



Birmingham Health, Safety & Environment Association

Registered Charity No.: 255523

721 Hagley Road West
Quinton, Birmingham B32 1DJ

Email: secretary@bhsea.org.uk

Website: www.bhsea.org.uk

Fax: 0121 421 3463

Tel. No. 07802 973795 (09.30 – 12.30) only

Secretary: Andrew Chappell C.Eng., MIET., Dip.E.E., CMIOSH, MCFI

Newsletter

January 2009

Welcome to Our New Members

- Lee Hopkins, Senior Project Safety Advisor, Birmingham New Hospital Joint Venture
- Rob Hobson, Company Secretary, Estil Ltd.

BHSEA Annual General Meeting 12th January 2009

BHSEA Chairman Bob Cole welcomed the members and HSE speaker, Steve Flanagan, to the meeting. The Secretary then read out apologies for absence from President, Morris Cooke, David Hughes and Tony Hall.

The Chairman referred members to the Minutes of the 2008 AGM that had been circulated previously and asked if there were any comments on accuracy. There were none and it was proposed by Ed Friend, seconded by Gerry Mulholnd and AGREED by the meeting that the Chairman should sign the minutes as a true record.

As there were no Matters Arising from the last AGM, the Chairman said he would only give a brief summary of his written annual report that members had already received. Referring to the links with our many partners, he thanked them for their help throughout the year, which had helped to develop a full programme of events. He also gave thanks to our many speakers for their efforts to make the meetings so informative and attracted audiences of between 50 – 60 each month.

He then mentioned the joint, new BHSEA/NEBOSH initiative, launched at the 2008 Health and Safety Expo. This was to award scholarships for a NEBOSH General



Bob Cole, Morgan EST

Certificate to an employee of any micro-SME in the West Midlands and a second award for the NEBOSH Construction Certificate, restricted to BHSEA member companies. He added that the first general Certificate had been awarded to Malcom Marshall, of Simpro, whilst the Construction Certificate had gone to Chris Lowther, of Jericho Community Business Ltd.

Bob added that another new initiative this year had been the “Members’ Corner” presentations designed to encourage members to present topics at the monthly meetings. This had been an idea inspired by past-Chairman, George Allcock, who had given the first presentation of the series.

Another special event had been BHSEA’s presence at the HM Customs and Revenue Business Advice Open Day at Walsall, which is a premier event normally reserved for Government Agencies and is very well attended. At this our stand attracted a large interest and we also recruited a new member! BHSEA is also taking part in the HSE’s Revitalising Networks initiative in the Engineering and other sectors, resulting in BHSEA members attending their events across the Midlands Region.

We also up-dated our publicity leaflet this year, in preparation for a membership recruitment drive in 2009 and are carrying out essential improvements to our Advice Centre at Quinton over the next 18 months. The BHSEA Website is continuing to develop, thanks to the efforts of Mark Hoare, and has become a prime vehicle for recruitment of members!

In a passing reference to our finances, Bob added that our rent from the Acock’s Green premises and investments in Ethical and Government Funds were a welcome source of income.

In conclusion, Bob thanked the HSE for its continued support and added his grateful thanks to Liz and Andy Chappell for their essential support in running the Association.

Gerry Mulholland then gave his **Construction Section Chairman’s** report and commented that the present economic climate was affecting many of our members and that this was something all of us needed to address. He went on to mention that the first Construction Section meeting had been addressed by Richard Lockwood, Principal Inspector for the HSE Construction Group, who presented the HSE campaign plans and work priorities for the next 12 months. The second meeting was devoted to Scaffolding and was given by BHSEA Member Rob Lynch, of Lyndon Scaffolding, who explained the major changes in guidance to be introduced shortly.

Regarding the Working Well Together (WWT) campaign, Gerry added, BHSEA was still leading the local activities and had suggested the successful Construction



Gerry Mulholland, Laing O'Rourke

Competency Breakfast Meeting in November. He went on to say that in 2009, WWT would be commemorating its 10th Anniversary Year, which was a major achievement for any campaign of this nature. In assessing the value of WWT last year, Gerry quoted these published accident statistics for the West midlands: -

	Previous 12 months	Last 12 months
Major Injuries	176	163
Fatalities	0	1
> 3 Day Injuries	333	297

This indicated that some improvements had occurred, but there was still much to do! In conclusion, Gerry thanked the Committee which channelled members ideas for the programme and particularly Liz and Andy Chappell for their valued support throughout the year.

The Secretary then presented the annual Accounts and Balance Sheet and reported that he had not received any written questions from members about the Report. He added that our financial state was still sound and went on to explain that the WWT Column showed the activities that were ring-fenced in the accounts for the Campaign and it mirrored the arrangements made for similar groups elsewhere in the UK, where new charities had been set up specifically for this purpose.

