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## **Advisory Committee on Dangerous Substances (ACDS)**

**61<sup>st</sup> meeting of ACDS at 1.00pm on Friday 26 September 2003 in the Fortune conference room, Rose Court**

### **Members**

Nick Starling Chair  
Dr Chris Beaton CBI  
Dr Tom Smith CBI  
Jim O'Sullivan CBI  
Dr Mike Considine CBI  
Alan Owen TUC  
Dr Tony Cox Independent  
Dr Mike Hogh Independent  
Professor Gordon Walker Independent  
Professor Philip Nolan Independent  
Maurice Healy Consumer representative  
Martin Davies Secretary

### **Apologies**

Professor Barbara Mawer LGA  
Susan Murray TUC  
Leonie Wingrove TUC  
Tom Mellish TUC  
Liz Surkovic DEFRA  
Jeff Hart Dept. for Transport

### **HSE presenter**

Andy Miller Policy Group

### **Government representatives**

John Wright HSE Northern Ireland  
Paul Taylor MOD

### **HSE representatives**

Keith Wilson (representing Steve Coldrick) HID  
Vic Coleman Policy Group  
Janet Savin Secretariat

## **1 Introductions and apologies**

**1.1** The Chair introduced Dr Mike Considine (CBI), attending his first meeting, and Martin Davies, who had replaced John Brazendale as the new Secretary of ACDS. He expressed his gratitude to John for his contribution to the work of ACDS over the past few years, and congratulated Gordon Walker on becoming Professor and Director of the Institute of Environment and Sustainability Research at Staffordshire University.

**1.2** Apologies have had been received from a number of members/representatives - see list above. On behalf of the committee he wished a speedy recovery from illness to Barbara Mawer.

### **1.3 Any other business**

#### **1.3.1 Review of ACDS Open meeting**

Members agreed to review the outcome of the ACDS Open meeting held that morning - see any other business at item 6 below.

## **2 Minutes of the previous meeting**

**2.1** Minutes of the 60th meeting of ACDS, held on 13 February 2003, were agreed.

## **3 Matters arising**

### **3.1 Departmental representatives on ACDS**

**3.1.1** HSE had continued to press for representation on the committee from other

government departments with joint interests, such as the Dept. for Work and Pensions (DWP), and DEFRA, and considered it important to have such representation.

**Action: HSE**

### **3.2 ACDS as a scientific advisory committee**

**3.2.1** ACDS proposed to follow the lead of ACTS which had recently agreed with HSE's Chief Scientist that as the committee was a user of scientific advice (apart from its Subcommittee WATCH), rather than a provider of scientific advice, it was outside the remit of the ACOP for Scientific A/Cs.

### **3.3 DEFRA's consultation on proposals for ammonium nitrate**

**3.3.1** The Regulations were in force, and a Memorandum of Understanding had been agreed between DEFRA, HSE and the Local Authorities. So far, there had been few problems with enforcement of the Regulations. HSL Buxton, who were currently the only body in the UK capable of conducting the Detonation Resistance Test required by the Regulations, were going through their accreditation procedure with UKAS.

### **3.4 COMAH**

**3.4.1** Copies of a summary of the duty holder's survey were issued at the meeting.

### **3.5 Amendments to Dangerous Goods in Harbour Areas Regulations (DGHR)**

**3.5.1** Revised draft Regulations were still being prepared by the Solicitors.

### **3.6 Update on ODPM consultation on changes to the fire legislation**

**3.6.1** When HSE received the final draft of the new fire safety Regulations from ODPM, it would review the interface with HSE legislation, including MSER.

**3.6.2** ODPM were reviewing the question of Crown immunity separately from the new legislation, but considered that the majority of MOD sites would be subject to the new Fire Safety Order. HSE would continue to monitor this situation over the next few months.

**Action: HSE**

### **3.7 Forward Look**

**3.7.1** Professor Gordon Walker had represented ACDS at the HSC meeting in May when the horizon scanning exercise undertaken by all of its advisory committees had been discussed. Members of HSC had been interested in ACDS's views on the growing importance of the hydrogen economy.

## **4 Chair's update**

### **4.1 Death of member of the Health and Safety Commission (HSC)**

**4.1.1** The Chair expressed the committee's sorrow for the recent death of Maureen Rooney.

### **4.2 New Minister**

**4.2.1** The new Minister at HSE's sponsor department, the Department of Work and Pensions was Des Brown.

### **4.3 HSC's strategic review**

**4.3.1** The HSC was about to go out for public consultation on its' new strategy which builds upon Revitalising Health and Safety. HSE's role was to implement the strategy, which would

require more flexible ways of working and more innovative methods of communicating, focussing on priorities and developing its' occupational health and safety advice, with more emphasis on rehabilitation. A copy of the new strategy was available on the HSE website.

#### **4.4 Reconstitution of ACDS**

**4.4.1** HSE's Deputy Director General responsible for HSE's Policy Group had agreed to extend the current constitution of ACDS until the end of the financial year. In the interim, ACDS would undergo a review that would reconsider its structure, how it conducted its' business etc. This would involve consulting all members of ACDS; observers from HSE and other government departments; as well as constituent member groups and other parts of HSE; seeking their views on whether ACDS provides value for money e.g. in terms of providing strategic advice to HSC. Issues which would need to be considered during the review would include maintaining the status quo; winding ACDS down completely; the committee's relationship with other Advisory Committees (A/Cs) such as ACTS; possible amalgamation with another A/C; whether some sectors e.g. gas should have their own industry A/C etc.

