

WORKPLACE HEALTH AND SAFETY COUNCIL

Meeting No.7
Thursday 9 April 2009

MINUTES

PRESENT Helen Kelly (Chair), Andrew Casidy, Paul Jarvie, Panu Raea, Paul Mackay, Hon Kate Wilkinson and Hon Pansy Wong for item 7.4.

IN ATTENDANCE Craig Armitage (DoL), Ray Campbell (ACC), Leonie Hall (DoL), Frances Lane Brooker (DoL), Katie Sadleir (ACC), Geoff Wilson (ACC), Mark Wagstaffe (DoL), Jim Murphy (DoL), Mike Munnely (DoL) Neil Cooper (Ministry for the Environment) for item 7.4, and Andrea Eng, Rob Forlong (ERMA) for item 7.4, Conal Smith and Ingrid Jaegers (Statistics New Zealand) for item 7.6.

Colin Meehan (Private Secretary Labour), Chris Bennett (Private Secretary ACC), Glenn Lamont (Ministerial Advisor) for item 7.4.

APOLOGIES Phil O'Reilly (Business NZ), Chris Blake (DoL), Maarten Quivooy (DoL).

INTRODUCTION

The meeting commenced at 10.15 am with a brief introduction from attendees.

ACTION

The Council:

- 7.1 **Noted** apologies.
- 7.2 **Noted** the Council membership vacancy.
- 7.3 **Confirmed** the minutes of the 26 August 2008 meeting.
 - 7.3.1 **Agreed** the summary of actions.
 - 7.3.2 **Requested** that item 7.3.2 be discussed at the next meeting to allow time for further consideration.
 - 7.3.3 **Noted** the engagement opportunities calendar update.

STAKEHOLDER ENGAGEMENT

Item 7.4: Introduction and overview on the management of hazardous substances and agency roles and responsibilities

At the August 2008 meeting, Council members agreed that senior Department of Labour (DoL) officials, Ministry for the Environment and ERMA New Zealand should provide an overview of the management of hazardous substances and their roles and responsibilities.

Presentation from the Ministry for the Environment (MfE)

Neil Cooper provided an update to the Council on MfE's role in the management of hazardous substances.

MfE is the policy agency for hazardous substances, which includes responsibility for the legislative and regulatory framework.

Hazardous substances compliance and enforcement are priority areas of work, along with clarifying and simplifying regulations. Currently there is concern about the low level of HSNO compliance. This is attributed to a lack of awareness and knowledge amongst industry groups, complexity of the regulations and controls and low levels of enforcement.

It is estimated that harms caused by chemical exposure cost \$1.3M pa, however data sources are incomplete and disjointed. Neil also indicated that there is a lack of clarity of roles and responsibilities, but acknowledged that HSNO work is a complex area – a mix of substances, regulations and controls.

Neil also highlighted concerns regarding the operation of the regime test certifier. There is an aging workforce as well as difficulties getting new recruits into the area. Neil cited barriers to entry, no formal training and a lack of professional development offered to recruits, resulting in a skills shortage for the area.

Neil indicated that there is a major risk of enforcement and compliance issues within the workplace. This is a DoL responsibility; however Neil noted that there are funding issues for DoL. Recent improvements in the DoL's work are pleasing to note.

MfE would like to see further work with relevant agencies:

- clarifying agency roles and responsibilities
- identifying data sources on compliance, harms
- reviewing and improving the test certifier regime
- reviewing the regulations
- seeking stronger industry support; and
- supporting stronger enforcement.

Presentation from the Environmental Risk Management Authority (ERMA)

Rob Forlong provided an update to the Council on ERMA's involvement in the management of hazardous substances.

Rob's presentation was in two parts, the first dealt with defining hazardous substances, the second discussed ERMA's role concerning hazardous substances.

A hazardous substance is something that is explosive, flammable, an oxidizer, toxic, corrosive, and/or ecotoxic.

ERMA NZ is charged with approving new hazardous substances and reassessing existing hazardous substances. It also approves equipment and test certifiers. The role also involves raising awareness and educating about the risks of hazardous substances.

ERMA reports to the Minister for the Environment on the effectiveness of the HSNO Act and on specific issues. Rob noted the complexity of HSNO legislation, suggesting that it will always be complex because the substances are complex (there are more than 100,000 approved hazardous substances used in 150,000 workplaces), but agencies need to work together to help businesses comply.

HSNO legislation is performance based and customised to the substance; large industries find it easier to comply with this type of legislation than smaller industries and businesses. Group standards are more prescriptive and seem to be more easily understood and used.

DoL, MfE and ERMA have devoted increased resources to providing compliance guides for industry sectors. All agencies are working on HSNO to improve a difficult situation. Rob noted that site visits are crucial as it is preventative action – pockets of good news stories are in evidence. Among the ongoing issue for HSNO is the adequacy of resources for agencies.

Presentation from the Department of Labour (The Department)

Craig Armitage provided an update to the Council on the Department's involvement in the management of hazardous substances.

