

# MINUTES OF THE TENTH MEETING OF THE UK REACH ENFORCEMENT LIAISON GROUP (ELG)

HSE HQ, Redgrave Court, Bootle, Merseyside  
Tuesday 13<sup>th</sup> May 2014

## Organisations represented

Health and Safety Executive (HSE), REACH Compliance Team (RCT)  
HSE, International Chemicals Unit (ICU)  
Department of the Environment, Food and Rural Affairs (Defra)  
Environment Agency (EA)  
Northern Ireland Environment Agency (NIEA)  
Health and Safety Executive Northern Ireland (HSENI)  
Scottish Environment Protection Agency (SEPA)  
UK Border Force (previously represented as UK Borders Agency) (by teleconference)  
HSE Operational Inspector  
Department of Energy and Climate Change (DECC)  
Natural Resources Wales (by teleconference)  
Home Office (Animals, Scientific Procedures Division)  
Office of Rail Regulation (ORR)

Representatives from the Irish Health and Safety Authority (HSA) attended as observers (by teleconference)

Chair and Secretariat functions were provided by HSE's RCT.

## 1. Welcome and introductions

The Chair of the ELG welcomed all members and the observer from the HSA, thanking them for their attendance. Participants introduced themselves for the benefit observers and the teleconference participants.

## 2. Administrative issues

(i) Approval of minutes from the last meeting:

The minutes of the last meeting were agreed. **Action: Secretariat to add to website.**

(ii) Outstanding issues from last meeting:

### **3. Feedback on recent operational activities including enforcement action**

(i) UK RCT activities and future plans:

A member of the UK RCT gave a presentation of recent and ongoing enforcement activities. Some highlights of this presentation include:

In terms of the reactive work received by the RCT, including complaints, confessions and referrals, there have been 412 interventions as of 1<sup>st</sup> April 2014. This has included 65 notices, as well as a large number of other enforcement actions, including verbal and written advice. The main focus of the RCT enforcement strategy is on proportionate solutions designed to move companies back into compliance. The enforcement tools used and the approach taken are differentiated between wilful non compliance and those who have/are trying to comply. The RCT also offers and provides support to other UK enforcing authorities, to ensure appropriate enforcement by these authorities, with as much consistency as possible.

There has been a reduced level of complaints during the last quarter of last year, however there is an apparent increase again in 2014. The main issues have continued to be SDS's and restricted substances in articles (asbestos and phthalates). Article 33 duties relating to SVHCs in articles has also been an issue.

There has again been an increase this year in the number of referrals received by the RCT. These include referrals from other UK enforcing authorities, including EA, LA's and HSE inspectors in other areas. EU referrals have also increased again, indicating that interaction with other member states remains good. This is to be expected with complex international supply chains. SDSs are again a major subject of referrals here. Referrals from ECHA have been the biggest increase, including for draft decisions in relation to NONS dossiers, intermediate registrations and as a result of dossier evaluation. Together these continue to indicate the continued cooperation between the ELG members, as well as the Forum and its members/contacts.

In terms of the proactive activity of the RCT, there has been less of a focus on proactive projects this year, mainly due to the increase in reactive work using the available resource. The topic specific campaigns that have been undertaken are quite often as a result of trends seen in the reactive work received. This has included asbestos in gas masks (ongoing).

There has also been increased input into EU wide enforcement projects. The REF-II project is now complete and the report has been completed. REF-III has been extended into 2014 and the RCT are continuing to contribute to this. There is more EU work in the pipeline, including an extension to the REF II project in 2014, REF IV is to be scoped in 2014 and operational in 2015. A pilot project on authorisation is to go live in 2014/15 and a project is being proposed on substances in articles.

At EU level, the RCT continue to attend and input into Forum meetings. The RCT has also been involved in developing the Forum Multi Annual Work Programme which has now been adopted, and is also member of a number of other working groups and contributes to planning of 'train the trainers' events.

At UK level, the ELG continues to cooperate, as is demonstrated by this meeting. Advice and assistance is regularly provided by the RCT as required, including to a number of new ELG members. Training is also provided on an ongoing basis to inspectors, HID training was completed in November 2013, all early years inspectors (new recruits) receive REACH training as a matter of course and the most recent set of this training was provided in September. Product Safety Teams and FOD inspectors were also provided with training in September.

(ii) The EA gave a presentation about their recent enforcement activity and future plans. Most work has been on POP's and PCB's.

REACH highlights included:

- Ongoing work on Water Framework Directive. All REACH substances are also covered by the Water Framework Directive. Focusing on where the chemicals originate and end of pipe treatment. Also maintaining Environmental Quality Standards for certain priority substances.
- An enforcement campaign on lead paint, including working closely with English Heritage.
- Work undertaken on treated timber. Looking at arsenic, mercury, creosote, TBT and lindane.
- Purchasing and testing carried out on products thought to contain nonyl phenol. NPs found in some personal care products, action taken to withdraw all stock from market (nb issue with NP in animal care products not being covered by Restriction).
- Work started on revised mercury restriction. Of those contacted, most seemed to have alternatives to Hg.

