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LIFT AND ESCALATOR
INDUSTRY ASSOCIATION

Industry in focus 2006

Regular readers of the Review may notice a difference this year: not only is it longer but – more importantly – we have aimed for a more informative edge to its content.

This move – placing less emphasis on the more promotional aspects of the industry's activities – is one we hope to continue. It's also one that could benefit from greater feedback and, to this end, we have enclosed a questionnaire this year.

We are very grateful for the contribution from BAA in our feature on the new Terminal 5 at Heathrow Airport, which is one of the largest and more complex construction projects of our time. The successful development of this project is in no small way attributable to a more pragmatic approach from both a cultural and risk management point of view. It's an approach that removes the blame culture and has clearly worked in this case, in contrast with some other recent high-profile projects. This sets an important example and motivation for change.

In effecting change, all parties have a role to play – a theme taken up by our President, who has stressed the wish of the Association to assist in this process of change, with the ultimate objective of greater client satisfaction. Please let us have your thoughts.

DAVID FAZAKERLEY
Managing Director

Front cover: Installation of Kone escalators at Terminal 5 construction site, Heathrow

Back cover: Otis lifts, 51 Lime Street, London

DATES ANNOUNCED FOR LIFTEX 07

The UK Exhibition for the Lift and Escalator Industry

The Lift and Escalator Industry Association (LEIA) has announced that its showcase for the industry in the UK, Liftex, will take place on 16/17 May 2007 in the ExCeL exhibition centre, London.

The ExCeL centre has proved to be popular with visitors and exhibitors alike and has enjoyed continued development since Liftex 04, with a broader choice of hotels, restaurants and bars to ensure a positive environment for buyers and sellers to network.

LEIA will be using the results of its comprehensive research among Liftex visitors and exhibitors to instigate exciting new plans to develop the show for 2007. David Fazakerley, Managing Director of LEIA, comments: "We are keen to build on the success of the last Liftex exhibition and are reacting to comments and suggestions received to ensure that the show is bigger and better in May next year."

Liftex is organised by the Lift and Escalator Industry Association (LEIA) and is the only exhibition for manufacturers of lifts, escalators, components and service companies in the UK.

Further details will be announced shortly and enquiries should be directed to: Bob Hudson, telephone 01732 810333 or email bob@room-13.co.uk.

A good year for ELA

2005 has been an important year for the European Lift Association (ELA). Countries such as Spain, Italy and Greece adopted safety standards for existing lifts (SNEL (EN 81-80)), following the lead taken by Belgium, France and Germany in 2004. And, in the same period, industry experts persuaded China, Russia and Ukraine – as countries from outside the European Committee for Standardisation (CEN) – to adopt the whole EN 81 series of standards for lifts and to contribute in their development and evolution.

Various ELA committees – including Codes and Standards; Quality, Safety, Environment and Education; Training; Components; Communication; and Statistics – made significant contributions to improve the safety and quality of lifts, escalators and moving walks, and an ad hoc working group within ELA is preparing a new standard for existing escalators. We were also active participants in the revision of the Machinery Directive, finalised in December 2005, and we are heavily involved in the review of the Lifts Directive.

We attended Interlift 2005, taking the opportunity to organise a conference on the progress of SNEL in central Europe, with speakers from the Czech Republic, Hungary and Poland. And – last but not least – we were active contributors to the European Commission's Build-For-All initiative, particularly in the production of a toolkit and handbook that will accompany the new public procurement directives. This promotes full accessibility to all buildings.

ELA represents the lifts, escalators and moving walks associations active in the European Union (EU) and the European Free Trade Area (Efta), whether they are national or sector-specific associations. ELA also represents their components manufacturers. Thanks to this very wide representation, ELA has become the main communication vehicle for the lift, escalator and moving walks industry to the European Commission, the European Parliament and a range of other institutions and organisations. Its aim is also to help the national associations in their dialogue with their respective governments.

www.ela-aisbl.org

LUC RIVET
Secretary General, European Lift Association

Left: European Lift Association at Interlift

All industries rely on their customers for their continuing growth and prosperity and we in the lift industry are no exception.

LEIA exists to represent the industry in the marketplace and it does this on a number of fronts – from representing the UK on European legislative committees to developing an enviable body of training courses and materials for academic study. However, in common with many other industries, our profile as the industry's trade association and advisory body is not perhaps as high as it could be.

