

Small Business Trade Association Forum Minutes

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Small Business Trade Association Forum
Minutes of the Meeting of the Small Business Trade Association Forum, held on 11 April 2006 in the Hope Room, Rose Court.
<p>Present: Judith Donovan CBE, Chairman</p> <p>British Association of Chemical Specialities British Chemical Distributors and Traders Association British Constructional Steelwork Association British Glass Manufacturers' Confederation British Wood Preserving and Damp Proofing Association Confederation of British Industry Electrical Contractors' Association Engineering Employers' Federation Federation of Small Business Forum of Private Business Heating and Ventilating Contractors' Association National Farmers' Union National Hairdressers' Federation Rural and Industrial Design and Building Association Vehicle Builders and Repairs' Association</p> <p>Apologies:</p> <p>British Chambers of Commerce British Coatings Federation British Dental Association British Hospitality Association British International Freight Association British Retail Consortium British Woodworking Federation Confederation of Paper Industries Construction Federation Construction Plant Hire Association Federation of Master Builders Federation Of Tour Operators Hair and Beauty Industry Association Institute of Directors National Association of Shopfitters National Care Homes Association National Federation of Demolition Contractors National Federation Of Retail Newsagents Quarry Products Association</p>

<p>Radio, Electrical and Television Repairers' Association Registered Nursing Home Association Road Haulage Association Small Business Bureau Timber Trade Federation</p> <p>Officials Present:</p> <p>Geoffrey Podger (Chief Executive)</p> <p>Jenny Eastabrook (Director Cross Cutting Interventions Division) Jonathan Russell (Deputy Director – Cross Cutting Interventions Division) Richard Boland (Construction Policy)</p> <p>Elizabeth Hornsby - SBTAF Secretariat Meena Sharma – SBTAF Secretariat Heather Butler – SBTAF Secretariat</p>	
1.	Introductions and apologies
1.1	<p>Judith Donovan welcomed both existing and new members to the meeting.</p> <p>Since January's meeting, seven new organisations have joined the Forum:</p> <ul style="list-style-type: none"> • British Association of Chemical Specialities • British Chemical Distributors and Traders Association • Confederation of Paper Industries • Construction Federation • Radio, Electrical and Television Repairers' Association • Timber Trade Federation • National Federation of Demolition Contractors
2.	Minutes of the last meeting
2.1	Members approved the minutes.
3	An introduction to HSE's Chief Executive
	<p>Geoffrey Podger introduced himself and gave a brief overview of his career. He was previously Executive Director of European Food Standards Agency. Prior to that, Geoffrey was Chief Executive of the UK Food Standards Agency, which was established in April 2000 to bring about increased transparency and consumer involvement in food safety and related matters. Throughout his career, he has understood the importance of trying to relate with stakeholders, so as to integrate them into the decision making process.</p> <p>He took up office as the Chief Executive of the Health and Safety Executive on 28 November 2005.</p> <p>Following Geoffrey's introduction there was an opportunity for members to ask</p>

	questions. Topics highlighted included the definition of a ‘small firm,’ the importance of HSE helping members to comply with regulations and the simplification of HSE literature.
4	Results of the external evaluation of the Forum
4.1	John Sergeant, Navigator Research, presented the key findings of the recent evaluation of the Forum, one year into its existence. Overall, Trade Association representatives were positive in their attitudes to the Forum and were optimistic for the Forum’s future. There were positive comments about ambience and group dynamics and the good opportunities for networking in and around the meeting. Some concerns were raised over what might happen if Forum membership continues to grow.
4.2	A short discussion followed. There was a general consensus among members that no limits should be imposed on the expanding membership at this stage. It was also agreed that if some members wanted to be correspondence only and not attend meetings that this should not be a problem. Judith commented that a larger membership gave the Forum greater credibility.
4.3	The point was made that the Forum was a two-way process and members must feel able to raise issues for consideration at meetings as well as comment in more depth to the relevant HSE officials between meetings. One suggestion was that a meeting should be given over to ‘blue sky’ thinking where members had a free rein to make suggestions. Judith welcomed this suggestion and confirmed that the Forum process should be flexible and allow for refinements.
5	Directors’ duties on health and safety
5.1	Jenny Eastabrook introduced the topic of possible legislative proposals to strengthen requirements on directors to lead on health and safety. The proposals stem from a general acknowledgement that directors exert a fundamental influence over standards of health and safety management and levels of health and safety performance. HSC guidance issued in 2001 has had demonstrable impact on Director and Board involvement on health and safety.
5.2	However there is a perception that under the current law makes it is difficult to find evidence of wrong doing in large companies and that directors of small companies are disproportionately more likely to be prosecuted for health and safety breaches. HSC has asked HSE to examine the options of: <ul style="list-style-type: none"> • legislative change to strengthen director leadership • issuing further clear guidance for directors or • seeking greater use of enforcement. In particular, HSE was interested to get the Forum’s views on whether new legislation could have greater impact than enhanced guidance.
5.3	There was a lively debate with several clear points emerging. There was general agreement that more directors in small companies are prosecuted because of the clearer line of accountability. There was a strong feeling among members that good health and safety is the responsibility of all in the workplace. There was some concern that if good health and safety is about ‘culture’ then legislation may not be the most effective route to achieve it. The positive case studies approach that HSE has adopted was considered by some as the best way to foster a positive health and safety culture. Several members felt that this is another case where the responsibility for health and safety was laid on the shoulders of directors at the expense of individual responsibility, which includes employees as well as employers.

