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WORKFORCE ENGAGEMENT AND CONSULTATION

1. This SIM provides information to inspectors on promoting worker consultation and engagement by employers/people in control on construction sites. It is particularly relevant to the Project, *Employer engagement with workers*, a part of the Construction Division's Work Programme 2003/4.
2. The Construction Design and Management Approved Code of Practice (CDM ACop) seeks the involvement of workers and requires that arrangements for involving and consulting workers should be included in construction phase health and safety plans.
3. This SIM should be read in conjunction with [OC111/2](#) on the general policy for contact with employees and [OC111/3](#) on enforcement relating to worker consultation.

BACKGROUND

1. [Appendix A](#) briefly sets out in bullet point form the key messages that require promotion. These are covered in more detail in the remainder of the *Background* text.
2. HSC's 'Revitalising Health and Safety' Strategy Statement June 2000, notes that a key to delivering health and safety in the workplace is effective engagement of the workforce themselves and their effective representation in the safety regime. 'Respect for People' issues are increasingly to the fore in bringing about cultural change in the industry. They strongly feature in the report of the Strategic Forum for Construction, 'Accelerating Change' and they are increasingly mentioned in construction company annual reports. The Rethinking Construction 'Respect for People Toolkit' provides further useful advice, in particular as a means for measuring worker engagement ([Toolkit](#)).
3. All workers, including those in the construction industry, have a right to be consulted on the work they do, to be given adequate information and training to carry out this work in a safe and healthy manner and to have decent site facilities. It is workers who suffer most from accidents and incidences of ill-health. Directly involved in the process, they frequently see problems as they emerge. Unlike other industrial sectors, however, consultation is rarely undertaken as a matter of routine.
4. Recent years have seen a large increase in the numbers of foreign workers in all sectors. The increasing size of the European Union may cause further changes. These workers, like any other, must be fully engaged and consulted on matters of health and safety at work: employers must find adequate mechanisms to do this. Similar consideration should be given to other workers who have difficulties in communicating.

5. The TUC has reported that workplaces with safety representatives and joint safety committees have significantly better accident records than those with no consultation mechanism and record up to 50% fewer injuries.

6. The Major Contractors Group (MCG) Health and Safety Charter commits members to effective worker consultation. The full text of this Charter commitment can be found at the [MCG Website](#)  (51 pages) (see particularly pages 16-22). Their strategy includes:

- H&S Committees on sites with more than 25 workers;
- Worker's rights to stop work (under legislation separate from HSWA);
- Consultation at 3 levels; project, work gang & individual.

7. A recent HSC pilot explored the effectiveness of Workers Safety Advisors (WSAs) in 4 industry sectors, including construction. The WSAs mainly visited small to medium sites run by around 30 member companies in the Federation of Master Builders (FMB). The WSAs engaged both managers and their workforces with a view to improving health and safety management and on-site standards. The pilot ran for 9 months ending in November 2002. A report was presented to the Commission in May 2003 and is informing further policy development.

8. The Construction Industry Advisory Committee (CONIAC) agreed at its July 2003 meeting to develop and publish a 'best practice' note on worker consultation. Inspectors will be kept informed of developments.

LEGAL REQUIREMENTS

9. In addition to the duties under the Health and Safety at Work etc Act 1974 placed on employers to inform and consult their workers, on-site worker consultation may variously be required by:

a. Regulation 18 of the Construction (Design And Management) Regulations 1994 requiring principal contractors to ensure that:

i. All workers can discuss and offer advice on reasonably foreseeable health and safety matters: and that

ii. There are arrangements for co-ordinating the views of employees or their representatives on matters of health and safety having regard to the nature and size of the project.

b. The Safety Representatives and Safety Committees Regulations 1977 that give rights to union safety representatives to represent the workforce on matters of health and safety. This includes construction sites where there are recognised trade unions.

c. The Health and Safety (Consultation with Employees) Regulations 1996 that apply where there are no trade union representatives. Again, these can apply to workers on construction sites.

10. The CDM ACop provides ACop advice and guidance to principal contractors on making arrangements for involving and consulting the workforce (see paragraphs 214 to 228).

11. In particular, the CDM ACop advises that the arrangements made for consulting the workforce should be included in construction phase health & safety plans. The ACop also

advises principal contractors to make use of union safety representatives, employee safety representatives and safety committees where they are present at a site (see paragraphs 224 & 225 of the ACoP).