In my term as president of LEIA, I would like to see us raise our profile so that our customers feel confident and comfortable in turning to LEIA as their first point of contact for the lift and escalator industry.

As part of this process, we have included with this Review our first questionnaire, addressed to both members and customers. Its aim is to find out how much users know about us, and the services we offer, and what we can do to better tailor those services to meet the needs of our customers. Once we have collated feedback from the survey we should have a clear view of our customers' requirements and what they need from us, allowing us to provide the kind of customer-friendly service that should be the primary aim of any industry.

ROY MARKHAM
President

Training: something for everyone

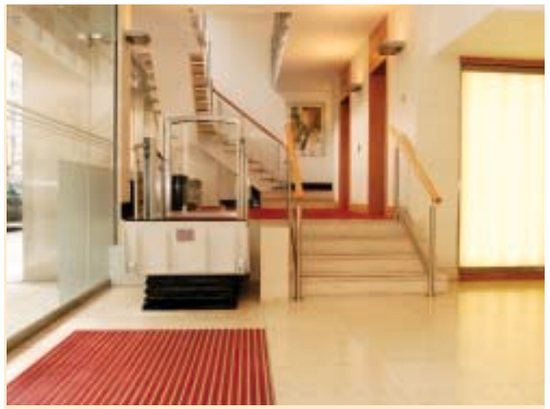
UK skills and training are a hot topic. In its 2003 skills strategy White Paper the government reported that, while the UK did well at higher education levels, our percentage of the workforce qualified at apprenticeship, skilled craft and technician level was low – 28 per cent compared with 51 per cent in France and 65 per cent in Germany.

LEIA has always championed the importance of relevant, up-to-date training to maintain good standards within the lift and escalator industry. One way that it ensures this is happening is by working with Semta (the Science, Engineering, Manufacturing Technologies Alliance) to set national occupational standards for the industry.

Semta is one of around 30 sector skills councils across the country, licensed by the government to work with employers and partners in developing and promoting occupational standards to boost training and productivity and reduce skills gaps and shortages.

David George is the Semta standards and qualifications manager with responsibility for the lift industry. He works with LEIA's safety and training manager, Terry Potter, in setting and updating occupational standards. This process is one of consultation with full input from employers and industry experts, as David explains.

"We work with LEIA and the employers in a sort of steering group," he says. "We develop what the occupational standard content should be, put that into a first draft and make changes. Once the steering group is happy with the content, Terry sends the draft out to a number of his members and organisations so they can provide feedback on the content. He then collates all that feedback and we will, as part of the steering group, either make the changes that people have recommended, or go back to them and explain why we can't. Once industry and all Terry's members have agreed the standards, we then get them approved formally."



Pollock steplift at Pall Mall, London

The Sector Skills Development Agency is the body that ratifies the draft documents, giving them the status of national occupational standards. These public domain documents are placed on the internet, providing easy access to employers and individuals within the industry. Semta also sends the standards to a variety of awarding bodies, to be used as the basis for formal vocational qualifications such as NVQs. The employers – who have been part of the original consultation process – know the courses will be relevant to their needs, while students get the benefit of current best practice and industry knowledge.

It's not a job that is ever fully complete – new legislation, new operational practices and new technologies mean that updates are constantly needed to stop standards from becoming out of date. David and Terry keep in regular contact to make sure that any such developments are quickly absorbed into the system. Indeed, David thinks the way the two organisations work together is one of the better examples of successful industry/skills council co-operation.

"I would say it's one of our best subsectors that we work with. They've been really proactive in terms of helping us and getting access to the technical experts to inform us of the content. That's important because, if we're going to have valued and creditable vocational qualifications, the sector skills council needs to work very closely with the employers – or else we won't get the qualifications that they want. The lift industry is very proactive in terms of helping us to do that, so it is really an excellent working partnership."

LEIA is approved by EAL as a nationwide assessment centre for NVQs. EAL is the leading awarding body for the engineering and technology sector, with over 70 per cent of the market share for engineering NVQs, built on its strong reputation for quality and rigour.

To qualify as an EAL centre LEIA has had to demonstrate that it has good systems and procedures and a network of qualified assessors and internal verifiers to deliver NVQs throughout the country. In an industry whose workforce is highly mobile, it ensures that apprentices and adults developing their skills complete the required programme and achieve national standards. When candidates are registered with LEIA, employers can have confidence in the quality of the EAL qualifications they gain.

