

Open government status: Open	Minute number: m2402004
	Date of meeting: 24 February 2004
Intranet embargo: N/A	Type of paper: Minutes

**62nd meeting of Advisory Committee on Dangerous Substances (ACDS)
at 10.30am on Tuesday 24 February 2004 in the Globe conference room, Rose
Court**

Members

Nick Starling Chair
Dr Chris Beaton CBI
Dr Tom Smith CBI
Tom Mellish TUC
Alan Owen TUC
Susan Murray TUC
Leonie Wingrove TUC
Dr Mike Hogh Independent
Professor Philip Nolan Independent
Professor Gordon Walker Independent

Apologies

Professor Barbara Mawer LGA
Dr Mike Considine CBI
Jim O'Sullivan CBI
Dr Tony Cox Independent
Maurice Healy Consumer
representative
Jeff Hart Dept. for Transport

Government representatives

Liz Surkovic Department for Environment, Food and Rural Affairs
Paul Taylor Ministry of Defence
Lawrence Hanna representing John Wright HSE Northern Ireland

HSE representatives

Martin Davies - representing Colin Potter (ACDS Secretary)
Janet Savin Secretariat

Presenters

Keith Wilson Hazardous Installations Directorate
Dr David Bosworth Nuclear and Hazardous Installations Policy Division
John Murray Hazardous Installations Directorate
Tom Maddison Hazardous Installations Directorate
Linda Murray Hazardous Installations Directorate
Andy Fowler Hazardous Installations Directorate
Dr Andy Hall Nuclear and Hazardous Installations Policy Division
Mike Kingsland (CBI) - Member of Advisory Committee on Toxic Substances (ACTS)

1 Introductions and apologies

1.1 The Chair introduced Mike Kingsland (CBI), representing the Advisory Committee on Toxic Substances (ACTS), who would be giving a presentation on ACTS under item 7, and Dr Andy Hall, Head of Nuclear and Hazardous Installations Policy Division, which includes responsibility for policy on explosives, major hazards and nuclear installations. He also welcomed Liz Surkovic, representing DEFRA.

1.2 Apologies had been received from a number of members/representatives - see list above. On behalf of the committee he thanked Martin Davies for his contribution to the work of the committee. The Chair would write to Barbara Mawer to convey the committees' wishes that she would soon be restored to good health.

Action: HSE

2 Minutes of the previous meeting

2.1 Minutes of the 61st meeting of ACDS, held on 26 September 2003, were agreed. Members had received the summary of the ACDS Open meeting, (held on

the same day), which had been placed on the HSE website – (<http://www.hse.gov.uk/aboutus/hsc/iacs/acds/index.htm>).

3 Matters arising

3.1 Departmental representatives on ACDS

3.1.1 HSE had still not received a nomination for a representative on the committee from the Department for Work and Pensions.

3.2 Update on Office of Deputy Prime Minister consultation on changes to the fire legislation

3.2.1 HSE is still working with Office of Deputy Prime Minister on the new Fire Safety Regulations, which is due to come into force next year. HSE would keep members informed of progress. **Action: HSE**

3.3 Reconstitution of ACTS

3.3.1 Work on the review and reconstitution of ACDS had been further delayed due to personnel changes. HSE would therefore be seeking a further extension to the ACDS reconstitution. Colin Potter, the new Secretary of ACDS, will be taking the review forward shortly. **Action: HSE**

3.4 ACDS Open meeting - possible link with trade exhibition

3.4.1 It was agreed that this would be discussed under any other business.

3.5 Application from CO-Gas for membership of Gas Safety Subcommittee (S/C)

3.5.1 As agreed at the ACDS Open meeting in September, CO - Gas had been invited to nominate an additional consumer representative on the ACDS Gas Safety S/C.

4 Chair's update

4.1 HSC's new Strategy for workplace health and safety

4.1.1 HSC's new Strategy for workplace health and safety in Great Britain to 2010 was published on 23 February. The strategy focusses on HSC's themes to promote the vision to see health and safety as a cornerstone of civilised society, and with that a record of workplace, health and safety that leads the world. Members received a copy of the strategy document, which is available on HSE's website - (<http://www.hse.gov.uk/aboutus/hsc/strategy.htm>). It was agreed that HSE would send members copies of an associated document - a Collective Declaration on Worker Involvement which is available on HSE's website - (http://www.hse.gov.uk/workers_involvement/involvement.pdf).