As there were no questions, it was **proposed by John Wood, seconded by Ed Friend** and AGREED by the Members that the Accounts and Balance Sheet should be approved.

There was no further business and the Chairman formally closed the AGM.

HSE Annual Progress Report and Workplan for 2009

Presentation by Steve Flanagan, Acting Head of Operations, Midlands Region

Steve prefaced his presentation by referring to the targets set in a Strategy Statement published in the year 2000, namely to achieve, by 2010: -

- **10%** reduction in fatal injury rates
- **20%** reduction work-related ill-health incident rates
- **30%** reduction in working days lost per 100,000 workers

The later **Fit3 Campaign Targets**, Steve added, were from a baseline of 2004/05, pro-rata for a period of three years. The priorities are these: -



Steve Flanagan, Acting Head of Operations, HSE Midlands Region

- MSDs
- Stress
- Respiratory disease
- Skin Disease
- Cancer
- Noise and HAV
- Slips and trips
- Falls from height
- Workplace transport
- Construction

Where they are high incidence, low risk consequence incidents, then the quality of monitoring has to be viewed cautiously. For instance, “Stress” is as difficult to quantify as a “bad back” used to be! Additionally, both of these conditions may be caused, either, from work- or non-work related causes and this may distort any analysis. So it is fair to say, he commented, that full progress has not been achieved yet, although the following results are encouraging: -

Injuries	9% Reduction
Ill-health	15% Reduction
Days Lost	20% Reduction

He added that there has been some speculation on the fact that the statistics do not include significant groups like Fatal Road Traffic Collisions or deaths in NHS Trusts from Hospital Acquired Infections.

In the present economic climate, Steve commented, we will also have to be cautious about the effect of recession on investment in Health and Safety, as well as lack of care!

In mentioning the highlights of 2008, Steve listed the following: -

- **The Midlands Local Exhaust Ventilation campaign**
This was good experience for the HSE Inspectors to expand their expertise in a relatively short time.
- **Corporate Manslaughter and Corporate Homicide Act 2007**
This act made it easier to secure a “high profile” label for a conviction because the lack of a test for a “directing mind” in a company. The anticipated increase in demand for HSE investigative assistance from the Criminal Prosecution Service has not materialised, so far. On the debit side, it has only provided another “label” as far as conviction is concerned, as the penalty is still only an unlimited fine, which is the same as for other Health and Safety Offences.
- **INDG417 Leading Health and Safety at Work**
This was a joint publication by the HSE and IoD, in support of the Corporate Manslaughter Act, which lays out a H & S Management Strategy for preventing fatalities in the first place!
- **Health and Safety (Offences) Act 2008**
In comparison with the Manslaughter Act, this increased fines in the magistrates courts from £5,00 to £20,000, with introducing the prospect of prison for most offences. Although we cannot be sure of the effect, yet, it is possible that they may have a greater deterrent effect over a wide range of serious offences than manslaughter.

- **R v Chargot [2008] HL 73**

This case concerned the responsibility for ‘burden of proof’ in a H & S prosecution and it was decided that the HSE did NOT have to specify what the defendant should have done to have prevented an accident when they laid the charge. This was a landmark decision that was consistent with other in recent years and the full text is available at <http://www.bailii.org/uk/cases/UKHL/2008/73.html>

- **Working Well together**

This campaign is reaching its 10th Anniversary and is still strongly supported. Refurbishment accidents are still an important work area to be addressed and there will be a **High Impact Intervention (Secretary’s Note : HII is the PC version of “Blitz”)** by the HSE in March. Another significant initiative launched recently is the Shattered Lives Campaign, focussing on slips, trips and falls that still account for a large proportion of accidents. **(Secretary’s Note: BHSEA is holding a full-day workshop on this topic, at the Motor Cycle Museum in June, presented by HSE speakers. I have already received two bookings and places are strictly limited to 60, first come, first served!)**



Steve added that he had one or two, personal thoughts on the following issues, which he considered to be low points in the year: -

- **The ICL Enquiry**

This followed a massive explosion at a Scottish plant that caused 9 deaths and serious injuries to 40 other persons. The cause was a LPG leak in a buried pipe and the HSE were criticised for not acting rigorously enough. One of the early learning points was that pressure tests are not always enough to predict failures of this type.

- **Anti Health and Safety Bias in the Media**

Steve lamented the persistent sniping from numerous parts of the media, who seemed to take a perverse delight in criticising our profession’s best efforts to protect life and limb. Very often the criticism was fabricated by persons using Health and Safety as an excuse to further a hidden agenda. The HSE were actively engaged in rebutting these attacks through its “Myth of the Month” campaign and individual letters from senior HSE officers, like Judith Hackitt to the relevant journalists.

