

**HEALTH AND SAFETY COMMISSION
RAILWAY INDUSTRY ADVISORY COMMITTEE (RIAC)
Minutes of the 64th RIAC meeting
Wednesday 12 March 2003,
HSE, Rose Court.**

Present:

Margaret Burns	Independent, Chair
Les Philpott	HSE, RIAC Secretary
John Balmforth	Rail Passenger Interest
Steve Bence	ATOC
Dave Bennett	ASLEF
John Cartledge	LTUC/RPC
Phil Dee	RMT
Gerry Doherty	TSSA
Richard Gostling	RIA
Cynthia Hay	Rail Passenger Interest
Chris Leah	Network Rail
David Madden	Heritage Rail Association
Aidan Nelson	Railway Safety
Paul Reuter	AMICUS
Andrew Steel	Light Rail (Travel Midland Metro)
Alan Tipping	TSSA
Rob Andrews	SRA
Peter Griggs	ORR
Richard Clifton	HSE
Alan Osborne	HSE
Avril Adams	HSE (item 9)
Elizabeth Gibby	HSE (items 3, 4 & 8)
Steve Ives	HSE (item 7)
Tasha Judd	HSE (item 3)
Leo McDaid	HSE (item 6)
Shila Patel	HSE (item 5)
Philip Purkis	HSE
Shirley Williams	HSE (item 6))
Maxine Burke	HSE, Minute Secretary

Welcome, introductions and apologies for absence

- 1.1 Margaret Burns (Chair) welcomed everyone to the meeting. She introduced Steve Bence, the new ATOC representative following the retirement of Terry Worrall; Rob Andrews, the new SRA representative following the departure of John Self; and Philip Purkis (HSE) attending this meeting as an observer.
- 1.2 Apologies for absence were received from: Paul Abbott (Network Rail); Mick Blackburn (ASLEF); Allan Baker (ROSCOs); Mick Cash (RMT); Peter Edwards (BTP); Mike Strzelecki (LT); and Mike Biskup (DfT).

Membership of RIAC

- 1.3.1 Margaret Burns advised RIAC that this was Richard Clifton's last meeting as Director of Railway Policy. On behalf of the Committee she thanked him for his valuable contribution and wished him well for the future.
- 1.3.2 Mr Clifton would be moving to other work within HSE in April. He had however, been appointed by the HSC as Head of the UK Delegation to the Channel Tunnel Safety Authority¹, so would maintain his links with the rail industry. She went on to explain that HSE's Directorate of Railway Policy would be reorganised at the end of March. Alan Osborne would provide HMRI's input to RIAC in consultation with Elizabeth Gibby and Anne Sharp who continue to lead the two policy teams (Cullen Legislative Division and Railway Policy Division respectively).
- 1.4 Members were also informed that this was Alan Tipping's last meeting as the TSSA representative. His replacement would be nominated shortly. RIAC Secretariat would arrange for a valedictory letter to be sent on the Committee's behalf, thanking Mr Tipping for his contribution and extending their best wishes for the future.

Action: RIAC Secretariat

Identification of urgent business

- 1.5 No items of urgent business were proposed.

Minutes of 63rd meeting held on 28 November 2002

- 2.1 The minutes (version 3) were agreed as an accurate record of the meeting.

Matters arising

- 2.2 An actions update was circulated to members on 26 February 2003. Margaret Burns reported on the outstanding actions from November's meeting:

RIAC's programme of work: 2002/03 and beyond

- Item 6.1, bullet 4 - a copy of the Internet version of the plan of work was tabled at the meeting and it would shortly appear on HSE's rail website;
- Item 6.2, bullet 4 - following the request for HMRI's definition of "good" and "best" practice and details of the criteria it worked to, Alan Osborne reported that: HMRI used the criteria contained in HSE's *Reducing Risk Protecting People* (R2P2). HSE defines 'good' practice as: '... standards for controlling risk which have been judged and recognised by HSE as satisfying the law when applied to a particular relevant case in an appropriate manner.' Good practice may be found in ACoPs, HSE

¹ Mr Clifton's appointment would commence in November 2003

guidance, recognised standards and current industry practices appropriate to an organisation's activities.