EAL's external verifier responsible for LEIA, Jas Sall, explains: "The way LEIA co-ordinates vocational training for companies throughout the whole of the lift industry is ideal. Its operations are well controlled with plenty of checks and balances to ensure high standards, rigour and integrity. I can walk away after a visit feeling confident that everything is as it should be."

EAL – Emta Awards Limited – is a sister company to Semta and a leading UK awarding body for National Vocational Qualifications (NVQs) and their Scottish equivalents (SVQs).

"Think long and hard. Look for support from your employer and, probably more importantly, from your family."

That's MSc graduate Marion Sansom's advice to anyone contemplating taking up the masters degree in lift engineering – a distance-learning course provided by Northampton University in partnership with LEIA.

Marion, a consultant with Hilson Moran, completed the course last year after five years of part-time study. At school in the 1970s she had said she wanted to become a draughtsperson and was told she had to do an apprenticeship first: the careers people found her a place with a lift firm and the rest is history. The MSc came about because, after 30 years and in various capacities within the industry, Marion had exhausted other educational and professional possibilities. She had already completed a number of LEIA's distance learning courses and, at that time, there was no foundation course.

Marion Sansom, Hilson Moran

However, deciding to do the course was still a big commitment, she says.

"Basically I was giving up large chunks of my weekends. It took me a while to make the decision, because it is a lot of work and it's not simple by any means, but I'm glad I've done it."

The degree is modular – students take four compulsory units and choose another two according to their specialisms. It has a strong research bias and students also complete an independent, industry-based research study in the form of a dissertation. Marion did hers on risk assessment, which is an area she had worked in in a previous position. She thinks the level of the course is such that students definitely need some kind of background in the industry – as well as having good self-discipline to keep motivated when there is no set timetable as such.

"You've got to keep at it," she says, "and you've got to keep on top of it. But the tutors are always available to give you support if you need it and we also had a number of weekend schools when you meet the tutors and the other students. That's important because you build up relationships with these people and you can call them in between the weekend schools, to help and support one another."

The degree – the highest formal academic degree awarded specifically in the field of lift engineering – is not just for UK residents. There are currently 10 overseas students enrolled on the course, from countries as far away as Australia and China – something Marion believes is a reflection of the way the industry is developing.

"I think, in the future, the industry as a whole is moving towards recognising qualifications," she says, "even at the NVQ entry level for beginners. It gives you a measure of the person you're looking at and I think that's important for the industry – especially now when we are desperately short of people and we're in a situation where we have to look to employ labour from Europe, or further afield.

"LEIA has done a great deal of work in this area, along with Northampton. For a long while we just had the LEIA distance-learning units but now that's progressed and we've got a foundation degree and a masters degree. There's now a good spread of different qualifications for different people – something for everyone."

Work At Height Regulations

The Work at Height Regulations 2005 came into force on 6 April 2005. These define work at height as being work in any place (including at/or below ground level) where, if measures required by the Regulations were not taken, a person could fall a distance liable to cause personal injury.

The 2m rule no longer applies and therefore precautions are needed if there is a risk of injury from a fall – irrespective of the height. In keeping with recent legislation these Regulations require a risk assessment to decide whether precautions are needed and, if so, in what form.

Over the last 10 years an average of 74 workers have been killed every year and more than 4,500 seriously injured as a result of falls from height. The main cause of all injuries from such falls is falling from ladders. While there is no move to ban the use of ladders, the HSE points out that, while there are some circumstances where it is legitimate to use ladders, there are some where it most definitely is not. It wants employers to be able to identify correctly if there are other, safer alternatives for work at height and has published guidance in its booklet *Safe use of ladders and stepladders*.

Schindler is supplying escalators for the new Wembley stadium in North London

T5 soars ahead

Terminal 5 is the kind of large-scale construction project that breaks records at every turn. Even before the first shovelful of earth had been moved it had made its way into the history books with a tortuous public inquiry that took 46 months and saw 700 witnesses giving 30m words of evidence, recorded on 80,000 pages of transcript.

The project was finally given the go-ahead at the end of 2001 (albeit with 700 conditions attached) and things have gone remarkably smoothly ever since. Phase 1 is due to open in 2008 and – unlike some other high-profile construction sites – this one looks set to meet its deadlines. That's no mean feat for a £4.2bn project that will have employed around 60,000 people by completion.

