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ADVISORY COMMITTEE ON DANGEROUS SUBSTANCES (ACDS)

57th meeting of ACDS at 13.30am on Thursday 14 February 2002 in the Globe conference room, Rose Court.

Members

Nick Starling	Chair
Dr Chris Beaton	CBI
Ian McPherson	CBI
Dr Tom Smith	CBI
Tom Mellish	TUC
Alun Owen	TUC
Bernie Cahill	LGA
Prof. Barbara Mawer	LGA
Dr Tony Cox	Independent
Dr Mike Hogh	Independent
Prof. Philip Nolan	Independent
Maurice Healy	Consumer representative
Kath Martin	Secretary
Janet Savin	Secretariat

Apologies

Stuart Anderson	CBI
Dr Gordon Walker	Independent
Dave Patton	TUC

Presenters

Kevin Allars	Item 5.1
Neville Briscoe	Item 5.1.2
Andy Miller	Item 5.2
John Brazendale	Item 5.3
Barry Watkinson	Item 5.4

Government Representatives

Vince Matley	Dept. of Transport, Local Government & the Regions
Col. Des Townsend	Ministry of Defence
Jim King	N.I. Health and Safety Executive

HSE Representatives

Keith Wilson	Technology Division
Brian Fullam	Hazardous Installations Directorate
Norman Swain	Field Operations Directorate
Peter Roberts	Safety Policy Directorate Nuclear & Hazardous Installations Policy Division
Peter Brierley	Safety Policy Directorate Gas & Transport Safety Policy Division

1 Introductions and apologies

1.1 The Chair welcomed everyone, and thanked them for their assistance at the open meeting held that morning.

1.2 Apologies had been received from a number of members - see list above for details.

2 Minutes of previous meeting

2.1 Minutes of the 56th were agreed and an annotated agenda would be placed on the Internet.

2.2 Minutes of the adhoc meeting of ACDS held on 18 December required two minor amendments before being placed on the Internet:

(i) Para. 3.1, line 7 - “implicit” and “explicit” had been transposed and would be amended accordingly;

(ii) Para. 3.4, 2nd bullet point - regarding concerns about consistency, should read: “comments on the level of consistency”.

3 Matters arising

3.1 Members asked for an update on the land use planning (LUP) review. HSE explained that because the same team work on other projects, other work commitments (e.g. Seveso II amendments) had taken precedence, and the work on LUP had been delayed slightly, but would now be progressed. **Action: HSE**

4 Chair’s update

4.1 Code of Practice for members of advisory committees

4.1.1 Members who had not yet given the Secretariat their details for inclusion in the Register of Interests were asked to do so in the next week or so. **Action: Members**

4.2 ACDS Secretariat

4.2.1 John Brazendale would replace Kath Martin as ACDS Secretary from 1 April. The Chair and Members thanked Kath Martin for her work on ACDS.

4.3 Gas Safety

4.3.1 Subject to members’ agreement, Brian Etheridge would replace Jane Willis as Chair of the ACDS Gas Safety Subcommittee - see para. 5.4.3 for further details.

5 Subcommittee reports

5.1 Major Hazards Subcommittee (MHSC)

A progress report had been issued to members.

Amendments to the Pipelines Safety Regulations (PSR): this would be discussed under item 5.1.2.

Cost recovery under COMAH: costing information had been agreed and included in a draft Consultative Document (CD). DTLR aimed to consult relevant Ministers and the HSC Chair, taking this work forward shortly.

Pipelines Working Group (WG): HSE expressed their gratitude to Gordon Walker and the WG Secretariat for setting up the Pipelines WG. It had met on several occasions already, including two Technical Workshops, and had given members the opportunity to agree which items needed to be taken forward.

Amendments to Seveso II: This item would be discussed under any other business.

M/H S/C Forward Workplan: There were no major changes to the workplan which included implementation of the recommendations from the LUP review. HSE agreed to enclose a copy of the membership list for the Pipelines WG with the minutes. They had tried to incorporate all the main stakeholders, but would be happy to add any groups which may have been overlooked.

Action: HSE

5.1.2 Proposal to amend the Pipeline Safety Regulations 1996 (PSR)

5.1.2.1 The proposals set out in ACDS paper 14020234 which had been discussed at the MHSC meeting on 6 February 2002. Members were asked to note that paragraph 7 of the paper should read “endorse HSE’s proposals”. The MHSC had been asked to consider a proposal to amend PSR, designed to legally underpin the accelerated programme of cast iron mains replacement already agreed by HSE and Transco. The proposals were aimed principally at clarifying the role of HSE in the enforcement process, and also to provide a level of defence for Transco in the event of criminal proceedings being taken against it, where it had taken all reasonable steps to avoid an incident arising in the first place. HSE would be able to approve the programme formally, and there would be a duty of compliance falling on Transco. Members were reminded that the accelerated programme was in operation, and that much of the detail in the draft CD had been drawn from material published and placed in the public domain in September 2001.