'Best' practice is the activities that certain organisations, in particular circumstances, are doing that are above and beyond the standard of what might be reasonably practicable. Best practice is therefore *not* enforceable, but may be mentioned by an inspector as a standard to strive for. Good practice will *not* insist on standards that are not necessary. (For further details see annex 1).

- 2.3 Alan Osborne thanked Mr Nelson for drawing his attention to the fact that some of HSE's guidance used both 'best' and 'good' practice and agreed to alert the appropriate HSE officials.

Action: HMRI

Resources for HSE's rail policy projects

- 3.1 Margaret Burns advised RIAC that since the distribution of the three RIAC papers on: Accreditation of suppliers; Licensing systems for train drivers and signallers; and the Review of Railway (Safety Critical Work) Regs 1994, the issue of resources for HSE's railway safety work had been finalised. Following the conclusion of discussions with the Department for Transport and the Department for Work and Pensions, there would be sufficient funding available to take forward projects arising from the public inquiry agendas.
- 3.2 Before the first of the three items were presented, Elizabeth Gibby (HSE) explained that the papers had a number of associated issues and RIAC's views were being sought at an early stage to inform the policy options prior to HSC's consideration in April. She introduced the first member of her team, Tasha Judd, to present the paper on accreditation.

Accreditation of suppliers of safety critical products and services (RIAC 03/04)

- 3.3 Tasha Judd updated RIAC on the analysis and thinking to implement Lord Cullen's recommendations regarding accreditation of the supply of safety critical products and services. The paper sought comments on the potential options and related issues and invited RIAC to consider:
- The scope of any accreditation scheme eg which parts of the rail industry should be covered?
 - The policy options for achieving this; and
 - Areas requiring further development if such a scheme was introduced.
- 3.4 Members welcomed this paper, but felt it was difficult to speak to it or to give any advice, until they knew the extent of what current initiatives were underway within the industry and consequently, whether any new work was necessary. The following points were made during the discussion:

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- Chris Leah felt the paper underestimated work already undertaken by industry for example Network Rail's "Link-Up Scheme" (a registration database for suppliers industry wide) which had been running for a number of years and should/could be looked at closely. He agreed to write to Elizabeth Gibby setting this out in detail;

Action: Network Rail

- RIA was coordinating the development of a 'book' which aimed to summarise current supply chain initiatives across the industry and, subject to securing agreement from contributors, agreed to consider sharing this information with RIAC;

Action: RIA

- A risk based approach should be adopted; more quantifiable evidence needed to be made available to demonstrate that a 'national accreditation' scheme would mitigate risks, and deliver additional benefits over and above those that duty holders had already identified, which had let them to establish their own schemes;
- RIAC was asked by the LTUC to reflect more closely on the actual recommendation and the context in which it was made. Lord Cullen was looking for a mechanism which provided a degree of assurance to purchasers, which had been validated by an independent source. This element of independence also provided a means to raise public confidence in the railway industry, which was much needed. If the industry view differed from this, then they would need to present a robust case;
- Some concern was expressed about the potential difficulty of suppliers accessing the market;
- There was a lack of trust by passengers, who were unaware of work the rail industry were doing in this area;
- It was thought that the key aspect with current industry schemes may be the lack of independence. It is likely that HSC would seek reassurance by third party verification for any scheme; and

3.5 Mrs Judd thanked Chris Leah for his offer of assistance, Richard Gostling for agreeing to confirm if the information held by RIA could be disseminated to RIAC and to the Committee for their useful comments.

Development and Implementation of Licensing Systems for Train Drivers and Signallers (RIAC 03/05)

4.1 Elizabeth Gibby presented this paper. It provided an update on the progress in developing analysis and thinking on licensing systems and sought views on the recommendations that are to be presented to the HSC in April. RIAC was invited to consider and comment on the following:

- a. Was a licensing system for train drivers and signallers necessary?
- b. Should other safety critical workers be licensed?
- c. Which parts of the rail industry should be covered by licences?

- d. Who should operate a licensing system?
- e. How should licenses be introduced?
- f. Areas requiring further development if licences were to be introduced.