Other activities include:

- EA and HSE jointly hosted the 2013 CLEEN conference on 17th September 2013 in London.
- F-GAS (fluorinated greenhouse gases) and ODS (ozone depleting substances) regulations are now the remit of the EA, which entails additional work for the team, including monitoring and enforcement.
- Work ongoing on potential TBT in guttering as part of Water Framework Directive. Update to be provided on this at next meeting.

(iii) The Home Office in Science Regulation Unit gave a presentation on current issues relating to REACH.

Directive 2010/63 EC 'on the protection of animals used for scientific purposes' came into force on 1<sup>st</sup> January 2013. Enforced in the UK via Animals (Scientific Procedures) Act 1986, as amended. Some issues with interpretation of certain articles of Directive, and with generic nature of protocols. Legal advice is being sought. Meeting to be held outside of ELG between HO, HSE and Defra.

(iv) Observers from the Health and Safety Authority (Ireland) provided verbal feedback on recent activity.

#### **4. Developments at European Level**

(i) Feedback from Forums 16 and 17

Forum 16 took place in October 2013, and included the 3<sup>rd</sup> Accredited Stakeholder Event, and Forum 17 took place in March 2014. Detailed notes of these meetings have been previously circulated to members. A brief summary of the key points for the UK is below:

Key points of Forum 16;

- Enforcement of regulatory decisions
  - Prioritisation of ECHA decisions
  - Further intermediate screening
- Working Group reports
  - Multi Annual Work programme – still being drafted
  - Horizontal methodologies – adopted without comment
  - Restrictions
    - Analytical methods
    - Laboratory capacity
  - REF III – Prolonged into 2014
  - ICSMS/RIPE
    - RIPE 2.0 given go ahead
    - ICSMS work with COM
  - Train the trainers – Successful event 19/20 November 2013
- Practical Issues for enforcement
  - E-cigarettes
  - Competence to draft SDS's
  - How to enforce opt out dossiers
- Updates;
  - From COM
  - From ECHA
  - Cooperation with other Enforcers
  
- Breakout groups

- Enforcement of authorisation-related obligations
- Improvement of the quality of registration dossiers
- Enhancing enforcement of CLP

#### Key points of 3<sup>rd</sup> Accredited Stakeholder Meeting

- Forum update on activity
- Enforcement activity in MSs
- Invited ASOs to participate in
  - REF Prioritisation
  - Restrictions work
- ASO Presentations
  - Reaching the ‘Unreachables’
  - Endocrine disruptors – poor dossier quality
  - Recycled substances and authorisation
  - The consumers right to know
  - ‘Detnet’

#### Key points of Forum 17;

- Enforcement of regulatory decisions
  - Cases sent to MS Focal Points
  - National experiences
  - New WG - UK to chair
- Working Group reports
  - Multi Annual Work programme – adopted
  - Restrictions
    - Analytical methods
    - Laboratory capacity
  - REF III – Prolonged into 2014
  - REF IV – Being scoped by Prioritisation WG – UK participating
  - ICSMS/RIPE
    - RIPE 2.0 given go ahead
    - ICSMS will be the communications tool
  - Train the trainers – New event being scoped – UK participating
- Practical Issues for enforcement
  - E-cigarettes
  - Competence to draft SDS’s
  - How to enforce opt out dossiers
- Updates;
  - From COM
  - From ECHA
  - Cooperation with other Enforcers

Chris - Does SDS checklist discussion and circulation need to be included?

The next Forum meeting will be held in the week commencing 23<sup>rd</sup> June 2014. **Action: Secretariat to provide agenda in advance. Action: Members to offer comments for discussion by the end of the previous week.**

## 5. Data Sharing

(i) Presentation provided by HSE Business Services Division. Outlining the requirements of the Data Protection Act and the considerations that should be included when sharing data between Authorities for the purposes of enforcement.

## 6. ELG work programme

(i) Discussion of Work Programme item on creation of Terms of Reference  
The work programme of the ELG has been redrafted in line with the changes made relating to the removal of MoU and replacement with a Terms of Reference. **Action: All members to review new Work programme and provide comments to secretariat.**

(ii) Discussion of progress

## 7. Update from Defra/HSE

(i) Update from Defra.

The Reach Enforcement Amendment Regulations came into force on 16<sup>th</sup> December. This applied the derogation on asbestos in second hand articles, along with adding the Office of Rail Regulation as enforcers. Ambulatory references were also added.

The next amendment will be for the derogation for DCM regarding use by professionals with appropriate training.

In relation to Article 33 duties, there has been long standing disagreement regarding the notification of 0.1% of SVHCs in articles. Most member states agree with O5A (once an article, always an article), however, the commission are taking infringement proceedings against the 6 member states who dissent from this view. This was instigated by the 6 dissenting member states releasing their own guidance on the issue.

(ii) Update from HSE.

The draft of the new Terms of Reference has been provided to all members and needs agreement. **Action: All members to review Terms of Reference and provide comments to secretariat.**

## 8. AOB

HSA requested the opportunity to feed back on recent activities, however this was covered under agenda item 3.

**8. Date of the next meeting:**

The ELG will continue to take place twice annually at this time. The next meeting will be scheduled for approximately November. **Action: secretariat to obtain availabilities of members nearer the time.**

The chair brought the meeting to a close, thanking all members for their attendance and contributions.