5.1.2.3 A number of questions had been raised at the MHSC. HSE had agreed to address these, and to provide an appropriate response which was done for the ACDS meeting. Members were asked to note that the real issues for consideration were those relevant to the proposal to amend the regulations, rather than enforcement issues. HSE advised that the main intent of the proposals had not been questioned, and felt that it had been able to provide an adequate response to questions raised. Although it anticipated more questions being raised, HSE reminded members that this was an expected aspect of the formal consultation process, and not grounds to delay the publication of the CD.

5.1.2.4 The following points were raised in discussion:

- Members were concerned that the Committee was being asked to endorse the proposed amendments despite a number apparently significant issues still needing to be resolved.
- Although a response had been prepared, and would likely cover the issues raised by Transco, members were concerned that the company had not had the opportunity to consider the response, and to brief their representatives accordingly.
- Further consultation with Transco was needed before anything could be agreed.
- Since the proposal primarily affected one stakeholder, Transco, HSE was already preparing to meet Transco to attempt to resolve the issues.
- However, HSE reminded members that non-resolution (of the issues) could further delay progress in bringing into force legislation that needed to be in place.

5.1.2.5 Members were concerned to avoid any delay in publishing the CD and bringing the new regulations into effect. They generally agreed that the resolution of issues could be handled effectively during the consultation process. They were content to endorse the recommendations on the understanding that they would be kept informed of developments or any difficulties that might arise.

5.1.2.6 After further discussion, it was agreed that::

- (i) ACDS endorsed the proposal, and HSE would recommend publication of the PSR CD to HSC;
- (ii) the preface would set out a clear consultation statement, encouraging comment from a wide cross section of interests;

- (iii) HSE would arrange to meet Transco as soon as could be arranged;
- (iv) ACDS M/H S/C and ACDS would be advised on the outcome of discussions with Transco, highlighting any implications for the consultation process, and particularly the extent of amendment to the CD;
- (v) HSE would expand the wording contained in paragraph 36 of the draft CD to highlight the Transco methodology for establishing priorities for replacement. **Action: HSE**

5.2 Explosives Subcommittee

5.2.1 HSE proposed to publish the CD containing proposals to revise the Manufacture and Storage of Explosives Regulations (MSER) on 11 March, with comments requested by 10 June. The draft CD had been approved by the Explosives S/C. A sample list of consultees was tabled at the meeting, and members were asked to advise HSE of any omissions. HSE hoped to be able to submit the final draft proposals for MSER for consideration at the ACDS meeting in October 2002, but it was more likely that this would be at the February 2003 meeting. **Action: HSE**

5.2.2 A project to facilitate on-line applications for the classification of explosives had been referred to HSE's new IT partner for review. Members expressed disappointment that the classification of explosives for carriage had not been further progressed. They said that it was not clear which regulations would be used to retain the provisions on the appointment of competent bodies on classification for transport. HSE agreed to take this up. It was also agreed that the Chair would write to HSE's IT partners, to emphasise the importance which ACDS attached to this work. **Action: HSE**

5.3 Flammable Substances Subcommittee (FSSC)

5.3.1 The three draft CDs discussed at the adhoc ACDS meeting on 18 December, Dangerous Substances and Explosive Atmosphere Regulations (DSEAR), Modernising Petrol Legislation and Celluloid and Cinematographic film would be published on 18 February with comments requested by 20 May. Copies of the CDs would be sent to members, who were encouraged to attend one of the seminars/workshops which would be held in April to discuss draft proposals. The dates were:

- 3 April - Kingsway Hall Hotel, Great Queen Street, London WC2 5BX;
- 11 April - Copthorne Hotel, Clippers Quay, Salford Quay, Manchester M50 3SN;
- 12 April - Cardiff Marriott Hotel, Mill Lane, Cardiff CF10 1E; and
- 23 April - Crown Plaza Edinburgh, 80 High Street, The Royal Mile, Edinburgh EH1 1TH.

HSE proposed to submit final proposals on DSEAR, Petrol etc. to HSC in July.

