

Open Government status: Partially open

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Exempt material: The public version of this paper will have exempt material removed from sections detailing members present and apologies and paragraphs 1.3, 1.5, 4.11 and 15.1. The sections are withheld under Exemption 12 of the Code of Practice on Access to Government Information – ‘information that would cause unwarranted invasion of personal privacy’.

Meeting Date: 21 November 2002

Type of Paper: Minutes

HEALTH AND SAFETY COMMISSION

ADVISORY COMMITTEE ON TOXIC SUBSTANCES

Minutes of the 79th meeting held on 21 November 2002 at Rose Court,
London SE1 9HS

Chair:

Mrs Sandra Caldwell HSE

Secretary:

Mr John Thompson HSE

Members present:

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Apologies:

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1 Introductions and apologies

1.1 Sandra Caldwell welcomed members to the 79th meeting of ACTS.

People

1.2 Sandra Caldwell introduced Nick Summers, who has replaced Laura Whitford in ACTS Secretariat.

1.3 → ← This section is being withheld under Exemption 12 of the Code of Practice on Access to Government Information.

Dates for the 2003 ACTS meetings

- 1.4 Sandra Caldwell announced the dates for the 2003 ACTS meetings. These are: 13 March 2003, ~~24 July 2003 and 20 November 2003~~. **Please note that these dates have since been revised to: 10 July 2003 and 17 October 2003.**

ACTS Open Meeting

- 1.5 Sandra Caldwell suggested that members might like to consider having an open meeting during 2003. She asked for volunteers to meet John Thompson and Secretariat to discuss how the open meeting should be handled. →
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Action: John Thompson, ACTS Secretariat and the 4 volunteers

2 Feedback from the presentation of HSE's Chemical Strategy to HSC at it's 12 November 2002 meeting.

- 2.1 John Thompson gave feedback on papers (previously circulated to members) presented to the HSC on 12 November 2002. The Commission endorsed the Chemical Strategy and welcomed the fact that although priorities had been identified, it did not mean that other work could not be carried out. They also welcomed the emphasis on control in the workplace and the focus on reaching SMEs.

The following points were discussed

- 2.2 A CBI representative commented that the evidence base for prioritising cancer still relied on the 1981 study by Doll & Peto. Could HSE update this information? Paul Oldershaw replied that the Epidemiology Unit is addressing this issue.
- 2.3 A CBI representative asked if the Commission had discussed resourcing the strategy. Sandra Caldwell replied that the Commission would be making resourcing decisions at its December 2002 meeting.
- 2.4 An independent representative said there was an information gap on reproductive health/fertility in relation to exposure to chemicals.

3 The finalisation of the Forward Look (FL)

- 3.1 John Thompson introduced the paper. He explained that only one member had sent revisions to the bullet point summary, which Secretariat had distributed following the July residential meeting. These concerned REACH. Now ACTS needed formally to agree the FL so that it could be presented to the HSC. He was pleased that there had been a synergy between this exercise and work on ACTS's new Work Plan. Sandra Caldwell asked if members were content with the FL.

The following points were discussed

- 3.2 Members were unhappy with the revisions. There was a consensus that the original bullet point summary, whilst very succinct, was an objective representation of the syndicate discussions and Rapporteur presentations. A CBI representative said that because of the nature of the FL, there will be differences of views. These views needed to be presented in a neutral way, acknowledging potentially different outcomes. ACTS should emphasise the need to periodically revisit the FL and make adjustments. The member commended the reference to do this in the draft Work Plan.
- 3.3 An Independent representative was happy with the projections in the FL but less so with the handling of the potential consequences for ACTS and health and safety in general. The document as it read suggested an acceptance of the inevitable rather than recognising that some of the 'inevitables' may not be a good thing. An intervention at some stage might prevent them from happening.
- 3.4 Summing up, Sandra Caldwell asked members if they were content with the original version of the bullet point summary. She proposed to write a covering minute to accompany the FL when it was submitted to the HSC. This would capture the points members had made during discussion. The Environment representative's comments would be put aside but the minute would explicitly acknowledge that one of the major uncertainties with the FL is the REACH programme that is coming out of the EU. It was agreed.