4.2 Members were reminded that Lord Cullen recommended licensing as a means to achieve national standards for train drivers and signallers. The following points were made during the discussions:

- There was a case to be made for national training and standards to be reached, although not all members were convinced of a need to licence signallers, since they were all employed by a single employer. Members felt that guards should also be included in the training, as this would reassure passengers of their competency in the event of an accident/incident;
- RIAC agreed that competency was the main issue as industry already had a licensing system albeit fragmented;
- A risk based approach should be adopted for the licensing of other safety critical workers;
- An independent body should operate the licensing system (independent of the employer);
- RIAC felt the introduction of licenses would depend on what it aimed to achieve. One example of an area requiring further development if licenses were to be introduced was route knowledge;
- RIAC asked - how could the public be assured of competence in a fragmented industry? Passenger/public confidence was lacking, RIAC accepted that licenses would mean more to the public than certificates;
- There were a number of initiatives now embedded in industry systems eg the 'Sentinel' scheme, which had been in place since 1999. There was a lot of work going on which should be acknowledged in the paper. However, it was not clear that these industry initiatives provided the necessary independent assurance envisaged by Lord Cullen;
- The EU angle could not be ignored, a draft Directive was expected later this year (EU agreement would result in it having to be adopted in the UK), since it looked likely that EU initiatives would make licensing inevitable. The industry should consider how any scheme could build on and add value to existing schemes;
- The transfer of staff records was an issue for employers as there was concern relating to ensuring employees reach a competent standard only for them then to move to another company;
- Transferability of license/competence bring concerns about the element of route knowledge in licences;
- RIAC noted that the word licence means many things to different people;

- RIAC recognised that external training providers do not always meet their objectives and thought trainers should be externally assessed;

Review of Railway (Safety Critical Work) Regulations 1994 (RIAC 03/03)

5.1 Shila Patel introduced the paper. She explained that work on the review had begun and that RIAC's views were sought on pertinent issues to be presented to the HSC in April. RIAC was specifically asked to consider whether:

- the Regulations should be retained?
- the scope of the definition of 'safety critical work' is correct?
- a national body should set and approve standards of competence?
- there should be more emphasis on fatigue rather than hours of work as a risk factor?
- the level and type of information contained in the ID cards and other documents is satisfactory?
- changes should be delivered by amending regulations or clarifications of ACoP or guidance?

5.2 The following points were made during the discussions:

- the scope of the Safety Case Regulations was not as wide as the Safety Critical Work Regulations and therefore was not considered an adequate replacement for the latter;
- RIAC was unhappy with the current definition of safety critical work, which they felt needed to be more flexible and should also be defined by the task eg a risk-based approach;
- members felt there should be more emphasis on competence management systems;
- some members thought there should be a nationally approved medical standards – there was a need for doctors who have the competency and training to deal with occupational medicine/railway specific issues;
- fatigue was a risk – RIAC felt it would be easier to limit hours of work rather than to define fatigue. They also felt, the Regulations should not be restricted to train drivers/crews, but cover other safety critical workers like platform staff;
- the enforcement of and practicality of roster patterns needs to be looked at;
- the number of cards carried by safety critical workers was a problem;
and

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- RIAC accepted there were weaknesses in the regulations but felt they should be retained and revised with improved guidance. ASLEF felt driver hours should go into Regulations rather than ACoP.

5.3 Ms Patel informed the Committee that the evaluation report was nearing completion. This would be circulated to members in due course.

Action: HSE

Railway Safety Levy (RIAC 03/08)

- 6.1 Shirley Williams (HSE) presented this paper and the attached HSC paper. Both provided RIAC with an update on the development of the railway safety levy enabling clause contained in the Railways and Transport Safety Bill and the options for a charging mechanism.
- 6.2 The HSC paper (tabled at the HSC's meeting on 11 February) invited views on the possible options for introducing the levy, who it should apply to and how it might work. It also invited HSC's views on the policy options to be submitted to the House of Lords' Delegated Powers Committee (DPC). The role of the DPC is to scrutinise proposals for secondary legislation to ensure that 'enabling' clauses are properly used. The HSC's discussion emphasised concerns that submitting a draft set of regulations might commit HSC/E to implement the levy in a way that both it and the industry would find unacceptable.
- 6.3 Shirley Williams explained that in the light of HSC concerns it had been decided not to submit draft regulations to the DPC, but instead to provide a detailed memorandum describing how HSC/E intended to use the powers to implement the levy and outline the issues the regulations would address. The recommended options outlined in the HSC paper were ratified as the basis for a memorandum to the DPC. HSC/E would point out that the memorandum could not pre-determine the outcome of any subsequent consultation on draft levy regulations.
- 6.4 The Bill to give the HSC the power to make regulations to introduce a levy was progressing through the House of Commons and was debated in the Standing Committee (6/3/03). The third reading was due in late March or early April followed by introduction into the Lords just before/or after Easter. Richard Clifton stressed that the Bill was solely an enabling clause and details concerning operation of the levy had yet to be considered. HSE was legally required to consult fully on the details of the implementing regulations. A consultative forum was proposed to consider the overall level of proposed charges.
- 6.5 RIAC would be given the opportunity to see a copy of the memorandum and would be kept informed of progress.

