

Field Operations Directorate

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HSE Director for FOD David Ashton

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Dear ,

Proposal to establish a CONIAC working group to develop guidance supporting the proposed revision of the Construction (Design and Management) regulations 2007

At the CONIAC meeting on 17 July HSE outlined its proposals for a suite of material to support the proposed revision of the Construction (Design and Management) Regulations 2007 (CDM 2007). An approach was described which would see a mix of supporting material authored by HSE, jointly with industry and by industry alone. The proposal is supported by HSE's Construction Division Management Board.

Whilst the minutes of CONIAC are not yet agreed, there was broad consensus at the meeting for the industry-led guidance to be delivered through a CONIAC steering group. I wish to seek your comments and, hopefully, agreement, to this model before seeking nominations from CONIAC members for membership of the group. With apologies for the necessarily short deadline I would be grateful for your comments by 3 September.

The role of the proposed steering group will be to manage the delivery of guidance through smaller working groups convened by the steering group's members, rather than the steering group producing guidance itself. The proposed model is outlined graphically at **appendix 1** of this letter. In essence, as proposed at CONIAC, this is a similar model to that adopted for CDM 2007: an industry-chaired steering group to produce duty holder-specific guidance. The principal difference, in the interests of rapid delivery, is that I propose a direct reporting line between the steering group chair and myself, and that the steering group will report to me on a monthly basis.

The challenges are similar, but perhaps greater than in 2007. First, HSE is asking a great deal of commitment of human resource from industry players at a time when such resources are scarce. Second, the timetable is extremely tight if we are to meet the aspiration you voiced on 17 July that industry guidance should be available simultaneously with that produced by HSE. The timetable in appendix 1 is only indicative, but in order to have guidance available twelve weeks in advance of regulations coming into force, draft guidance will need to be produced before Christmas, and drafts finalised before the Spring of 2014. I would very much welcome your views on whether these challenges can be met.

I am of course conscious of the concerns raised at CONIAC that members had not seen the draft Regulations. Whilst sympathetic to those concerns, unfortunately I will not be in a position to share draft Regulations with CONIAC before the public consultation opens for the following reasons.

The first reason is a matter of timing. HSE has to seek clearance to open the public consultation through collective agreement of Ministers. This process can take considerable time, and we will have little - if any time - between hopefully receiving this clearance and the opening of the public consultation. This process has not proceeded as smoothly as hoped, and the length of time the various clearances is taking does mean that there will be a delay in opening the consultation. I remain hopeful, however, that the consultation will open in the autumn.

The second reason is one of propriety. To be seen to give unfair advantage to one group of stakeholders, even an Industry Advisory Committee, who have had advance disclosure of the Regulations - however laudable the intention of doing so - over another group who have not would leave the consultation process open to legal challenge. Any such challenge - successful or otherwise - would considerably delay us.

I appreciate HSE adopted a more inclusive way of working when CDM 2007 was under development. However, policy development, and the development of legislation in particular, is under markedly more scrutiny than was previously the case and HSE must ensure that its approach to consultation is in line with current Government policy. HSE has engaged as fully as it can with CONIAC and has been as open as possible about our proposals in difficult circumstances. I also understand CONIAC understood and agreed the need for a different approach at its June 2012 meeting

So while I realise I am asking CONIAC to engage without all the detail I hope you can agree that CONIAC has enough information at its disposal to establish the arrangements for a steering group through which guidance will be delivered and that the process needs to get underway as soon as possible so that we can provide industry with as much help through coordinated guidance as possible for the introduction of the revised regulations.