Action: ACTS Secretariat

4 Finalisation of ACTS future work plan

4.1 Paul Hems introduced the paper, which sought ACTS's agreement on both the revised Aim of the Work Plan and the recommendations in paragraph 5 of the cover paper.

4.2 Members considered the last sentence of the redrafted Aim unnecessary.

Action: ACTS Secretariat

4.3 A CBI representative believed that ACTS should not be working on any initiative unless there was an evidence base to justify activity.

4.4 An Independent member asked if a wider constituency than the members and their stakeholder groups had been consulted on, in relation to proposals in the Work Plan. John Thompson said that so far only members had commented on the paper but that elements of the plan would probably benefit from wider consultation. Carole Sullivan added that where tools are developed to solve work related health problems, they should be piloted with relevant stakeholders, such as SMEs. This was an example of wider consultation, albeit a bit further down the line.

4.5 A TUC representative believed there should be more emphasis in the plan on input from workers to address knowledge gaps. Safety representatives and others know better than anyone what is happening in the workplace, yet this source of information is virtually untapped in any systematic way. Sandra Caldwell acknowledged that this was an important point and agreed to ensure that the emphasis is adjusted in the Work Plan.

Action: ACTS Secretariat

4.6 Several TUC representatives said it was important to ensure ACTS did not operate in isolation to relevant work progressing elsewhere in HSE. The plan should be explicit about the need for activity to be coordinated amongst all groups in HSE concerned with occupational health (e.g. OHAC, SH2, IACs, Sectors etc.). This would prevent unnecessary duplication and ensure that ACTS work is registered with other interested parties. Sandra Caldwell agreed and said discrete, targeted initiatives would make it easier to request specific help of other groups, including Local Authorities. Work was in hand to coordinate activity but was not finished yet. She undertook to ensure that the

collective thinking on this issue is brought back to ACTS, possibly in March 2003. She also asked Secretariat to make this issue more explicit in the Work Plan.

Action: Sandra Caldwell and ACTS Secretariat

- 4.7 A CBI representative said the plan would need to be resourced by all parties involved in its development and implementation. If industry is going to commit resources, it will want a quantification of what is required and when. Was this issue something that could be addressed in the plan, and then refined as work progressed? Sandra Caldwell responded that it should be possible to provide guesstimates on resourcing. She proposed that the plan included a commitment to produce 2-page summary project plans for any initiatives that are taken forward. She asked if members were content with this approach. This was agreed.

Action: ACTS Secretariat

- 4.8 A CBI representative noted that the current Annex 5 tailed off in later years, and commented that what was needed was an enduring plan that spread over 4-years. The member commended the approach taken by the Asthma Project Board. John Thompson acknowledged the document was better populated in the earlier years. In presenting the Work Plan to the HSC, the cover paper could make clear that the project plan approach represented the way in which ACTS intended to work.
- 4.9 A CBI representative supported the proposal to develop a website for ACTS but thought it should be a minimal affair. In contrast, a TUC representative believed that a website represented a means for ACTS to raise its profile. At the moment, not that many people know about ACTS. The member maintained that every industry organisation that has an interest in chemicals should be aware of ACTS and what it is trying to do. However, this is not the case. It is essential that we are seen as a committee that makes things happen. The website is one mechanism to help achieve this.
- 4.10 An Independent representative commented that it was unclear how the draft initiatives had emerged from Annexes 3 & 4. Sandra Caldwell responded that the discussion on this agenda item had generated a lot of very useful

feedback. She suggested that Secretariat take away the committee discussions and pick up the points in a cover paper presenting the Work Plan to the HSC. The paper could clearly state what 1st, 2nd and 3rd priorities are. A draft of this paper could be circulated to members before it is submitted to the Commission. Applying the criteria in Annex 4, we could see if we had reached consensus on the proposed priorities. Members agreed.