4.2 Appointment of Director of Communications

4.2.1 Colin Douglas had been appointed HSE's Director of Communications.

4.3 Department for Transport's Review of Rail Transport

4.3.1 The Department for Transport was undertaking a comprehensive review of rail transport, which would include the role of rail operators and rail regulators.

5 Societal risk and Land Use Planning

5.1 **Background** - An evaluation of COMAH safety reports had raised a number of concerns about developments near major hazard installations and the consequent societal risk. HSE had subsequently instigated a project that aimed to obtain better information concerning the population at risk for from major hazard installations. Initial work on re-examining the COMAH top-tier sites had been completed at the end of December 2003, and HSE had taken the earliest opportunity to report the main findings and proposals under consideration to HSC (in mid-January) and to the ACDS Major Hazards Subcommittee (on 10 February). A project to gather information on the 800 lower tier COMAH sites would start in April 2004, and would take about a year to complete.

5.2 **Land Use Planning Applications** - Under current methodology for LUP, HSE considers development applications on a case by case basis, and consultation distances (CDs) for LUP are based on individual risk. However, under new proposals being considered, societal risk would be taken into account when giving LUP development control advice.

5.3 **Land Use Planning Applications Consents** - Consultation distances are currently based on maximum quantities of dangerous substances which an operator is **entitled** to have under consents legislation. For generic consents, the most hazardous substances from each generic group (toxic/very toxic etc.) for which consent has been granted are used. However, HSE considered that this approach might cause the quantities of dangerous substances **actually** used and the major incident potential at individual establishments to be overestimated, thereby resulting in much larger consultation distances than necessary.

5.4 One proposal to be discussed with other government departments would involve amendment consents legislation, so that operators would be required to:

- specify the substances with maximum major hazards potential; and
- identify a business need for quantity specified.

Whilst this would not totally remove the flexibility of the current generic approach, HSE considered that it would impose some constraint, and was likely to lead to a reduction of consultation distances around most major hazard sites, thereby achieving a more equitable balance between meeting the needs of industry and protecting the community. Anticipated disadvantages to this approach were possible compensation issues, and significant development and assessment costs to HSE.

5.5 **Alternative options** - An alternative to modifying consents legislation would be for HSE to use quantities notified to it under the COMAH Regulations to set consultation distances. Although this should lead to smaller consultation distances, HSE anticipated a number of drawbacks to this approach:

- It would require operators to fix storage quantities, with increases allowed only where technical control measures would be able to maintain the level of risk at sites;
- There would be a risk of infringement proceedings with respect to Article 12 of SEVESO 2;
- HSE would need to commit significant resources to land use planning;

- There was a possibility that some large developments just outside the existing consultation distances would subsequently be captured if the consultation distances expanded as a result of increased inventories; and
- Incremental development could mean an increase in the number of people at risk in the vicinity of a major hazard site.

5.6 Cross-government issues - HSE recognised that these proposals would be difficult to address, and would require the involvement and approval of a wide range of government departments. Cross-government issues included:

- Serious limitations on what HSE/HSC could do alone;
- Aspects which would vary in significance across Departments depending on the way forward;
- Office of Deputy Prime Minister - Planning Regulations and guidance and Consent Regulations;
- Dept. of Trade and Industry - Industrial policy;
- Dept. of Work and Pensions - Economic impact and employment impact;
- Treasury - Economic impact and compensation issues; and
- Contingency Planning Secretariat - Emergency planning.