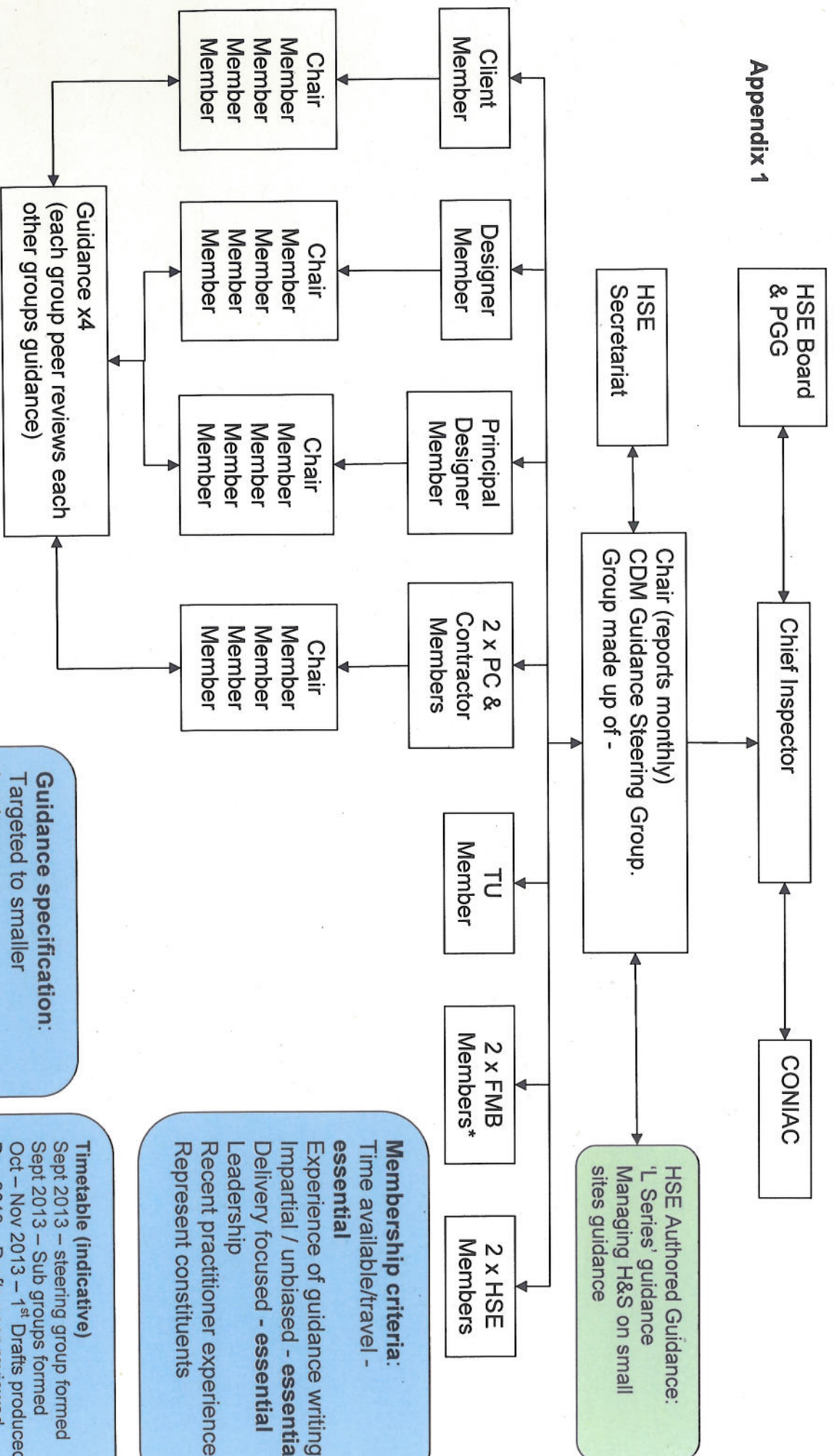
Subject to your views, I intend to write to specific CONIAC Members seeking nominations into the various posts illustrated at appendix 1 in early September with a view to the steering group meeting as soon as possible after that. I will provide draft terms of reference for the steering group, which will hopefully expand on the role of the group and the necessary qualities of its members and sub-groups as it is important that we have the best representatives and those that have the time to commit to this vital work. There are doubtless many debates ahead about the detail, but I hope you can agree to establish this framework for delivery now.

I shall also be writing separately to CONIAC members in the near future proposing dates for the extraordinary meeting of CONIAC which I intend to hold as soon as possible after public consultation opens.

Yours sincerely,

Heather Bryant
Chief Inspector of Construction

Appendix 1



* or other small site/business representative

Guidance specification:
Targeted to smaller businesses
Aim for 10 pages
Sets limits on what is required
Gives practical examples

Membership criteria:
Time available/travel - **essential**
Experience of guidance writing
Impartial / unbiased - **essential**
Delivery focused - **essential**
Leadership
Recent practitioner experience
Represent constituents

Timetable (indicative)
Sept 2013 – steering group formed
Sept 2013 – Sub groups formed
Oct – Nov 2013 – 1st Drafts produced
Dec 2013 – Drafts peer reviewed
Jan – Feb 2014 – final drafts
March 2014 – finalised versions
April – May 2014 – Publication process

