Assessment

3.8 Richard turned to the Regulatory Impact Assessment (RIA) for the CDM regulatory package. The RIA was subject to review by the Prime Minister's Panel on Regulatory Accountability and needed to be sound if delay to its approval, and consequently the whole CDM project, was to be avoided. Although Consultation respondents had provided some information more quantitative data was needed. HSE had commissioned research from Bomel and an interim report was expected shortly. HSE would then circulate the next version of the RIA to CONIAC and would ask for Members' input to it.

ACTION: Secretariat to circulate the draft CDM RIA to Members in due course

Change of projected coming into force date

3.9 Richard concluded by mentioning that the target coming into force date for the revised CDM had been put back to Spring 2007 (from October 2006), and this had been announced in a press release. The postponement mainly

reflected a desire to get the Regulations right and provide guidance on them in good time for industry to make the necessary changes. The new coming into force date would probably be 6 April but this clashed with the introduction of HM Revenue and Custom's Construction Industry Scheme (CIS). Because of this it might be possible for HSE to get the date moved either before or after 6 April, if support for this was forthcoming from the industry. Richard asked CONIAC to give a steer on this. Stephen Williams invited comments from Members on the briefing.

3.10 Members said that care should be taken to ensure that the clarity on clients' and designers' duties, attained in the draft Regulations, was not lost in the re-drafting process. It was also important that the ACoP should be appropriate, i.e. fit for purpose. Members asked for sight of the draft ACoP in plenty of time to seek feedback from their constituents. Stephen Williams acknowledged the point about the need for an appropriate ACoP, and clarified that all CDM Working Group papers were available to CONIAC itself. The ACoP would be made available on the CONIAC web community shortly. Stephen said that, in light of the change in project timescales, HSE would circulate to Members a timeline for the CDM revision project, setting out all key stages. It would also inform them of any planned construction-related HSC papers.

ACTION: Secretariat to publish the draft CDM ACoP on the web community when available

ACTION: Secretariat to prepare and circulate to CONIAC a timeline for the CDM revision project giving key stages; and provide information on planned HSC papers

3.11 Stephen summarised by saying that CONIAC:

- strongly endorsed the need for industry guidance at least 3 months before the Regulations;
- agreed to formation of the new Working Group to co-ordinate production of the industry guidance, under the Chairmanship of Kevin Fear;
- should submit nominations for membership of the new group to Andrew East;
- should support production of the RIA by sending comments on the next version to Richard Boland; and
- noted the revised CDM project timetable.

4. Competence and Resource: outcome of CDM Working Group meeting 24 January [Oral report by Richard Boland, Construction Division]

4.1 Stephen Williams invited Richard Boland to make his report. Richard said that a special meeting of the CDM Working Group had been held to discuss the issue of competence assessment. The meeting had yielded a high level of agreement. The general approach that was being taken was based on the Carpenter Report's recommendations. It included a requirement

for basic training in construction health and safety risks for anyone going on site. Persons working on site would have to demonstrate health and safety knowledge relevant to their work tasks and have appropriate experience. For professionals, it would be necessary for them to show an appropriate level of membership of a relevant Professional Institution, supplemented by ongoing CPD. All of this would be set out in the ACoP. Stephen Williams said that this was work in progress, which built on John Carpenter's Report and would aim to move industry to a more competent workforce while driving down costs of compliance.

4.2 Members were critical of differences between the various, mutually exclusive card schemes and desired a situation where cards were mutually acceptable. They felt there were also credibility issues over the CSCS scheme. There was support for a task knowledge link to the Institutions, but recognition that this would require them to improve their CPD arrangements. Stephen Williams remarked that mention of this in the ACoP was being considered, but would depend on the legal position, and work would need to be done with the Institutions over the coming years before the requirement could be strengthened.

4.3 In discussion, Members remarked that skills levels were unlikely to change unless adequate resources were put in place to achieve improvement; and that it should be noted that the changes implied a need for more NVQ assessors. The impact on SMEs, particularly those new to competence assessment, must not be ignored – and would be relevant to the RIA. Others pointed out that many existing Planning Supervisors may not meet the competency requirements for Co-ordinator, and if this happened, there would be a shortage of qualified people to fill that role. Specialist sub-contractors also needed to be taken into account when considering designer competence issues, as they had a significant impact. It was stated that insurers see improved guidance on competence assessment as very important, with its resulting impact on accident reduction and related pricing for particular businesses. Stephen Williams acknowledged the challenges, but stressed the benefits of the greater clarity of the ACoP and the industry guidance combined with pragmatic enforcement.

5. Fit3 Strategic Delivery Programme: [Presentation by Simon Longbottom: Fit3 Programme and Research Office]

5.1 At the last meeting, CONIAC had asked for a presentation setting construction in the wider Fit3 context. Stephen Williams introduced Simon Longbottom, Programme Manager for Fit3, to give this presentation.

5.2 Simon said that the Government has an agenda for productivity and well being which includes reducing days lost by improving occupational health and safety and by encouraging people back to work. Within this framework the Government requires HSE to achieve a PSA target which specifies reductions in workplace fatalities, injuries and ill health. Fit3 is the HSE programme developed to achieve that target. It is a group of carefully planned major interventions, chosen for their likely contribution to the target.