Action: HSE

Review of RIAC Working Groups (RIAC 03/01)

- 7.1 Margaret Burns introduced Steve Ives (RIAC Secretariat). He thanked the working group Chairs, members and Mr Strzelecki for their input into the preparation of this paper. The paper reported on RIAC's existing working groups and asked the Committee to consider the group's roles and relationship with RIAC. Before RIAC considered the specific issues raised in the paper, a representative from each of the working groups gave an oral report.
- 7.2.1 Occupational Health Working Group (OHWG) – Steve Bence (ATOC) had chaired the remanded group's first meeting on 27 February, while RIAC Secretariat continued to pursue its search for an independent chair. The group had discussed the issues it felt it needed to address in tackling the remit of producing an occupational health (OH) strategy for RIAC, which would be complementary to HSC/E's 'Securing Health Together'.
- 7.2.2 The group agreed its starting point should be with existing OH data, however limited it might be. RIAC was advised that OHWG members felt it would only be successful if there were strong support from senior officials within the rail industry.
- 7.2.3 Human Factors Working Group (HFWG) – Aidan Nelson, chair of this group reported that it had done a lot of good work in identifying best practice on fatigue to input into the review of the Railways (Safety Critical Work) Regulations. The group had recently met to discuss its terms of reference, (see para 7.4 for details of the agreed version) membership, and to progress the development of its strategy. Members produced their 'top 10' list of HF's issues as a framework for the strategy. The strategy would be based on four generic headings:
- i) Industry competence and managing HFs;
 - ii) HFs by design;
 - iii) HFs in operation; and
 - iv) Promulgating good practice and promoting its adoption.
- 7.2.4 Freight WG – Phil Dee (RMT) gave a brief report in Paul Abbott's absence. The group had discussed its terms of reference and was working on its plan of work. Other items discussed recently included: the delay in implementing the Carriage of Dangerous Goods Regulations and resulting implications; and EU issues such as High Speed Interoperability. He went on to explain that the group would welcome direction from/and closer links to RIAC (see RIAC 03/01, bullet 2 - pg 7) as it had been left to develop its own agenda over the last year or so. Margaret Burns agreed to discuss the group's terms of reference more fully with Paul Abbott.

Action: Chair

- 7.3 Margaret Burns thanked everyone for the reports. RIAC then considered the recommendations in para 17 of the paper.
- 7.4 During the discussion RIAC:
- agreed the following terms of reference for the HFWG.

To develop a human factors strategy for RIAC, including an Action Plan for promoting the consistent use of human factors good practice in the railway industry, based on the Joint Report on Human Factors prepared for the Cullen/Uff Inquiry.

- agreed that each group should produce a plan of work linked to RIAC's Programme of Work for 2002 and beyond;
- thought there was not an immediate need for the resurrection of its dormant research group. However, it was suggested that there should be an initial meeting for those with an interest in the research agenda to discuss how such a group could be more closely linked into HSE's own rail-related research activities and how it could work in the future once Railway Safety's research budget was exhausted;
- considered that two additional issues which could be discussed more fully by those with an interest were passenger safety and crowding initially at an informal one-off meeting to be convened for this purpose;
- endorsed the HFWG suggestion of the reintroduction of regular written reports to RIAC based on each group's Plan of Work.

Action: RIAC Secretariat/WG Chairs

- suggested that the HFWG invited either Cynthia Hay or John Balmforth to represent passenger interests on its group; and

Action: HFWG Chair/RIAC Secretariat

- agreed to produce a draft concordat setting out the roles of all parties in the working groups.