The T5 agreement

The T5 agreement is a new kind of contract for the construction industry and addresses two issues: culture and risk management.

Under the agreement, BAA has agreed to accept all the risk for the project, removing that burden from contractors and suppliers and allowing them to work together co-operatively. This removes the blame culture that can dog such projects and which often results in legal claims and counterclaims. Under T5, suppliers, contractors and consultants work in fully integrated teams, foregoing individual company allegiances to work under a single T5 banner, with the focus on the successful development of the project.

Kone's project manager Mel Lewis says this approach has worked well on the lift aspects of the project.

"Schindler are supplying the lifts for T5A and I work very closely with them. Despite our conflicting interests outside T5, we actually work quite effectively together. We've got to know each other and we do work well together."

BAA says that the new terminal sets an international benchmark in airport design with a Richard Rogers structure that provides travellers with a succession of light and airy spaces that 'reflect the drama of air travel.' The main terminal building, T5A, is multi-stacked over eight levels under a single-span roof 400m in length. That's a long walk for passengers with luggage and – when you add the terminal's satellite buildings and railway station to the mix – it's clear that the project was always going to be a big user of lifts, escalators and moving walkways.

The logistics involved in transporting up to 30m passengers a year within the confines of a busy airport terminal demands a skilful use of space and the end result here is a clever mixture of lifts, escalators and automated walkways that will allow passengers to move around the complex in an intuitive manner. Passengers departing via the satellites will take lifts or escalators from the departure lounges to the track transit system platforms at basement level and there are glazed express lifts at the northern end of the plaza to connect rail services with the arrivals and departures concourses.

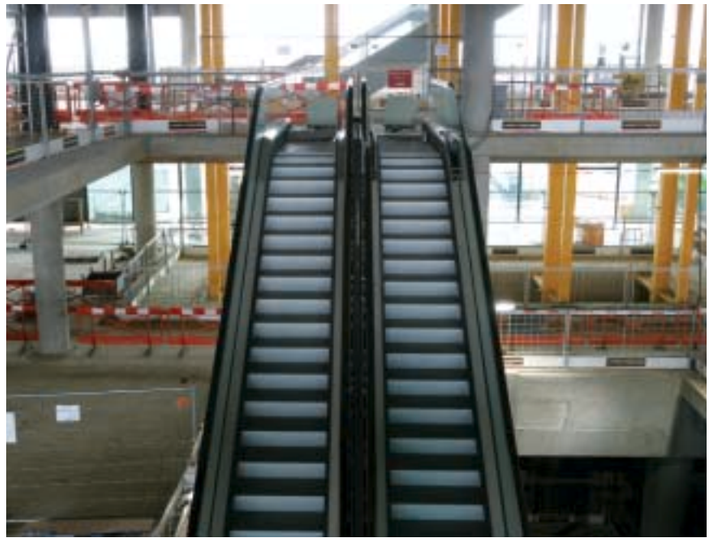
There are a total of 103 escalators, 142 lifts and 3 passenger conveyors in T5A and T5B: a major challenge for the two companies authorised to supply them – Kone and Schindler – but one that they have met head-on. Kone's project manager for T5, Mel Lewis, says that they have completed 80-85 per cent of their installation work already – the successful result of many years of design liaison and on site co-ordination.

"We are supplying all the escalators to the project to T5A, which is the main terminal building, to T5B, which is the satellite building and the railway station. We're also supplying the lifts to T5B and what we call the FlaN – fixed links and nodes (the passenger walkways that lead up to the planes).

"There was a lot of discussion very, very early on – the original plans were done three years ago and since then we've been continually meeting with the teams and various people and agreeing what we require."

Mel travels down from his home in Yorkshire to work at T5 for three to four days every week. He lives in Keighley, which is also home to the Kone factory where all the escalators for T5 have been manufactured. The two largest of these weigh a massive 36 tonne each, with a vertical rise of 21.75m (thought to be the largest in Europe in an open environment), so getting them installed was by necessity a 'cut and paste' job.

"The biggest hurdle we had was installing them on site," says Mel. "Those two particular machines went in in eight sections each. They were put together and run in the factory, then dismantled and taken to site. We surveyed the site to make sure that the distance between mountings and height rise was exactly what it was expected to be and then the eight sections for each escalator were delivered to site and bolted together. The two halves of each escalator were assembled at the top and bottom seating levels, and then lowered and lifted, respectively, into position using bespoke temporary works by our installation contractor, Beck & Pollitzer Engineering, before being spliced together at mid-span."