Action: ACTS Secretariat

- 4.11 In conclusion, Sandra Caldwell explained that there were a few additional issues she wanted to handle at the end of this discussion on the Work Plan. Firstly, she had asked for the ACTS sub-groups, in particular WATCH, to be reconsidered so as to match the approach ACTS was adopting in its ways of working.

Action: John Thompson and Paul Oldershaw

Secondly, she sought volunteers from members to provide feedback on the asthma web pages that HSE are developing. Six members volunteered. They are → ← **This section is being withheld under Exemption 12 of the Code of Practice on Access to Government Information.**

Action: Michael Topping's team

Thirdly, she invited anyone with a particular interest to attend the meeting of the OEL framework sub-group (to which WATCH members have also been invited) on 28 January, when the list of problem substances in EH40, and brief supporting data, will be available for discussion.

Action: Members

5 Report back on the outcome of consultation via the OEL Framework Discussion Document

- 5.1 Michael Topping introduced the paper, which presented responses to the Discussion Document on the OEL framework and sought ACTS agreement to seek HSC's approval to publish a CD on formal proposals. In summary, these are for a single type of limit, with the principles of good occupational health and hygiene practice set out in a new Schedule in the COSHH Regulations.

5.2 One of the issues that still needed to be resolved is what to do with the current list of OESs and MELs. The OEL sub group has proposed that they should be categorised as set out in Annex D. The next step is to allocate existing limits to one of these categories. The OEL sub group and WATCH are meeting on 28 January 2003. This will be an opportunity to comment on the allocation of different substances to different categories, as well as the data used to make these decisions. The OEL sub group will meet the following day to decide how to proceed.

The following points were discussed

5.3 An Independent representative was concerned that the paper did not address the individual hazards associated with the unsafe limits. In response Michael Topping said that this was a good point to consider.

5.4 An Independent representative asked if a legal definition of the new limit would be published in the CD, since people will want to know the legal status of the limits. The member was also concerned that categorisation of substances as unsafe or of concern could cause confusion if they persisted into the new system. Michael Topping explained that the categorisation was simply to help thinking about how to deal with the substances.

5.5 An Independent representative asked if in exceeding a new limit, you would be breaking the law. Michael Topping said yes. The member asked if the intention is to transfer Occupational Exposure Standards (OESs) directly into the new system. Will limits be adjusted to reflect the more stringent nature of the new limit, since current OESs operated on a different, less stringent legal basis? In response, Michael Topping said this was something that would need to be considered in more detail in January but that yes, the intention was to transfer as many of the OESs into the new system without revising the numbers. A TUC representative said the purpose of the discussion was to agree to consultation via a CD. It was important to consider these issues but that the consultation process would provide an opportunity to do so.

5.6 A CBI representative said that it had not been apparent in the Discussion Document that a consequence of the new framework would be to make the

status of some limits more stringent. Sandra Caldwell agreed that this was an issue that needed to be made clear in the CD.

- 5.7 In summary, Sandra Caldwell suggested that there are some key points that need to be included in the CD to avoid ambiguity, but the consultation could proceed. It was agreed. She invited members to the key OEL sub group/WATCH meeting on 28 January 2003 and suggested that if anyone wished to attend, they should inform Michael Topping. The meeting will be held in Rose Court.

6 Publicising limits

- 6.1 Carole Sullivan introduced the paper, which sought members' consideration of the actions in paragraph 25 of the paper. On balance, HSE recommends option 4, which is set out in paragraph 12 of the paper. The OEL sub group also supported this.

The following points were discussed

- 6.2 A CBI representative agreed with option four as well as the paramount importance of avoiding confusion. The member considered that the wording in the addendum needed to be tested on a variety of different audiences. A TUC representative agreed. Sandra Caldwell said this suggestion was very helpful.

7 Proposals for maximum exposure limits (MELs) and occupational exposure standards (OELs) feedback on CD182

- 7.1 Louisa McNamara introduced the paper, which sought ACTS agreement to seek the HSC's approval of the proposals. Members agreed the proposals.