**4.4.2** Members would receive a letter from the Chair of HSC shortly setting out what he expected from the reconstitution exercise (in the light of the HSC's Strategic Review etc). Members agreed to continue as representatives until the review of ACDS had been completed (likely to be the end of the financial year).

#### **4.5 Dates of meetings next year**

**4.5.1** HSE would write to members shortly with some proposed dates for meetings in 2004; however, these would be dependent on the outcome of the review of ACDS.

**Action: HSE**

#### **4.6 Reorganisation of HSE**

**4.6.1** HSE had combined its two Health and Safety Directorates into one Policy Group, (headed by Sandra Caldwell and Nick Starling), and was moving towards a more project-based approach to its work.

#### **4.7 Amendments to the Pipelines Safety Regulations 1996**

**4.7.1** The revised Pipelines Safety Regulations had been signed by the Minister that week.

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

**5.1** The main aims of the proposals were to update the Explosives Act 1875, and to simplify the Regulations controlling the manufacture and storage of explosives, taking account of changes in the industry (e.g. more on-site manufacture of explosives) and changes in other relevant legislation (e.g. Dangerous Substances and Explosive Atmospheres (DSEAR) and the Carriage of Dangerous Goods Regulations (CDG Regs.)).

**5.2** The consultation had broadly supported the principles behind the proposals, but there were some concerns over their implementation. For example, there had been concerns over the safeguards attached to the provision giving local authorities (LAs) the power to refuse or revoke a licence if, in their opinion, the holder was not considered a fit person. In order to address those concerns, HSE has strengthened the power by, for example, requiring LAs to provide a statement explaining the reasons for their decision, and allowing the licence holder the opportunity to appeal against the LA's decision.

**5.3** The new Fireworks Act came into force at the end of September 2003. There was a strong possibility DTI would propose the introduction of a licensing regime for the sale of fireworks. DTI still needed to develop their proposals, which would then require a formal consultation exercise; this would be likely to take at least another year. Although the introduction of a licensing regime for fireworks might impact on the current revised MSER

legislative package, HSE had decided not to delay the amendments to MSER any further. Instead, HSE had taken the view that, if necessary, any consequential revisions to the MSER legislation could be included in the DTI proposals.

**5.4** Some members expressed concern about the information contained in the public register of explosive sites. HSE believed that it had achieved the right balance of maintaining national security whilst still allowing public access to information required for land use planning applications, and solicitors' land registry searches. Nevertheless, it agreed to review this part of the draft Regulations. Subject to this review, members agreed that the draft Regulations should be forwarded to HSC, and that they would receive a copy of the final draft Regulations being considered at the HSC meeting on 10 October.

**Action: HSE**

**5.5** The Chair of the Explosives Subcommittee, who had been impressed by the level of commitment and the extensive debate at S/C meetings, expressed his gratitude to the members of the S/C for their contribution to the revised MSER package. The Chair of ACDS thanked Andy Miller and his team for all their hard work in preparing this very complex legislative package.

## **6 Any other business**

### **6.1 Review of ACDS Open meeting**

**6.1.1** Members reviewed the outcome of the ACDS Open meeting held that morning. In view of the disappointingly low public attendance, members agreed to consider alternative approaches to future ACDS Open meetings, and to send any suggestions to the Secretary of ACDS. Possible options included using a different venue and holding the meeting at a different time, possibly alongside an external event such as a trade fair.

**Action: All members**

### **6.2 Application from CO - GAS for membership of Gas Safety Subcommittee (S/C)**

**6.2.1** Members agreed that in view of the commitment already demonstrated by CO - Gas in discussions held by Working Groups taking forward the recommendations of the fundamental gas safety review, the Chair of the Gas Safety S/C would invite CO - Gas to provide an additional consumer representative on the S/C. This was agreed pending the outcome of the review of ACDS and the ACDS reconstitution exercise.

**Action: HSE**

### **6.3 General ACOP for Dangerous Substances and Explosive Atmospheres (DSEAR)**

**6.3.1** The general ACOP for Dangerous Substances and Explosive Atmospheres (DSEAR) was due to be published in October, and interpretative guidance would be available from mid - November at the earliest. The technical ACOPs were available on the HSE website.

### **6.4 Report on Grangemouth**

**6.4.1** A joint industry and competent authority report on the incident at Grangemouth had been placed on the HSE website.

### **6.5 Prosecution against fraud in oil and gas industry**

**6.5.1** Following a recent successful joint HSE and police prosecution, a company director had been imprisoned for 18 months for forging certificates for valves used in safety related systems in the off shore oil and gas industry. HSE's ability to identify the likely consequences of failures of the inferior valves in service had strengthened the case.

### **6.6 Classification of explosives**

**6.6.1** The CBI had recently launched a website providing advice on the classification of explosives. (<http://www.locef.co.uk>)

**6.7 Consumer representation on ACDS**

**6.7.1** This would be reconsidered during the review of ACDS (see paragraph 4.4.1 above).

**7 Date of next meeting:** The Secretariat would contact members shortly about proposed dates for 2004, subject to the outcome of the review of ACDS. (Dates subsequently confirmed as Tuesday 24 February 2004; Tuesday 15 June 2004; and Tuesday 12 October 2004).

**Below the line paper:** Members noted paper ACDS/INF/260903/1 - Update on implementation of Transport of Dangerous Goods.

**Close of meeting:** The Chair thanked members for attending, and for their support during the ACDS Open meeting.