Successful installation is one thing, but now that the escalators are on site Kone faces another challenge – keeping the machines in pristine condition while major construction work continues alongside them. In this respect, building and installing the escalators is only half the job, as Mel explains.

"Following initial testing and commissioning, the escalators have now been timber protected. We've done it in such a way that we can actually run them inside the box, so we can carry out regular caretaker maintenance until final commissioning during 2007 and the opening of the building in 2008."

This caretaker maintenance is a critical part of the contract to supply the lifts and escalators – what T5's managing director Tony Douglas refers to as 'mothballing'. Tony is the man whose job it is to oversee the 16 major projects and 150 sub-projects that make up Terminal 5 and he believes that the work of Kone and Schindler is a good example of T5's philosophy in action.

"We've been very impressed at how well the lift industry has worked within the design demands and parameters," he says, "taking the brief for what we need and then coming back quickly with the technical specification. Our approach to this project has all been about successful partnership, and about bringing contractors on board at the earliest possible stages – something that has clearly paid dividends in the successful installation of the lifts and escalators throughout the site."

Did you know?

- The T5 site is 260 hectares – equivalent to London's Hyde Park – and the terminal building itself could fit 50 football pitches on its five floors.
- T5 has the capacity to serve around 30m passengers a year.
- At the peak of construction 15,000 cubic metres of concrete was poured per week (enough to fill 2,000 concrete mixer lorries).
- Two rivers had to be diverted around the perimeter of the site.
- Installation of the IT systems will require 10,000km of fibre cable and 3,000km of copper cable.
- In addition to the main terminal building, there are two satellite buildings, 60 aircraft stands, a new air traffic control tower, a 4.000 space multi-storey car park, a new spur road from the M25 and a 600-bed hotel.
- Because the site itself is sandwiched between the world's two busiest runways, BAA created a logistics management centre at Colnbrook to which all supplies are directed and from which all terminal-bound shipments are made.

Current status of European standards as they relate to lifts

As the number of lift related standards increases, so their individual status becomes confused. The following list shows the present status of the more important standards.

REFERENCE AND TITLE OF STANDARD	DATE OF PUB IN THE OJ (*)	SUPERSEDED STANDARD
EN 81-1: 1998 Safety rules for the construction and installation of lifts – Part 1: Electric lifts	31.03.1999	BS 5655: Part 1: 1986
EN 81-1: 1998/A2: 2004: MRLs	06.08.2005	–
EN 81-2: 1998 Safety rules for the construction and installation of lifts – Part 2: Hydraulic lifts	31.03.1999	BS 5655: Part 2: 1988
EN 81-2: 1998/A2: 2004: MRLs	06.08.2005	–
EN 81-28: 2003 Safety rules for the construction and installation of lifts – Lifts for the transport of persons and goods – Part 28: Remote alarm on passenger and goods passenger lifts	10.02.2004	–
EN 81-58: 2003 Safety rules for the construction and installation of lifts – Examination and tests – Part 58: Landing doors fire resistance test	10.02.2004	–
EN 81-70: 2003 Safety rules for the construction and installation of lifts – Particular applications for passenger and goods passenger lifts – Part 70: Accessibility to lifts for persons including persons with disability	06.08.2005	–
EN 81-70: 2003/A1: 2004	06.08.2005	–
EN 81-72: 2003 Safety rules for the construction and installation of lifts – Particular applications for passenger and goods passenger lifts – Part 72: Firefighters lifts	10.02.2004	BS 5588: Part 5: 1991 (Requirements have been removed from BS 5588: Part 5: 2004 edition)
EN 12016: 2004 Electromagnetic compatibility – Product family standard for lifts, escalators and moving walks – Immunity	06.08.2004	EN 12016: 1998
EN 12385-5: 2002 Steel wire ropes – Safety – Part 5: Stranded ropes for lifts	06.08.2004	BS 302: Part 4: 1987
EN 13015: 2001 Maintenance for lifts and escalators – Rules for maintenance instructions	10.02.2004	–

(*) The date of the publication of the Official Journal of the European Communities within which the standard is referenced is the date from which the use of the standard confers the presumption of conformity to the essential requirements it covers.