8 MEL proposal for refractory ceramic fibres

- 8.1 Sandra Caldwell drew members' attention to the tabled ECFIA memorandum. This sought review of scientific evidence on the carcinogenicity of RCFs by the Committee on Carcinogenicity (CoC). She also noted that this was the agenda item for which members had made declarations of interest.

8.2 Richard Pedersen introduced the paper. He explained that RCFs were classified as Category 2 carcinogens in the Dangerous Substances Directive and in the CHIP Regulations. For this reason, HSE believed they warranted a lower limit than MMMFs. When the proposal was considered at the 14 March ACTS meeting, TUC representatives considered there was a lack of evidence on the cost of an MEL to small businesses. Since then, the regulatory impact assessment had been extended to address this issue. ECFIA had made several presentations to ACTS and WATCH this year, concerning new scientific evidence on RCFs. At their May 2002 meeting, WATCH unanimously agreed that there was no need to revise their previous recommendation to ACTS. Consequently, this paper recommended that ACTS agree to recommend consultation on a MEL of either 1f/ml or 0.5f/ml (airborne fibre concentration) (8-hour TWA).

8.3 Sandra Caldwell stressed that the purpose of the discussion was to decide if ACTS should seek HSC's approval to publish a CD on the proposal. She recognised that there were some potentially difficult issues to be resolved on this agenda item. However, opening up the discussion to a wider audience through the consultation process seemed a sensible way of addressing the issue. Firstly, she asked if members were content to recommend going out to consultation. It was agreed.

Action: Richard Pedersen

Secondly, she asked if members were content with arrangements to establish the ability of small businesses to comply with a MEL – she believed that consultation would provide more information on this issue. It was agreed. Thirdly, she asked if members were content that if the issue of a gravimetric limit was also raised in the CD. It was agreed. Fourthly, she said that the committee needed to decide how to respond to the tabled memorandum from ECFIA.

The following points were discussed

8.4 A CBI representative wished to submit some factual corrections, from ECFIA, concerning the MEL proposal paper. Sandra Caldwell asked the committee to take a view on this request. She suggested that if the submission simply

proposed changes to improve the clarity of the paper, this should be acceptable. However, if the changes altered the emphasis, then they would be put aside. A TUC representative was very unhappy about the request. The member believed ACTS had already been subjected to a level of lobbying that was offensive. If there were anything in the submission that was anything other than tidying up the English, the member would resist it most strongly.

Action: Richard Pedersen

- 8.5 Sandra Caldwell returned the committee to the issue of the tabled memorandum. How should ACTS deal with the memorandum from the trade association?
- 8.6 A CBI representative asked if there was a precedent for dealing with requests of this kind. The member argued that ACTS should be consistent. John Thompson replied that the request was highly unusual. An Independent representative, also a member of WATCH, said that ACTS had on occasion referred matters to the CoC. However, on RCFs, WATCH had been unanimous in its recommendation to ACTS. Paul Oldershaw added that when issues had been referred to CoC, we had been seeking peer input from people with great knowledge in particular areas and with something to add. However, this was not the business CoC would normally receive. Given the workplace nature of these risks, WATCH's view would have enormous authority, since the issue was very much in the working groups' area of competence. TUC representatives said referring the matter to the CoC would undermine HSC's own experts. ACTS needed to have the courage of its own convictions.
- 8.7 An Independent representative asked if the CD would include details of the inhalation studies so that the consultative audience could fully understand both sides of the argument. A CBI representative added that additional issues had emerged since WATCH had last considered RCFs. In response, an Independent Representative asserted that there was no incontestable evidence. In relation to the issue of mesotheliomas that emerged in animal studies, these would never be seen in humans because workplace controls were already very good. Sandra Caldwell said the CD could list the inhalation

studies on which the proposals were based. These could be made available if necessary.