12. ACoP guidance encourages worker involvement to aid good communication and to develop a safety culture. Paragraph 222 provides examples:

- Involving people actively in managing the hazards associated with their work;
- Informal discussions and meetings;
- Toolbox talks to allow the workforce to raise health & safety concerns related to their work.

INSPECTION APPROACH

13. When carrying out inspections or relevant investigations, inspectors should:

- Actively seek out and engage with worker representatives at all visits;
- Ensure, in particular, that the standards/objectives in paragraphs 224 & 225 of the CDM ACoP, or an equivalent standard of compliance, is being achieved;
- Promote key messages about the advantages of worker consultation during proactive and reactive work. Using the Workforce Satisfaction Toolkit from Respect for People Toolbox can usefully feature.
- Take account of the special needs of poor English speakers and others with similar barriers to communication; and
- Encourage MCG members to meet their Health & Safety Charter commitments.

14. The following question set may assist in determining whether there is compliance with the CDM ACoP or an equivalent standard, viz:

- Are there arrangements for involving the workforce in health and safety matters?
- Can everyone discuss and offer advice on matters liable to affect their health and safety?
- Are there arrangements for coordinating the views of workers or their representatives; and are these adequate, having regard to the nature of the work and the size of the project?
- Have these arrangements been incorporated into the Construction Phase Health & Safety Plan?
- Are these arrangements being implemented?
- Are they effective?

15. Where CDM does not apply, Inspectors are advised to follow the guidance in [OC 111/2](#).


16. Where the means for engaging the workforce are ineffective, inspectors should consider enforcement action within EMM considerations and in accordance with [OC 111/3](#). Where applicable, paragraph 224 of the CDM ACoP is likely to be particularly useful. [Appendix B](#) provides a matrix to assist in drafting improvement notices.

17. Construction Sector would appreciate information in reflective reports on worker engagement generally and on MCG compliance with their Charter on worker consultation. A list of MCG members and contacts is provided at [Appendix C](#). Inspectors are invited to challenge member company sites on their compliance with the Charter.

SUPPORTING MATERIAL

18. [Appendix D](#) provides an informative note about consultation written for principal contractors and their project managers. It can be copied and used for that purpose.

19. Other documents of note include:

- Construction Division Work Programme 2003/4: Project Plan for Employer Engagement with Workers
- ~~Managing Health and Safety in Construction: Construction, Design and Management Regulations 1994, (The CDM ACoP), HSC224 (withdrawn)~~
- Safety representatives and safety committees, HSE Books L87 (3rd Edition)
- A guide to the Health and Safety (Consultation with Employees) Regulations 1996, L95
- Consulting Employees on Health and Safety: A guide to the law, HSE books INDG232
- Management of Health and Safety at Work, L21
- [OC111/2](#) Contact with Safety/Employee Representatives by HSE Inspectors at Visits
- [OC111/3](#) Enforcement of Regulations Requiring Consultation with Employees
- [‘Respect for People’ Toolkit](#)
- [MCG Charter](#)  (51 pages)

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Appendix A

Involving The Workforce in Construction Health and Safety

Key points

Key points are as follows:

- Employer/employee partnerships are an HSE Strategic Objective (see June 2000 RHS Strategy Statement).
- The construction industry has a poor record of engaging with and involving its workforce. Practices generally fall far below 'best practice' in other industries.
- Duties placed on employers and those in control to ensure that they engage and consult with the workforce are not always given sufficient priority.
- It is workers who suffer accidents and ill health. Directly involved in the process, they often appreciate emerging problems before others.
- Research shows that companies that engage, communicate and inform their workers have fewer accidents and fewer lost days.
- All workers have a right to be consulted about the work they do, to be given adequate information and training, to have a safe and healthy working environment, and to have decent site facilities.
- Consultation should take account of language and similar barriers to communication.
- *Respect for People* issues have gathered momentum under the Strategic Forum and are achieving a higher profile across the industry.
- The Rethinking Construction '*Respect for People Toolkit*' on *Worker Satisfaction* provides a means of measuring worker engagement.