Important ones, with relevance to construction, are the Height Aware campaign, and the Backs! 2006 campaign.

5.3 He informed CONIAC that falls from height cause the largest number of workplace fatal injuries – 53 in 2004/05. Almost 2 out of 3 falls injuries are caused by low falls (ie from less than head height) and about 1 in 3 involve ladders. Height Aware will be aimed at those who procure or perform building and plant maintenance activities. It will seek to raise awareness of risks and change behaviour in relation to selection of appropriate equipment and competent contractors. It will promote its messages at the point of sale (ie builders merchants) and by Safety and Health Awareness Days and breakfasts. In addition, there will be a national publicity campaign from 22 May to the end of June.

5.4 He went on to say that musculoskeletal disorders are the largest cause of occupational ill health – about 12 million working days lost per year. Backs! 2006 is a national campaign which will emphasise the value of prevention (use of lifting aids), mitigation (staying active after injury), rehabilitation (ie return to work) and participation (ie reporting back pain and finding solutions). It will include a focus on inspection and enforcement. In addition, there will be a wide range of promotional events include seminars, work with committed organisations and a national campaign from 16 to 21 October.

5.5 Stephen Williams thanked Simon on behalf of CONIAC for his presentation.

6. Construction Programme Plans 2006/07: outcome of the Working Group meeting on 19 January: [Paper M1/2006/2: Gavin Bye, Construction Sector]

6.1 Stephen Williams recalled that some CONIAC members had participated in a Working Group meeting on 19 January, which had considered plans for the Construction Programme 2006/07. He now asked Gavin Bye (Programme Office) to give a presentation on current plans.

6.2 Gavin said that the Construction Programme is a constituent programme within Fit3. He reviewed the statistics on construction fatalities and injuries and showed that very good progress had been made since 1999/2000, and therefore it can be said that construction health and safety improvements are making a major contribution to the achievement of the overall Fit3 objectives.

6.3 He went on to say that in 2006/2007 Construction Division (CD) will be putting high levels of resource into: refurbishment (more than 1000 inspector days) and repair; building maintenance; house building and commercial urban new build. The basis for this choice is the continuing high level of fatal and other injuries in these sectors. CD will also contribute to the two major HSE-wide campaigns – Height Aware and Backs! 2006 – described earlier by Simon Longbottom.

6.4 Many CD project activities will carry on from last year including the National and Local Lead Inspector work with large organisations and work with Clients (which will build on the recent “Buying for Life” government as client event), Designers and on Early Interventions. Work on asbestos licensing continues unchanged. CD’s field teams will translate the Plan into local activity for field staff. The Plan includes provision for monitoring and feedback from field staff. The Programme Office would provide CONIAC Members with the final Construction Programme Plan when complete, and give an update on progress at the mid-year point.

6.5 Stephen Williams thanked Gavin on behalf of CONIAC for his presentation.

ACTION: HSE Programme Office to provide CONIAC Members with a copy of the final version of the Construction Programme Plan; and an update on progress at the mid-year stage

7. CONIAC Open meetings [Paper M1/2006/3]

7.1 Stephen Williams asked Richard Boland to introduce this item. Richard said that, in line with its policy on openness, all meetings of the HSC were now open to the public, and HSC had indicated that it wished its advisory committees to make at least some of their meetings open too. Consequently, it was now for CONIAC to take this forward. In particular, CONIAC needed to agree the frequency of open meetings and what format should be adopted for them.

7.2 Members accepted the idea of opening CONIAC meetings to the public. It was thought that the meeting on 23 November would be a good choice for an initial open meeting as it would complement the launch process for the new CDM Regulations and might attract wide interest.

7.3 Members were curious as to the number and sort of person who attended HSC open meetings – were they members of the general public or interested specialists, e.g. journalists?

ACTION: Secretariat to find out if there was any information on typical audiences at HSC or advisory committee meetings

7.4 With regard to frequency, some Members could see no grounds for having some meetings open and others not. It was suggested that all meetings should be open, with people being informed in advance, and a cut-off point when the capacity of the venue had been reached. They said that if a policy of occasional open meetings was adopted, care would need to be taken to ensure that the agendas for the open meetings were not manipulated to avoid contentious subjects. In the end, Members decided to leave the detailed choice of the means for advertising, the venue, the format of the meeting (including whether there should be a question and answer session) to be taken forward sensibly by the Secretariat.

ACTION: Secretariat to set up an initial open meeting for 23 November

8. Any Other Business

8.1 CONIAC noted the paper [M1/2006/4] reporting on the work of its subgroups during 2005/2006. It formally recorded its thanks to the members of the groups.

8.2 Stephen Williams mentioned the need for membership of CONIAC and its working groups to be consistent. There were formal arrangements for membership nominations, and it was not appropriate to have ad hoc (and varied) substitution.

8.3 Stephen Williams concluded the meeting by briefly looking forward to the next meeting. He said this would be on 20 July, and he expected that it would be heavily focussed on the new CDM Regulations, which should then be at an advanced stage.