Action: RIAC Secretariat

- 7.5 RIAC was also invited to consider what resource it could provide to assist the Secretariat support for the working groups.

Oral reports:

Report back from HSC's ERTMS discussion

- 8.1 Margaret Burns thanked those members who were able to attend the special meeting in January, which was arranged to consider the ERTMS final report and to provide comments to inform the HSC's meeting on 14 January. She reported that Ministers had accepted the HSC's advice. The next stage was for HSE to develop project plans with milestones for monitoring the delivery of the safety benefits of train protection systems.

Update on progress in establishing RSSB and RAIB

Rail Safety and Standards Board (RSSB) – RIAC 03/10 (tabled at the mtg)

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- 8.2 Elizabeth Gibby introduced the paper which gave details concerning the ORR's final conclusions on proposals to establish a Rail Industry Safety Body. The new body would be called the Rail Safety and Standards Board (RSSB). ORR was currently consulting on the licence conditions, which include a requirement to comply with Railway Group Standards. It was expected that RSSB would be establishing by April 2003.
- 8.3 Peter Griggs (ORR) said the interviews for the Chief Executive were continuing, but thought the likelihood of having a Chief Executive in place for April was dependent on any notice period required from the employer of the successful candidate and looked challenging. RIAC was also told that the insurance for RSSB was not yet finalised, but work was ongoing.

Rail Accident Investigation Branch (RAIB)– RIAC 03/06

- 8.4 The second part of Elizabeth Gibby's oral report was on the progress in establishing RAIB (for full details see RIAC 03/06). During the discussion HSE was asked to clarify the extent of and need for its future involvement in accident investigation, given that Cullen's aim had been to simplify rather than to elaborate the existing arrangements. RIAC was advised that HSE retained a legal duty to investigate accidents. HSE agreed to circulate to RIAC its statement of the relationship with RAIB.

Action: RIAC Secretariat

HSE's Rail website demonstration

- 9.1 Avril Adams (HSE) demonstrated the new HSE rail website: www.hse.gov.uk/railways. The main aim was to develop a structured and logical site, which allowed easy access especially for non-IT users. She considered it 'work in progress' and acknowledged that there were areas such as the links, which required improvement. There would be a process to evaluate the site details and welcomed any comments.
- 9.2 Members congratulated HSE on the improvements to the website which they believed were informative and user-friendly.

Other relevant business

- 10.1 RIAC agreed the following themes for its next public meeting:
- Passenger safety and security; and
 - Crowding.

Date for June meeting

- 11.1 The June meeting has been postponed. RIAC will next meet on Thursday 9 October 2003 in Birmingham.

RIAC Secretariat
Mar '03

Good Practice v Best Practice

HSE defines 'good' practice as: '... those standards for controlling risk which have been judged and recognised by HSE as satisfying the law when applied to a particular relevant case in an appropriate manner.' Good practice may be found in ACoPs, HSE guidance, recognised standards and current industry practices appropriate to an organisation's activities.

In effect 'good' practice is a generic term for those standards for controlling risks that have been judged and recognised by HSE as satisfying the law and reducing such risk ALARP. As a minimum HSE inspectors will expect relevant good practice to be followed, and in doing so a duty holder is relieved of the need to conduct a full blown risk assessment as this will have been considered in the development of the good practice. In the majority of cases this will be the norm.

'Best' practice is the activities that certain organisations, in particular circumstances are doing that are above and beyond the standard of what might be reasonably practicable. Best practice is therefore *not* enforceable, but may be mentioned by an inspector as a standard to strive for. Good practice will *not* insist on standards that are not necessary.

However, both good and best practice is *real* activity – they are *not* theoretical to the extent that best practice, as an aspiration, could be construed. Indeed what is currently best practice may become over time good practice, for example, the technology underpinning the controls becomes more widely available.

As an example as to how these distinctions may apply, we can consider the development of a new piece of hazardous plant. Here the best available practice appropriate for the application would be required to meet relevant good practice for such a new design. For existing plant, relevant good practice is established by using those practices applied to the new design as a benchmark subjecting shortfalls to the test of reasonable practicability.

HSE is currently conducting a full review of its development and use of good practice. The review will develop further the distinction between good and best practice, and will report in the summer.