5.7 Points raised in discussion:

- How would proposals differ from operators applying for an increase under the consents regime? HSE stated that consents were not bounded by ALARP, so the consultation distances would not be subject to “creep”. New consents could be subject to conditions which could require specific storage conditions etc.
- What was the aversion factor for land use planning? HSE confirmed that it was on a scale of 1-10; **details of COMAH/ALARP decisions and aversion are available** on the HSE (Operational Policy) website - (<http://www.hse.gov.uk/comah/circular/perm1.2.htm>).
- Industry supported the cross-governmental approach, but was concerned that the proposals were industry/regulator focussed. How would structure plans manage that? HSE considered that a possible way forward would be strategic spatial planning on a regional or local basis.
- Anticipate resistance from operators of existing installations and from society (who are not used to linking consultation distances and structural plans to societal risk). HSE hoped it would be possible to achieve a pragmatic balance. However, that would require political endorsement and cross-government involvement, which was one of the issues that would be considered by the cross-government Land Use Planning Working Group whose next meeting was scheduled for 12 March.
- Consider that if local negotiation took place between HSE, LAs and site operators (and possibly developers) it might be possible to agree solutions - vital that decisions were not taken by HSE alone. HSE agreed that they were just beginning to develop alternative proposals for land use planning which would require cross-government involvement and support.
- Industry would appreciate advance notification of the information which would be required from operators of lower-tier COMAH sites. HSE agreed that it would aim to provide some early indication. It aimed to obtain the information through regular contact with operators over the next 6-9 months.

5.8 HSE would keep members informed of progress.

Action: HSE

6 Proposed amendment to COMAH Regulations to implement Directive 2003/105/EC

6.1 The revisions proposed under the amendments to Seveso 2 Directive were not considered to be major. Accordingly HSE intended to incorporate the amendments in an amending set of COMAH Regulations and would update the guidance leaflet L11 in a consolidated form. A three month public consultation would be held from July to October 2004, with the aim of having regulations and consolidated guidance in place by July 2005. HSE anticipated that the changes were likely to affect about 200 major hazard sites

6.2 Points raised in discussion:

- There was some industry concern that some installations currently outside the scope of the COMAH Regulations 1999 would be brought straight into scope as top-tier COMAH sites. HSE aimed to inform and advise operators of any newly affected sites on what they needed to do.
- Would ACDS be consulted on the draft CD? As the EC timescales did not tie-in with the scheduled ACDS meetings, HSE anticipated consulting members by correspondence/electronically. However, if members decided that they would prefer to discuss specific issues, HSE would try to arrange an informal adhoc meeting.
- Some members were concerned at the suggestion that the public consultation on the amendments to COMAH would be undertaken electronically, as not everyone had access to PCs, or the resources to download lengthy documents. HSE agreed to alert people of the consultation and, if necessary, arrange for copies to be printed. Consultation issues were one of the areas which would be reviewed by HSE's new Director of Communications.

Action: HSE

7 Work of Advisory Committee on Toxic Substances (ACTS)

7.1 Members received a presentation on the current ACTS work programme. One of the committee's main aims was to consider how ill health in the workplace could be further reduced, and how to protect individuals who may not consider that they work with dangerous chemicals from the risk from exposure to chemicals. E-COSHH Essentials had been developed to try to overcome such communication difficulties by providing more accessible information on dangerous chemical substances used in the workplace in an electronic format.

7.2 Chemical Essentials, (an extension of E-COSHH Essentials), will provide information on managing health, safety and environmental risks from chemicals, and is a good example of close co-operation between ACTS and ACDS, combining expertise from both committees. Funding was required for further work on both E-COSHH Essentials) and Chemical Essentials with the aim of making them more user-friendly, e.g. including more proprietary brands.

7.3 Points raised in discussion:

- How could ACDS contribute towards HSE's Chemical Strategy (and vice versa)? e.g. many chemicals, dangerous substances, and work processes were not covered by Chemical Essentials.
- Need to identify most effective way of getting information to individuals who may not realise that they are at risk from exposure to chemicals in their work.
- COSHH Essentials had proved very helpful in training safety representatives.
- Possible gender issues in working with chemicals could be considered e.g. different health effects for both men and women, and the double exposure risk of those who worked with chemicals and used them in the home.

- Potential of scope for other projects involving the two committees working together. HSE agreed that during the review of ACDS, the Secretary of ACDS should consider further ways of working more closely with ACTS.