Standards awaiting ratification:

EN 81-71: 2005 Safety rules for the construction and installation of lifts – Particular applications to passenger lifts and goods passenger lifts – Part 71: Vandal-resistant lifts

EN 81-73: 2005 Safety rules for the construction and installation of lifts – Particular applications for passenger and goods passenger lifts – Part 73: Behaviour of lifts in the event of fire

EN 81-1: 1998/A1: 2005 Safety rules for the construction and installation of lifts – Part 1: Electric lifts (PESSRAL)

EN 81-2: 1998/A1: 2005 Safety rules for the construction and installation of lifts – Part 2: Hydraulic lifts (PESSRAL)

EN 12015; 2004 Electromagnetic compatibility – Product family standard for lifts, escalators and moving walks - Emissions

Standards awaiting formal vote:

prEN 81-43 Safety rules for the construction and installation of lifts – Special lifts for the transport of persons and goods – Part 43: Special purpose lifts for cranes

NOTE: Although ready for formal vote, this draft has been negatively assessed by the CEN consultant.

Drafts being prepared for formal vote:

prEN 81-21 Safety rules for the construction and installation of lifts – Lifts for the transport of persons and goods – Part 21: New passenger and goods lifts in existing buildings

prEN 81-22 Safety rules for the construction and installation of lifts – Lifts for the transport of persons and goods – Part 22: Electric passenger and goods passenger lifts with inclined travel path

prEN 81-40 Safety rules for the construction and installation of lifts – Special lifts for the transport of persons and goods – Part 40: Stairlifts and inclined lifting platforms intended for persons with impaired mobility

prEN 81-41 Safety rules for the construction and installation of lifts – Special lifts for the transport of persons and goods – Part 41: Vertical lifting platforms intended for use by persons with impaired mobility

prEN 115: 1995 Rev. Safety rules for the construction and installation of escalators and passenger conveyors (revision of EN 115: 1995)

Working together

The revised SAFed Lift Guidelines are an excellent example of the lift industry working together with the Health and Safety Executive (HSE) and stakeholders such as local authorities, owners, facilities management and professional bodies.

Supplementary Testing of Lifts, previously known as LG1, is a well-researched and thorough guidance document for the lift industry. Although there were initial concerns over commercial issues – and we must recognise there always will be – the satisfying part of this work was that all parties put this aside and concentrated on the primary aim of creating a guidance document for the whole industry that has at its core the safety of lifts and lift users. I believe we can and should build on this industry sector relationship to develop other mutually beneficial issues on safety.

The majority of the lift industry generally works onsite, so the employer (ie the lift industry), while it has a responsibility for the employee and his safe working practice, in reality has little control over the environment, work policy of the site or building, relevant rescue procedures, security etc. In addition, lift engineers and engineer surveyors regularly work out of hours so as not to inconvenience the client and his staff. This can involve issues such as electromagnetic radiation from antennae and aerials on roofs to which lift engineers and engineer surveyors need access; contact procedure during quiet hours; relevant rescue procedure; safety of third parties; provision of essential safety equipment such as barriers to prevent access to dangerous areas temporarily exposed; ladders for access to the lift pit; and so on.

Clients need to carry out their own risk assessment to ensure a pragmatic approach to the combined responsibility of client/site owner and the lift or inspection company providing the service. To this end, industry guidelines supported by the HSE – with the agreement of and contribution from the owner/dutyholder sector in a similar manner to that for the revision of LG1 – would be a welcome step.

Now the revision of the SAFed Lift Guidelines LG1 is complete, we are turning our attention to escalators, again capitalising on the industry working relationship to replace old HSE guidelines (notably PM 34 and 45) covering both the safety and safe use of escalators. This is not an attempt to include escalators in the 'thorough examination' process by the back door but to consider the general application of safety and safe use guidelines for escalators. This is becoming increasingly relevant as the courts are now adopting a very loose interpretation of 'foreseeable incidents' – something that will affect everyone in the industry.

SAFed and LEIA have also been discussing with the HSE, UK industry concerns over the increase in platform lifts which, under certain conditions, will be subject to the Machinery Directive rather than the more constraining conditions and essential safety requirements of the Lifts Directive. Although it was not necessarily the aim to prevent the utility of such lifts, there were concerns raised over the lack of essential safety requirements such as enclosed car, robust installation with structural integrity and access to parts and components requiring examination, particularly as there is no restriction on the height or number of floors serviced. Again, I believe a joint industry approach is an effective way to get the message across and advise our concerns.