- **Erosion of HSE’s proactive/reactive balance.**

This occurred when defendants in prosecutions take action over alleged “abuse of process”, with the effect that cases take longer to pursue. This leaves fewer resources to tackle more important issues.

Steve went on to say that the HSE naturally drew lessons from all of this and tended to use a mix of interventions to tackle the various issues. This was a risk-based approach to target sectors according to where there was the greatest need. Partnerships in the target sectors were an effective way of getting results. He cited a recent initiative with Safety and Health Awareness Days (SHADs) for the farming Industry where less than 1.5 per cent of the working population is employed in agriculture, yet the sector is responsible for between 15 per cent and 20 per cent of fatalities to workers in Great Britain each year. He also mentioned a system of “Flexible Warrenting” to give more enforcement work to the Local Authorities.

Regarding plans for 2009, Steve said that there were no significant new initiatives and it would be, rather, a time for consolidation. He added that HSE had learnt to identify their audiences and mentioned the recent launch of a consultation Exercise to develop the Strategy for more detailed plans. Locally, he went on, there would be divisional Projects in : -

- **Gas Installation** – unregistered installers, LPG in temporary accommodation (NB – links to vulnerable workers!)
- **Independent Education** – concentrating on Health and Safety Management standards.

In the future there would be a new strategic approach, a continuing challenge of long latency disease and a focus on delivering the benefits to working people. The main elements of the strategy are: -

- Leadership
- Competently managing risk
- Promoting worker involvement and consultation
- Identifying priorities for safety and for health
- Prevention of low frequency, high impact incidents
- Satisfying needs for small businesses
- Health and safety in its wider context

Members' Questions

Dalvinder Masaun, of Sandwell & West Birmingham Hospitals NHS Trust, asked if the HSE was satisfied with the implementation of the Corporate Manslaughter and Corporate Homicide Act? Steve answered that its effect had not yet been all that significant and added that its greatest benefit was that it gives bereaved relatives a label for “closure” with a guilty verdict! At the moment, there a few cases in progress locally and commented that the majority of the police investigations tended not to go forward to prosecution or resulted in a “not guilty” verdict.

As there were no further questions, the chairman thanked Steve for making the presentation and members also showed their appreciation for this important annual update.

Membership Subscriptions and Membership Certificates

Although we appreciate that the present financial climate is not good, it is also hitting BHSEA, as well, and I'm sorry to have to remind you that there are about 45 members who have not paid their subscription for the 12 months up to 31st May 2009.

If you have not received your certificate for 2008/2009 with a payment date after June 2008, then it is very likely that you are one of those 45 and we should be very grateful for a cheque, BACS transfer or, even, cash (as long as the ink isn't still wet).

I also have to admit, though, that I suspect that I might have omitted to send your certificate out and, if so, I apologise and would ask you to get in touch with me.

HSE Consultation on Strategy

BHSEA was one of 100 specially invited organisations at the launch of this Consultation, in London, last October. It took the form of a series of presentation of practical case studies to illustrate the major elements of the strategy, followed by a series of syndicate discussions to develop further ideas. We had the benefit of support by the Minister and he took time to sit in on the syndicates to obtain first hand feedback.

At the Birmingham Consultation a few days ago, the presentation covered the same areas but the syndicate discussions were more focussed and had the added benefit of individual feedback to the complete audience. This gave all the delegates first hand feedback on the deliberations in the other groups and written feedback to Judith Hackitt.

The overall impression I gained from this is that HSE is making a concerted effort to **listen**, before trying to **get it right!** So, I would repeat my recent email plea to all BHSEA Members to take part in this exercise so that you can exercise your right to be heard. All you have to do is visit www.hse.gov.uk/srtaegy/index.htm , to get the consultation questionnaire and a lot more information as well.

Date of the next Meeting

**2.00 pm on Monday 9th February 2009
at the Birmingham Medical Institute**

Regulatory Enforcement and Sanctions Act 2008

Philip Preece, Local Better Regulation Office (LBRO), for the West Midlands Region

Philip Preece is the lead officer for Health and Safety issues in the LBRO, was previously the Team Leader for Health and Safety Enforcement with Birmingham City Council and, prior to that, was a HSE Inspector.

This new Act will result in Local Authority functions being significantly affected, with changed relationships with LBRO, Environmental Health Offices, Trading Standards, Licensing and Fire Regulation.

On the benefit side, for firms, will be the establishment of Primary Authorities across LA Boundaries, so that firms operating in different areas will only have to work to one set of guidelines, giving greater geographical consistency. On the other side, there will be new on the spot and discretionary penalties, stop notices and restoration notices.

Quite a lot of interesting advice to be gained at this meeting!

*As usual, there will be a Buffet Lunch at 1.15.pm
Be there early to avoid disappointment!*