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Appendix B

Matrix to aid with producing an Improvement Notice

These two tables may assist in drafting Improvement Notices. Inspectors should take account of the particular circumstances, the nature of the breach and the size of the undertaking when determining which regulations to apply and when drafting Schedules to Notices.

Law	Reasons for forming that opinion
CDMR 1994 Regulation 18(a)	Failed to ensure that employees and self-employed persons on the project are able to discuss and offer advice on matters that can be reasonably foreseen to affect their health and safety.
CDMR 1994 Regulation 18(b)	Failed to make arrangements for co-ordinating the views of employees or their representatives while at work on the project. (Note to Inspectors: there is a qualification with regard to the size of the undertaking. See paragraphs 214-226 of HSC 224 for further guidance on consultation under CDM.(withdrawn))
SRSCR 1977 Regulation 4A	Failed to consult safety representatives / affected employees with regard to: <ul style="list-style-type: none"> • The introduction of [<i>insert appropriate text on measures/processes</i>] which may substantially affect their health and safety, and/or • The arrangements for appointing a competent person (MHSWR 1999), and/or
HSCER 1996 Regulation 3	<ul style="list-style-type: none"> • The provision of relevant health and safety information required to be kept under RIDDOR 1995, and/or • The planning and organisation of health & safety training as required these regulations, and/or • The health & safety consequences to employees when introducing new technologies into the workplace.

Schedule for Notice under CDM Regulation 18	Guidance
<p>You, as Principal Contractor, shall:</p> <p>1. Either:</p> <p style="padding-left: 40px;">i. Prepare a document setting out your arrangements by which employees and self-employed at work on the construction project are able to discuss and offer advice on matters that can be reasonably foreseen to affect their health and safety; and,</p>	<p>A guide to the Health and Safety (Consultation with Employees) Regulations 1996 (L95)</p> <p>Consulting Employees on Health and Safety: A guide to the law, HSE books (INDG232)</p> <p>Management of Health and</p>

<p>ii. Take steps to implement the arrangements; and,</p> <p>iii. Include these arrangements in the Construction Phase Health & Safety Plan.</p> <p>2. Or, take other equally effective means to ensure compliance with your statutory obligations.</p>	<p>Safety at Work (L21)</p>
<p>Schedule for Notice under SRSCR Regulation 4A where there are appointed union safety representatives.</p>	
<p>You, as employer / person in control shall:</p> <p>1. Either, implement means to consult with appointed Safety Representatives on:</p> <p>i. The introduction of new [<i>insert appropriate text on measures/processes</i>] which may affect the health & safety of the workers they represent; and,</p> <p>ii. The arrangements for appointing persons in accordance with MHSWR; and,</p> <p>iii. The provision of health and safety information to workers; and,</p> <p>iv. The planning and organisation of health & safety training.</p> <p>2. Or, take other equally effective means to ensure compliance with your statutory obligations.</p>	
<p>Schedule for Notice under HSCER Regulation 3</p>	
<p>You, as employer / person in control shall:</p> <p>1. Either:</p> <p>i. Prepare a document setting out your arrangements by which employees and self-employed at work on the construction project are able to discuss and offer advice on matters that can be reasonably foreseen to affect their health and safety; and,</p> <p>ii. Take steps to implement the arrangements.</p> <p>2. Or, take other equally effective means to ensure compliance with your statutory obligations.</p>	

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Appendix C

MCG Member Companies

Company	Name	Contact e mail
AMEC Plc	Jason Rowley	Jason.Rowley@amec.com
Ballast Plc	Howard Walters	Howard.Walters@Ballast.co.uk
Bovis Lend Lease	Peter Jacobs	peter.jacobs@eu.bovislendlease.com
Carillion Plc	Tony Wheel	twheel@carillionplc.com
Costain Group Plc	Peter Fisher	peterh.fisher@costain.com
Galliford Try	Richard Forster	Richard.forster@gallifordtry.co.uk
HBG	Frank Garnett	fgarnett@hbgc.co.uk
John Mowlem & Co Plc	Alan Muddiman	alan.muddiman@mowlem.com
Kier Group Plc	John Morgan	safety@kier.co.uk
M J Gleeson Plc	Malcolm Rabett	mrabett@mjgleeson.com
Miller Group	James Willoughby	james.willoughby@miller.co.uk
Morgan Sindall Plc	Bob Cole	Robert.Cole@morganest.com
Morrison Plc (now AWG)	Robin Chaplin	Robin.Chaplin@morrisonplc.com
Shepherd Construction	Mark Owen	mowen@shepherd-construction.co.uk
Sir Robert McAlpine	Bob Rennie	b.rennie@sir-robert-mcalpine.com
Skanska	Neil Moore	neil.moore@skanska.co.uk
Taylor Woodrow	Paul Turrell	paul.turrell@taywood.co.uk
Vinci Plc	Terry Penketh	terry.penketh@norwest.co.uk
Wates	Tony Metcalfe	tony.metcalfe@wates.co.uk
Willmott Dixon	Rick Willmott	Rick.willmott@willmottdixon.co.uk