Craig's presentation was in three parts. The first part discussed the nature of the Department's hazardous substances work, the second part discussed future direction, and the third part discussed roles and responsibilities and issues with HSNO.

A central theme of the presentation was how to integrate the work required on HSNO with core Health and Safety Act (HSE) work. Currently, the Department is only able to penetrate a very low number of businesses likely to have hazardous substances, and baseline funding for this work is low (\$2.2 million per annum). A significant increase in HSNO resourcing would be required to improve the Department's ability to work in this area.

The funding arrangements for HSNO work is complex – coming through different budget lines. In a constrained resource environment the Department will never have a high level of penetration into workplaces; however choices must be made about how the work is targeted on a 'risk basis'. A targeted approach is very challenging.

At least three quarters of HSE inspectors also hold HSNO warrants. But the actual FTE involved in HSNO is very low. Most HSNO warranted staff devote only a small portion of their time to HSNO work. Contractors undertake the bulk of the Department's HSNO work.

The Department's preference in helping businesses comply with the controls has been to support and assist compliance, taking enforcement action as a last resort. However, there are policy concerns about the ability to use infringement notices, a crucial enforcement tool – this has not been implemented under the HSNO Act.

Future direction

While HSNO and HSE are different regulatory regimes, from the Department's perspective, both Acts are ultimately about safety and health in workplaces. It therefore makes sense to optimise the roles and activities under both Acts in order to achieve the best outcomes.

The Department's key objective is to ensure that hazardous substances, just like other hazards are being effectively managed in places of work and are not harming people.

To this end, the Department is:

- integrating work involving hazardous substances as core inspectorate business alongside HSE activities
- providing clearer guidance to staff about how to respond to unmanaged hazards in the workplace, drawing on both HSE and HSNO powers
- providing clearer guidance to staff about how to enforce the HSNO Act including the Department's enforcement principles and approaches
- improving the way in which the Department plans and reports on activity to be clearer about expectations and more effectively drive delivery, focus and accountability
- working with other agencies to maximise opportunities for shared work and information sharing.

Issues

The Department's HSNO budget allocation is currently \$4.4 million per year. Half of this funding is baseline and the other half is provided as interim funding which ceases this year. The Department has to put up a business case to extend the interim funding.

There is also an amendment Bill before the House to change the HSE Act to enable the Government to use the HSE levy to recover the costs of HSNO enforcement. On its own however, legislation is not the 'silver bullet' to all problems. Craig noted that smaller enterprises struggled with a variety of legislative and regulatory compliance issues not just performance based regulation.

The Department is exploring ways to promote workplace health and safety using the full range of regulatory and non-regulatory tools to obtain the best outcomes

Discussion

After the presentation, Council members contributed the following opinions:

- Money goes to the NZ Chemical Industry Council to fund codes of practices and these are then sold on as a commercial product for a profit.
- Funding for HSNO should not be cut as removing funding will not improve the situation. If health and safety is viewed as a core value, then the budget cannot be cut because this would negate this value.

ACTION

7.4.1 **Noted** the presentations from agencies regarding the management of hazardous substances

7.4.2 **Agreed** the importance of supporting funding to continue

7.4.3 **Agreed** to deal with HSNO issues more substantively between meetings through an emailing/wiki discussion between Council members. This will also input into the Strategy Review

7.4.4 **Requested** that HSNO be put on the agenda to be discussed at the next meeting in May

WHSC STRATEGIC PRIORITIES AND ISSUES

Item 7.5: Progress report on occupational disease and injury surveillance (Mark Wagstaffe, DoL, verbal report)

A Request for Proposal (RFP) has been issued for "Indicators for the surveillance of occupational disease".

The RFP seeks to establish a future-focused research project which provides for a model which identifies valid indicators (including lead indicators) of occupational disease in particular, cancer, respiratory disease (including asthma) and dermatitis that will lead to improved targeting and assessment of interventions and contribute to ongoing surveillance of occupational disease.

The research will provide the Department, and related parties with a robust knowledge base to inform occupational disease prevention efforts. The research (using existing administrative data sets) will identify indicators for the surveillance of occupational disease, and develop a model that will contribute to the ongoing surveillance of occupational disease. The research should also identify areas of improvement in administrative data sets that would lead to the development of enhanced indicators for the surveillance of occupational disease.

ACTION

7.5.1 **Noted** the presentation from Mark on occupational disease and injury surveillance

Item 7.6: Injury Information Manager progress report

Conal Smith provided Statistics New Zealand's bi-meeting progress report to the Council and presented copies of the Official Injury Information Plan for 2009 to members and guests.

Conal outlined the role of the Injury Information Manager (IIM) and described how Statistics New Zealand supports the role and responsibilities. He then discussed the project plan for 2009 and future direction of the IIM.

There are 3 specific objectives for the 09 strategic direction of the IIM:

- **No closed shop:** The IIM works and actively engages with the broader community of injury information users and producers. Decisions are made transparently.
- **No wrong door:** Rather than attempting to build a single one-stop shop for injury information through Statistics NZ, the focus is to ensure that any point of entry into New Zealand's injury information system leads directly and clearly to the same information, regardless of where it is accessed.