The value of the lift industry working together with the HSE, DTI, UKAS, BSI and other professional bodies, representing industry concerns and best practice from a competent and authoritative standing, should not be underestimated. SAFed values the close working relationship we have with LEIA and its members and will encourage this process to the benefit of both the industry and the safety of the public in general.

RICHARD HULMES
Chief Executive, The Safety Assessment Federation (SAFed)

Asbestos: a duty to manage

Regulation 4 of the Control of Asbestos at Work Regulations imposes a legal duty on those who own, occupy, manage or have responsibilities for premises that may contain asbestos to manage the risk from this material or co-operate with whoever manages the risk.

The dutyholders must identify asbestos-containing material (ACM) or suspected ACM in their premises and have in place a plan to manage and control the exposure to asbestos. The results of the surveys must be passed to contractors who may be affected.

The duty to carry out a survey of asbestos in premises extends to all parts of the building – including the liftshaft. The dutyholders should keep a written record of the location and condition of any ACM (which should be kept up to date) and:

- assess the risk of likelihood of being exposed to asbestos from these materials;
- prepare a plan that sets out in detail how the risk from the materials is going to be managed;
- take steps needed to put the plan into action – this may include the repair or removal of any material that contains or is presumed to contain asbestos, because of its location, condition or likelihood of disturbance;
- review and monitor the plan; and
- provide information on the location and condition of the material to anyone who is liable to work on or disturb it.

Compliance with the Lifts Regulations 1997

Since July 1999 all new passenger lifts installed within the UK must comply with the Lifts Regulations 1997. It is an offence not to comply with these requirements and the responsible persons involved in the installation of new lifts should be aware of the various methods by which a lift may be confirmed in compliance and the documentation and other evidence needed to demonstrate this.

Within the UK, quality management is a common way of ensuring compliance of a final product with the specification or regulatory requirements and the Lifts Regulations also permit this approach as a way of controlling the design, manufacture, supply, installation and final test of new passenger lifts. There are three variations of quality management systems that may apply: these indicate the functions undertaken by the lift installer and range from carrying out a final test of a previously approved lift package to designing, manufacturing, installing and testing the lift installation.

If the persons installing and testing the lift are not approved under a quality system then a notified body will undertake a final test under one of three alternative routes to compliance: EC-type examination; unit verification; or final inspection.

Two pieces of evidence must always be available for a lift to comply with the regulations. Every lift must have a declaration of conformity and each lift car must carry a CE mark with the registration number of the notified body that has either (a) approved a valid quality management system operated by the lift installer, or (b) carried out a final test of the installation itself.

The owner of a lift installation is legally responsible for ensuring that the physical and documentary evidence described above exists and is available. The lift installer is legally required to issue a declaration of conformity but only when the lift is fully compliant with the regulations (he would not, for instance, be able to issue a declaration if there were no dedicated telephone line available). Any owner of a lift installation placing a lift into service before the declaration of conformity has been issued is in breach of the regulations and could incur a penalty of up to three months in prison.

Further guidance is available at **www.dti.gov.uk.**

UK Association of Notified Bodies

Kone lift at the new Wellcome Trust Gibbs Building, Euston Road, London

The Hazardous Waste Regulations 2005

The Hazardous Waste Regulations came into force on 16 July 2005. Under the regulations there are two types of waste: hazardous and non-hazardous. Examples of hazardous waste include fluorescent tubes, hydraulic oils etc.

Materials can be hazardous in three ways:

- anything listed as hazardous waste in the List of Waste Regulations 2005;
- any type of waste deemed to be hazardous by the Secretary of State; and
- any exceptional consignment deemed as hazardous by the Secretary of State.

Unless exempt, premises where hazardous waste is produced or processed must be notified to the Environmental Agency through its registration system. The duty to register lies with the producer of the waste – normally the owner or occupier of the site. Any movement of hazardous waste from premises that are not exempt, or have not been registered, is now an offence.

There are exemptions from notification that relate to the amount of waste produced over a period. Further information is available from the Environmental Agency's National Customer Contact Centre on 08708 506 506.