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Appendix D

Involving The Workforce in Construction Health and Safety

Introduction

The majority of health and safety issues on any project relate to workers' health and safety and almost all health and safety problems need the co-operation of the site workforce.

This guidance has been prepared to assist construction companies and others to increase the involvement of workers in site health and safety.

What the law requires

Under the Construction (Design and Management) Regulations 1994 (CDM), principal contractors are required to ensure that all workers are able to discuss and offer advice on matters connected with the project which may affect their health and safety. Principal contractors should also make arrangements for the co-ordination of workers' views, for example, through a safety committee or via appointed representatives, having regard to the nature of the work and the size of the project.

In unionised companies where safety representatives have been appointed under the Safety Representatives and Safety Committees Regulations 1977, employers are required to consult safety reps with a view to making and maintaining effective health and safety arrangements. Employers must achieve coverage of all workers in one-way or another so that efforts to control risks to health and safety are combined and co-ordinated.

The Health and Safety (Consultation with Employees) Regulations 1996 apply where there is no trade union appointed safety representative. Employers are required to consult with employees on matters relating to their health and safety at work. This consultation has to be with all of the affected employees unless they have elected a representative to act for them.

Why Is This Important?

Involvement of the whole workforce is essential in tackling the high accident rate in the construction industry. Besides compliance with the regulations, it has been shown that workplaces with safety representatives and safety committees have significantly better accidents records with over 50% fewer injuries than those companies with no consultation mechanism.

On every project, it is the workers on site who are most at risk of injury and whose first-hand involvement with the work gives them the opportunity to contribute much to improving health and safety standards.

Involving the whole workforce is an important step towards reducing the high accident rate in the construction industry. Experience has shown that participation is most effective when workers understand the main health and safety issues and have confidence to communicate with management.

Ways to improve Workforce Involvement

The following are some of the ways that workers can be involved in site health and safety:

Making A Commitment To Communication

- Have a clear policy on site communications, for example, invite workers to speak to site management or else ask them to pass comments through their site supervisors or via a safety committee;
- Tell workers about the site policy at their site induction session;
- Display notices encouraging workers to express their views on site health and safety;
- Involve the workforce as they know the job, the risks and the shortcuts: this will help gain ownership and commitment to common goals. It will help achieve these goals and increases likelihood of the workforce following the procedures;
- Put a suggestion box in the canteen;
- Monitor worker input and encourage/reward participation;
- Mechanisms to engage the increasing numbers of foreign workers should be put in place. (The poorly literate should also be engaged.)

Keep Workers Informed

The following types of information will help keep workers up to date about health and safety on site:

- Training which includes information about site hazards and the results of risk assessments;
- Information on the results of health and safety inspections;
- Details of accidents and near-misses and the findings of investigations. By providing feedback to the workforce, an employer shows that commitment is translated into action otherwise the workers will stop getting involved.

Provide Feedback To The Workforce

Communication policies are most effective if workers see appropriate responses to issues which are raised and so are encouraged to get involved themselves. It will assist in 2 way communication, resulting in the building of trust and co-operation which will help develop a safety culture. This can be done by:

- Telling the workforce about health and safety successes, including those achieved on other sites;
- Recording actions taken in response to workers' suggestions on a safety notice board;
- Discussing workers' attitudes to health and safety issues at training sessions and "Toolbox Talks".
- On many sites subcontractors deliver a proportion of Toolbox Talks to their own workers. This can be a useful way of developing two-way communication with others and as a means to encourage consultation at the 'workface'.

For more information or advice about the contents of this guidance, please contact the Construction Group at your local HSE office.