Action: HSE

5.3.2 HSE proposed to set up a Working Group under the Flammables Substances S/C to consider modernisation of acetylene legislation. This work would probably entail a minor amendment to DSEAR and the development of Guidance/ACOP material. HSE would write to ACDS and ACDS FSSC members seeking nominations. **Action: HSE**

5.4 Gas Safety Subcommittee (GSSC)

5.4.1 The programme for implementing the recommendations from the fundamental gas review had slowed down since October as two of the key members of the gas policy team had been hospitalised, causing HSE to cancel a S/C meeting and two WG meetings. However, revised issues papers had subsequently been placed on HSE's website, and a

number of comments had been received. Revised papers containing proposals for taking the review recommendations forward and a revised timetable for implementation were being prepared for discussion at the next meetings of the relevant Working Groups and Gas Safety S/C.

5.4.2 Membership of the WGs had not been finalised. Proposals had recently been received from Energywatch. Once these issues had been resolved, HSE would be able to concentrate on progressing the recommendations from the review of gas safety.

5.4.3 Members approved Brian Etheridge (formerly Head of HSE's Local Authority Unit) as the new Chair of the Gas Safety S/C. Members acknowledged that victim support and consumer groups needed to be fed into WG discussions. At the ACDS meeting in June, therefore, they agreed to monitor how this representation was working, and, if necessary, to take appropriate action to address any emerging concerns. **Action: HSE**

6 Report from the Operational Directives

COMAH Safety Reports

6.1 The main priority remained clearance of the backlog of COMAH risk assessment reports; some 40% needed to be returned to companies last year because they were incorrect/incomplete, placing considerable demands on HSE staff.

Recruitment of inspectors

6.2 Customarily, HSE recruited new graduates for a 4 year training programme. However, it now aimed to target new people with chemical industry experience e.g. ex-managers from chemical plants, in order to meet the shortfall in trained inspectors.

Reorganisation in Hazardous Installations Directorate

6.3 Following reorganisation within HID, management of research projects, (previously handled by an appropriate discipline specialist), would now be handled via a project manager. Members agreed that it would be helpful to ask Neil Morton to provide a presentation on these new arrangements at the next ACDS meeting. **Action: HSE**

7 Chemical Essentials

7.1 HSE sought members' support for a new project aimed at providing a one-stop shop for chemical health and environmental information. Current information was restricted to health issues only in the paper form of Control of Substances Hazardous to Health essentials. Although an electronic version was in the latter stages of development, it still addressed health issues only. The chemicals essentials project would endeavour to bring safety and environmental issues into an interactive electronic package to provide a single reference point, particularly for small to medium enterprises (SMEs). The project would provide the opportunity to work with both Advisory Committee on Toxic Substances and the Environmental Agency to develop this system. Although the project was still at an early stage, HSE asked whether members would be willing to participate, and provide expert comment and input later. Members supported the project, and the idea of a joint ACDS/ACTS Working Group (with Secretariat provided by ACTS) in principle. The proposed project would be discussed at the ACTS meeting in March. HSE would send members a copy of the paper indicating the way forward following the ACTS meeting.

Action: HSE

8 Revitalising Health and Safety

8.1 The Chair of HSC had written to members of HSC Advisory Committees (A/Cs) last November seeking their views on how they could progress Revitalising issues in the light of the review of A/Cs, e.g. through more flexible ways of working. He also asked how they could best contribute towards HSC's Strategic Plan, and whether a meeting of all A/C members would be helpful, inviting suggestions for a theme. Following questions raised at the Open meeting that day, members were asked to consider issues such as whether ACDS should be more proactive concerning EC legislation, and generally undertake more evaluation, and for their views on whether there should be a Commissioner with responsibility for work on the control of major hazards. They would let the ACDS Secretary have any comments by 11 March.

Action: Members

9 Any other business

9.1 Amendments to Seveso II Directive

9.1.1 HSE tabled a position statement, and invited members' comments. Members were asked to e-mail comments direct to the Head of Nuclear & Hazardous Installations Policy Division. The UK negotiators were trying to persuade the EC to agree that during the transition period before any new Regulations were introduced, the enforcement position would not change from that presently in place. Ministers were aware of these negotiations, but no agreement had been agreed so far.

Action: Members

9.2 Review of ACDS Open meeting

9.2.1 Members expressed satisfaction with the open meeting held that morning, and complimented the Secretariat on the excellent administrative arrangements. They agreed there should be future open meetings, but that a different approach might need to be considered, such as a subject-based or fully Open meeting. HSE confirmed that although it was HSC policy for all A/Cs to hold one Open meeting per year, there was no set format for such meetings. It was agreed that it would be helpful to include a general discussion about future ways of working, e.g. adopting a more flexible approach, at the next meeting of ACDS.

Action: HSE

10 Date of next meeting

The Chair thanked members for attending both meetings that day, in particular for their contribution to the open meeting, and confirmed that the next meeting would be held on Wednesday 12 June 2002.