- **No duplication of effort:** The aim of IIM is to build on what has been developed and make good use of existing data, not to build extensive new information unless this genuinely adds value.

Priorities for the Official Injury Information Programme 2009, include:

- **Documenting core injury information datasets (the highest priority for Statistics NZ):** this involves improving the quality of information, making data collection more useful, accessible, and easier to use
- **Monitoring injury outcomes:** to contribute to public debate and for policy making, it is important to make valid comparisons of injury rates by using a consistent set of injury measures
- **Improving the quality of serious injury information:** This involves improving the accuracy and consistency of serious injury records and presenting options to capture information on serious injury outcomes

ACTION

7.6.1 **Noted** the Injury Information Manager Progress Report

7.6.2 **Tabled** the Official Injury Information Plan for 2009

7.6.3 **Commended** the Official Injury Information Plan and the progress that Statistics New Zealand has made in this area since the first presentation to the Council.

The Minister of Labour, Hon Kate Wilkinson, and Associate Minister of ACC, Hon Pansy Wong joined the meeting from 11.30-12.15

Item 7.7: Review of the Workplace Health and Safety Strategy

After brief introductions Minister Wilkinson spoke about the Government's concern with workplace health and safety and the desire to build up a 'culture of safety'. The Council is a great forum for providing leadership to others on health and safety. The Review of the Workplace Health and Safety Strategy (the Strategy) is timely and she looks forward to seeing the results.

Minister Wong also welcomed the Review. She asked for more detail about the role and activities of the Council, in particular – what has been worked on in the last 18 months. She had a particular interest in the uptake of the ACC safety discounts scheme, and had questions about why this didn't seem to incentivise employers as it was intended.

A general discussion about the Strategy and the role of the Council continued for the remainder of the meeting.

The Strategy is seen as vital by Council members and it requires a clear articulation to make sure that our workplaces plus 'everything else' hangs together well. Some members perceived that the Strategy is too reliant on central agencies to do the work; there are practitioners who want to participate in a constructive way. There should be a shift in this direction.

Craig Armitage noted the expectation that WHSC members would liaise with stakeholders and provide leadership for the Strategy review.

There were comments about taking stock of the health and safety environment and how the 'game needs to lift' and result in meaningful and tangible benefits for health and safety on the ground.

Council members raised with Ministers their concerns about the potential for a cut in funding for DoL concerning HSNO enforcement activities, and recommended that on-going funding be maintained at current levels as a minimum.

Paul Jarvie suggested that health and safety representative training tends to 'stop' once stage one of the process has been completed, there doesn't tend to be training for managers and employers. This is a problem that should be addressed; the review could examine the effectiveness of health and safety training and explore alternative streamlining options.

As a first step, the Department's engagement with industry needs to increase and a better awareness of the needs of businesses (particularly SMEs) and how they can comply and improve their health and safety record is necessary.

If, due to resource constraints, the Department cannot visit businesses often then there needs to be a clear articulation of how to gain compliance without. For example, there have been successes in some small sectors with health and safety such as the embalming industry. There is a role for Business NZ to encourage initiatives like these and to promote business leadership in health and safety with industry councils.

ACTION

7.7.1 **agreed** that the Strategy review should be a regular standing item on the Agenda

7.7.2 **requested** to meet informally with the review team about the Strategy review

Next meeting

ACTION

7.8.1 **Agreed** agenda items for the May 13th meeting:

- **Item 7.3.2** Information on the funding basis for training capability programmes will be discussed in more detail at this meeting
- The Strategy Review
- The management of hazardous substances and new organisms will be discussed

ADDITIONAL PAPERS

Council Members were provided the following additional papers:

WHSC 09 30: (a&b): Information on the funding basis for training capability programmes

WHSC 09 32: Injury Information Manager Progress Report

SUMMARY OF ACTIONS

Reference	What	Who	Progress
7.3.2	Department secretariat to put paper 7.3.2 (information on the funding basis for training capability programmes) on the agenda again for further discussion at the May 13 meeting. Council members agreed that they needed more time to discuss the issues in detail.	DoL	
7.4.3	Wiki to be set up to discuss HSNO issues. The purpose of using this on-line tool is to facilitate discussion amongst Council members between meetings. Questions may also be raised for officials to answer if requested.	Helen Kelly	Actioned 10/4/09
7.4.4	Department secretariat to put this item (management of hazardous substances, roles and responsibilities) on the agenda for further discussion at the May 13 meeting.	DoL	
7.71	Department secretariat to put the Review as a standing item on the Agenda until its completion.	DoL	
7.72	Department of Labour review team to meet with NZCTU members informally about the Review.	DoL	Actioned 24/4/09

Meeting closed	12.30pm, Thursday 9 April 2009
Next meeting	9am-1pm, Wednesday 13 May, 3.4 Members Only Dining Room, Beehive
Chair	Chris Blake