

MEETING NOTES

DATE: 5 February 2013, 5.00 pm – 7.00 pm

SUBJECT: APIL East Anglian Regional Meeting

LOCATION: Holiday Inn, Norwich

ATTENDEES: Sharon Allison, Richard Barr, Brenda Chandler, Samantha Collins, Mark Copley, Simon Davis, Keely Dougan, Heather Duffy, Julie Crossley, Stephen Green, Fiona Harper, Jeremy Ives, David Jones, Paul Kirby, Siobhan McWhinney, Christopher Moore, Adrian Mundell, David Richards, Hannah Rutterford (Regional Co-Ordinator), Jane Stockings, Mick Upton (Regional Secretary), Michael Wangermann, Sara Westwood, Stephen Wood, Geoff Young.

1 INTRODUCTION BY HANNAH RUTTERFORD (HR) (Regional Secretary)

HR welcomed everybody to the meeting and introduced the speaker, John Claxton (JC) who would be talking about his work with the Health and Safety Executive as an HSE inspector.

2 EC UPDATE BY HANNAH RUTTERFORD

Apologies were given on behalf of Victoria Mortimer-Harvey (EC Member) who was unfortunately unable to make the meeting. The EC update was given by HR.

APIL and MASS submitted a judicial review on 25 November 2013 in relation to the fixed fees portal. Lawyers were not consulted about the fees, only insurers were.

Various options were still being considered in relation to how the small claims limit might change. APIL were campaigning for there being no change to the small claims limit.

The employer's liability compulsory insurance was still being debated.

3 HOW THE HSE INVESTIGATES ACCIDENTS – AND HOW WE CAN HELP EACH OTHER – BY JOHN CLAXTON, HSE INSPECTOR

John gave an interesting talk about his work with the HSE. He began by outlining who the HSE are and what their role is. He then outlined some of the HSE's powers, for example their right of entry to any premises if it is covered by Health and Safety legislation. He outlined how the HSE works in conjunction with other agencies such as the Police.

JC also discussed the issue of disclosure and processes for obtaining documents from the HSE. He discussed the application of The Freedom of Information Act and The Data Protection Act and the deadlines which apply to requests made under these Acts. He stressed that the HSE are obliged to obtain third parties views before deciding whether to disclose information requested. Third parties cannot stop their information being disclosed but the HSE has to consider their views.

The HSE can refuse to disclose documents, for example witness statements, even if a third party gives permission for the document to be disclosed. Documents will not be disclosed whilst criminal investigations are under way.

In some cases the HSE will disclose documentation voluntarily to stop people having to go through the above processes.

The HSE can be subpoenaed.

He gave some tips on how to get disclosure from the HSE. He warned lawyers not to go on a fishing expedition otherwise requests would be refused. If in doubt he advised lawyers to contact the Health and Safety Executive Freedom of Information Department.

JC discussed the subject of risk assessments. He stressed that risk assessments only have to record significant findings but he explained that some companies have even produced risk assessments for making tea! He stressed that HSE inspectors are usually not too bothered about risk assessment paperwork as long as health and safety standards are reasonable when an inspection is carried out. He explained how some employers often have an obsession about the process of risk assessment and become so obsessed with the process that they failed to appreciate real risks.

JC outlined the main roles of the HSE as he saw them namely to:

- 1 Assist the Police in investigations;
- 2 Investigate Health and Safety offences;
- 3 Prevent accidents;
- 4 Maintain Health and Safety standards.

JC went through various case studies which he had worked on and explained his involvement in these cases.

JC also spoke about the family support role that HSE inspectors fulfil. He stressed how HSE inspectors are often the family's first point of contact and they often end up lending the family a listening ear and providing an informal type of counselling. They can also assist the family in dealing with media interest and what steps need to be taken after a loved one has died or been seriously injured.

The second half of JC's talk mainly focused on further case studies of accidents that he had investigated.

JC advised lawyers to try and build up a relationship with the Health and Safety Inspector at an early stage as this may help lawyers obtain some information at an early stage. He stressed that inspectors are able to give out some information but other information they are prevented from giving out.

JC discussed the victim impact statements and what the HSE tried to achieve by obtaining these from victims. He stressed that these are usually arranged through a solicitor if the person has representation for a personal injury claim.

JC then spoke a little bit about the factors usually involved in causation of accidents and the different types of human failures involved in accidents which breakdown into the errors or violations.

Meeting ended.