Action: HSE

8 HSE's final proposals for the Manufacture and Storage of Explosives Regulations (MSER)

8.1 Members were asked to endorse the current draft of HSE's proposals for MSER, which incorporated comments from Parliamentary Counsel, and if they would allow HSE to incorporate any further late changes required by Parliamentary Counsel. Members endorsed the revised regulations, subject to further consultation (electronically) with the ACDS Explosives Subcommittee on any further changes.

Action: HSE

9 Update from Operational Directorates

9.1 Current major hazard issues included:

- Inspection of occupied buildings - by March 2006 HID aims to ensure that operators of top tier (COMAH) major hazard sites have assessed the risks to people in occupied buildings including control rooms.
- Plant Integrity Project - targets plant, processes, procedures and risk control systems for pressure equipment. It is intended to improve the standards of plant integrity and reduce the risk of major accidents to premises subject to COMAH. The project is currently running over one year, but is likely to be extended to 5 years.
- Petroleum Refinery strategy - Operational programmes have looked at HF alkylation units and refinery pipe systems, with the aim of further improving HSE's effectiveness in preventing major accidents at refineries.
- Human factors at Lower Tier sites - A cross-HSE group had recently been set up to consider common issues in the field of factors, and to promote good inspection practice through advice, guidance and enforcement action. The new group is based in HID.

9.2 Priority Programmes

- Falls from Heights - discussions were continuing with industry on best means of preventing falls from tankers.
- Workplace Transport - with particular reference to forklift trucks.
- Hydrogen fuelled buses - HSE were considering the implications of the use of hydrogen fuel cells to power buses and other vehicles. There is a three year project (CUTE - clear urban transport for Europe) running in 9 European cities, including London, evaluating the use of fuel cell powered buses. Different sources of hydrogen are being evaluated in the different locations. Three buses are currently on trial in London using compressed hydrogen from bulk storage.

9.3 Compliance

- Legionella - HSE was investigating operators' control of this risk at cooling towers. A national initiative was planned.
- Loss of containment incident analysis - a review of RIDDOR LOC incidents 1992 - 2002 to profile incidents and identify underlying causes was available on HSE's website - (http://www.hse.gov.uk/research/hsl_pdf/2003hs103-07.pdf)
- Carriage of Dangerous Goods by Road Regulations (CDG) - HSC had empowered the police forces in Scotland to enforce the CDG Regulations in

line with the system across England and Wales. New Regulations are due to come into force in April 2004 directly referencing ADR - further details are in ACDS/INF/240204/1. HSE would be working in tandem with Department of Transport on CDG until work was fully transferred 2005.

- Gas Safety Subcommittee - a number of carbon monoxide related fatalities have been reported in the last two years that have involved petrol-driven generators in the work environment.

9.4 HSE agreed to contact the TUC (TGWU) with further details about the project on falls from tankers. **Action: HSE**

10 Any other business

10.1 Review of ACDS Open meeting

10.1.1 In view of the low public attendance, members had agreed to consider alternative approaches to future ACDS Open meetings e.g. holding the meeting at a different timing, alongside an external event such as a trade fair. Two possibilities were:

- i. a symposium and exhibition, entitled Hazards XVIII: Process Safety - Sharing Best Practice, organised by the NW branch of the Institute of Chemical Engineers at UMIST, Manchester, 22-25 November 2004; and
- ii. Interflam, a conference for the fire hazards community at the Edinburgh conference centre, at Herriot Watson University, on 5-7 July 2004.

10.1.2 It was agreed that HSE would investigate the feasibility of holding the next ACDS Open meeting in Manchester in November to coincide with Hazards XVIII, with the aim of holding the Open meeting one evening, and the normal business meeting the next morning. **Action: HSE**

11 Date of next meeting: Tuesday 15 June 2004.

12 Below the line papers

12.1 Members noted papers:

- ACDS/INF/240204/1 - Update on Transport of Dangerous Goods;
- ACDS/INF/240204/3 - Gas Safety Subcommittee update
- ACDS/INF/240204/4 - Flammable Substances Subcommittee - Update from the Petrol Working Group.