5.4	There was concern that the type of measures being suggested to demonstrate compliance with proposed legislation such as a Board level strategy for health and safety and monitoring systems were inappropriate and alien to most small and medium enterprises (SMEs) and would just be another opportunity for consultants and insurance companies to levy fees.
5.5	The view was expressed that the proposals seem to be absorbing a lot of resource disproportionate to potential gain. Members felt strongly that the key priority should be on ensuring that health and safety is managed properly, not focusing on prosecuting directors. It was suggested that the Enforcement guidelines could be changed to remove any bias against SMEs. It was stated that HSE is amending instructions to inspectors to provide greater clarity as to the intentions of the proposed legislation.
6	Alternative penalties on health and safety
6.1	Jonathan Russell introduced this item, following increasing acknowledgement, in light of the Hampton report and publication of the HSC's enforcement policy statement that Alternative Penalties (AP) do have a role to play in the health and safety enforcement. In particular HSE is examining whether they can work in promoting long-term compliance and a positive culture change.
6.2	HSE are considering various models of APs, particularly administrative fines and restorative justice. Alternative penalties have been used extensively within other H&S systems, notably the EU and Australia, and we have some evidence of effectiveness to evaluate. HSE is looking for APs which are effective in changing duty holder behaviour and improving health and safety outcomes; they should also be practical and satisfy the principles of enforcement without undermining the effectiveness of existing enforcement tools
6.3	There was general agreement from members that enforcement does change behaviour and promote health and safety compliance. Some of the measures being examined were not perceived as being more effective than the current UK regime. Concern was expressed that APs should apply to all with H&S responsibilities not just Directors.
7	Proposed duties on one-off/occasional construction clients
7.1	<p>Richard Boland introduced an item on the revision of the CDM Regulations 1994 which aims to simplify them, improve their clarity, so making it easier for duty holders to know what is expected of them and maximise the Regulations' flexibility.</p> <p>In particular, the proposals introduce a new duty on Clients to make explicit existing duties under the 1999 Management Regulations. The Client will be required ensure, so far as is reasonably practicable, that the arrangements made for managing the project are suitable to ensure that the construction work can be carried out safely and without risks to health. For notifiable projects (those which last longer than 30 days, or involve more than 500 person days' work) clients are required to appoint a health and safety co-ordinator to advise and assist them in meeting this duty, and to assist them in ensuring that they appoint competent contractors and designers to carry out the work.</p> <p>The recent Consultation revealed concerns from one-off or smaller construction Clients that the proposed new duty was unclear and onerous. In response to this, HSE had taken on an industry secondee (Tim Kind, who is a member of the Forum) to</p>

	<ul style="list-style-type: none"> • Consult with the key Client intermediary bodies (particularly those representing smaller businesses who may be occasional clients) in order to better understand the concerns of this client group and identify ways in which these could be overcome; • Crystallise the key messages we need to give to this client group prior to and during the launch; • Identify how best these messages should be delivered and by whom <p>Tim is due to submit his report imminently and in the meantime HSE has redrafted the requirement to make it clearer what clients will be required to do. Work is also underway on an Approved Code of Practice (ACoP) to support the Regulations, and HSE is working with industry on the production of industry guidance, which will be targeted, specifically at smaller and 'one-off' clients.</p>
7.2	Some members expressed concern that there had been significant changes to the regulations since the consultation period ended. Richard stressed that most of the changes were to the structure of the Regulations in order to make them easier to follow, but the content had changed little. Once the changes arising from the consultation had been made, a decision will be taken by the HSC as to whether a further consultation is needed. Members asked if they could see the draft ACoP, and Richard explained that it was currently in its first draft, and the CONIAC (Construction Industry Advisory Committee) working group which was assisting with the revision had not yet had chance to comment. Richard agreed to send a copy of the draft ACoP to the SBTA secretariat when the views of the CONIAC working group had been taken on board.
7.3	There was a lively debate. Some Forum members expressed the view that the proposed new duty was excessive and that it was for the Construction industry to self-regulate and ensure health and safety competence. There was a general concern about 'rogue traders' in the construction industry who ignore health and safety regulation and the view that the problem should be tackled from that angle.
8	Members' opportunity to raise 'hot' topics
8.1	No matters raised.
9	AOB
9.1	HSE's Communications Delivery Service has agreed to offer a significant discount of just over 30% to Forum members for bulk orders of the publication Essentials. Forum members can also order bulk copies of free leaflets at no cost.
10	Meeting round up and close
	Geoffrey Podger, thanked Members and said that there had been interesting and worthwhile discussions. One point he would like to emphasise that HSE is an active enforcer with over 1200 prosecutions per annum and a 95% success rate. He would very much like to attend the Forum again.
	The next meeting will take place on 4 July 2006.
Actions	Secretariat to: <ul style="list-style-type: none"> • Consider a meeting where Forum members are given the opportunity to discuss 'blue sky' thinking. • Secretariat to forward onto members a draft copy of the ACoP when the views of the CONIAC (Construction Industry Advisory Committee)

working group have been taken on board, so that Forum members can get an early input into it.

Forum members to:

- Express views on whether new legislation could have greater impact than enhanced guidance relating to Directors' Duties.
- If Forum members have any queries or points they wish to raise in regards to the presentations please contact the SBTAF email account and your information and details will be passed on to the relevant party.
- If members wish to make comments or provide feedback on items covered in the update papers (circulated in advance of the meeting) these will be readily accepted. Please send comments to the SBTAF email account.

To contact the Small Business Trade Association Forum Secretariat, please email sbtaf.secretariat@hse.gsi.gov.uk or telephone 020 7717 6319