- 8.8 A CBI representative said that carcinogenicity was usually based on evidence in two sets of animal studies, whereas this science appeared to be based on one set. ECFIA wants the EU to reconsider classification. Paul Oldershaw responded that it was very difficult to lessen a carcinogenicity classification once it had been agreed. It was unlikely that other Member States would support such a change, and in any case there was very weak evidence on which to base an argument. Both an HSE toxicologist and an Independent representative said that mesotheliomas had been evident in two species.
- 8.9 Another Independent representative said the regulatory regime for fibres did not reflect the scientific position. The same CBI representative supported these comments, as well as ECFIA's position that a test should be developed for biopersistence of fibres in the lung, rather than relying solely on chemistry as was currently the case.
- 8.10 Summing up, Sandra Caldwell proposed she write to ECFIA. She would thank them for providing ACTS with the information. She would explain the memorandum had been tabled and discussed but that ACTS had not considered it necessary to refer the matter to the CoC. ECFIA could participate in the anticipated consultation process. It was agreed.

9 Progress with the asthma strategy

- 9.1 Donald Adey introduced the paper, which asked ACTS to note the work in progress and to provide feedback.

The following points were discussed

- 9.2 An LA representative was disappointed at the lack of reference to how local authorities could contribute to the strategy. The member considered there was significant work LA EHOs could do, particularly in relation to flour and wood dusts. Could HSE look at this issue? Also, had HELA been consulted? Donald Adey replied that he had consulted the Institute of Environmental Health and EHOs in Hull City Council. Both had offered suggestions that would be taken forward. Sandra Caldwell said HSE would examine how it

could more effectively involve LAs in the strategy, including opportunities for partnerships and asked Donald Adey to contact the member after the meeting. Michael Topping confirmed that HELA had been consulted.

Action: Donald Adey

- 9.3 An Independent representative asked if the cost of the project had been quantified. This would be useful to know in relation to costing other similar, potential initiatives. A CBI representative said that the benefit of the initiative should also be quantified. Sandra Caldwell agreed.

Action: CRAU2

- 9.4 A TUC representative noted that ACTS is not mentioned in the paper, whereas the asthma topic is featured prominently in the committee's work plan. The paper did not mention anything about sectors groups or IACs. This seemed a major omission. If you want to make change happen, you need to engage the people with the power and influence in an industry to make change happen. They need to be on board and committed. Sandra Caldwell said that this was a point well made.

Action: CRAU2

- 9.5 An Independent representative believed the explanation for much of the non-compliance in relation to preventing occupational asthma was quite simply ignorance. This needed to be addressed via an educational programme.

- 9.6 Sandra Caldwell said this was an evolving programme. She asked, if progress was made in relation to engaging key people in industry sectors, would a member be prepared to accompany Donald Adey to a sector meeting, provided we could get asthma on the agenda. Secondly, would ACTS welcome an update on the Asthma strategy, possibly in July 2003? It was agreed.

Action: CRAU2 and ACTS Secretariat

10 Closing down of NEWCON

10.1 John Thompson introduced the paper. It informed members that the committee, which had done excellent work, was standing down.

10.2 Sandra Caldwell acknowledged the work NEWCON have done.

14 The new European Chemical Strategy

14.1 This paper was brought above the line at the request of an ACTS member (CBI). John Thompson and Carole Sullivan provided a summary of the progress with the European Commission (EC) White Paper for a future chemicals policy and the proposed REACH system.

14.2 There is uncertainty as to whether there will be consultation on the legislative proposals for REACH. Two EC DGs are involved in taking this forward (Enterprise and Environment). It is estimated (optimistically) that REACH will be implemented by 2008.

14.3 CBI raised the question as to whether HSE has yet assessed the impact of REACH upon it. Sandra Caldwell explained that this cannot be quantified yet, but issues such as who should provide expertise are being addressed across Whitehall.

14.4 ACTS members have asked for this to be a standing item on future ACTS agendas. Sandra Caldwell said that if there are any developments on this matter between ACTS meetings, then Secretariat will inform members by email.

Action: ACTS Secretariat/CSMU

15 AOB

15.1 → ← **This section is being withheld under Exemption 12 of the Code of Practice on Access to Government Information** informed ACTS that he was leaving GMB. This meeting would probably be his last meeting. Sandra Caldwell, on behalf of members thanked him for his outstanding contribution to the work of the committee.