Legal update from Norton Rose

Tupe changes

In March 2005, the DTI issued its public consultation document on the proposed amendments to the Transfer of Undertakings (Protection of Employment) Regulations 1981 (Tupe). The draft regulations were to have been implemented in October 2005, but this has been delayed until April 2006 due to the high number of responses to the consultation.

The government's more significant proposals include the following.

- Service provision changes will expressly fall within the scope of Tupe (subject to certain specified exceptions).
- Changes to terms and conditions of employment will be permitted, provided the sole or principal reason for the variation is:
  - not the transfer itself, but a reason connected with the transfer that is an economic, technical or organisational reason; or
  - unconnected with the transfer.
- A requirement that the transferor employer provides the transferee employer with information about employees.
- Joint and several liability for failure to inform and consult employees.

Construction Act Review

In March 2005, the government launched its consultation paper *Improving Payment Practices in the Construction Industry* on proposals to amend Part II of the Housing Grants, Construction & Regeneration Act 1996 and the Scheme for Construction Contracts (England and Wales) Regulations 1998. The consultation aims to improve the ability of parties to a construction contract to:

- reach agreement on what should be paid and when or, where they cannot agree, to make an informed referral to, or response at, adjudication;
- manage cash flow and enable completion of work on the project in the event of problems such as defaulted payments, disputes, or insolvencies elsewhere in the supply chain; and
- refer disputes to adjudication without disincentives such as avoidance, frustration or unnecessary challenge.

One of the principal points in the consultation is the suggestion that section 110(2) payment notices should be abolished and that the definition of 'adequate payment mechanism' should be expanded to make it clear what payments become due and when. Construction contracts should therefore specifically deal with what constitutes payment, when a payment is to be assessed, how payments are to be determined, the period of time that should elapse from the assessment date before final payment, and what information is to be communicated between the parties.

Other proposals include the redefining of the content of section 111 withholding notices, providing the adjudicator with the power to require awards to be paid into a 'trustee stakeholder' account if the receiving party is subject to insolvency proceedings, and the ability to make binding decisions on certain jurisdictional points of his appointment and to re-open final and conclusive interim decisions under the contracts.

An analysis of the responses and the consultation document itself are available at www.dti.gov.uk.

Letters of intent – case update

Several recent cases concerning the interpretation of letters of intent have highlighted the difficulties that can arise when using them in place of a formal contract.

In *Mowlem plc v Stena Line Ports* [2004], the issue was whether and on what basis Mowlem was entitled to be paid for carrying out the work in excess of the value of the cap contained in the letter of intent. Mowlem failed in its claim for additional payment in excess of the cap as the court construed the letter of intent as an 'if' contract: the letter constituted an offer that, 'if' Mowlem carried out defined work, it would be remunerated for that performance (in accordance with the terms of the letter). However, under an 'if' contract no obligation to continue to perform is created, so the contractor is free to cease work at any time. The employer therefore had no obligation to pay the contractor for carrying on with the work in excess of the cap.

This contrasts with the position where the letter constitutes a 'limited if' contract, otherwise known as a mini contract. In this case a contractor could find itself in breach of contract by stopping work before the defined scope of work is complete (see *A C Controls Limited v BBC* [2002]).

Corporate Manslaughter Bill

In March 2005, the government finally published its proposals for reform of the law on corporate manslaughter in the form of a draft bill. These differ from previous indications of what would be included in this legislation in a number of respects, for example:

- limiting the proposed offence to corporations;
- not including provisions for liability of individual directors or officers;
- tying liability to a breach of a duty of care in negligence; and
- partially lifting Crown immunity.

The proposals were considered by a select committee of MPs who published a detailed and critical report in December: the government is likely respond to this in early 2006 before proceeding to legislate.

Working Time Directive

The Working Time Regulations 1998 implement the EU Working Time Directive and provide that the working week should be limited to a maximum of 48 hours over a 17-week reference period. Historically, the UK has enjoyed an exemption from this rule, allowing workers in the UK who opt out to work more than 48 hours per week. However, at a meeting of EU employment ministers on 8 December 2005, the UK agreed in principle that the right of the individual worker to opt out of the maximum 48-hour week law should be phased out and the opt-out should be an exception rather than the norm, although no deadline was agreed. The issue has not been concluded, however, and it remains to be seen whether the Austrian government is successful in achieving its stated aim of concluding negotiations on tightening up the Working Time Directive opt-out during its six-month presidency of the EU.