

Written evidence submitted by Green Alliance

About Green Alliance

Green Alliance is a charity and independent think tank focused on ambitious leadership for the environment. Since 1979, we have been working with a growing network of influential leaders in business, academia, NGOs and politics to stimulate new thinking and dialogue on environmental policy and increase political action and support for environmental solutions in the UK.

We welcome the opportunity to respond to this call for evidence and focus our submission on the capacity and role of the HSE in chemicals regulation and governance, particularly its role within REACH.

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Response to the call for evidence

HSE capacity

While the UK was a member of the EU, chemicals regulation was managed under a system called REACH, which applies to all chemical substances, alone, in mixtures or contained within products, excluding those such as pesticides which are managed with different regulations. Upon leaving the EU, the UK set up a parallel regulatory system called UK REACH which applies to Great Britain.

There are over 26,000 chemicals regulated under REACH in Europe¹ and it is reasonable to expect the UK, as a former member of the single market, to have a similar level of need. The European Chemicals Agency (ECHA) has 586 staff (as of 2021²) while HSE's Chemicals Regulation Division has only 355 FTE and has plans to reach 550 FTE by 2024³ though it is unclear whether these plans will be affected by the cut to civil service headcount of 90,000 announced in May 2022.⁴ Currently, a quarter of staff time in HSE's Chemicals Regulation Division is being spent in training and not all roles have been filled.⁵

As the NAO notes, the delay in building capacity at HSE has had consequences for the regulation of chemicals in Great Britain which Green Alliance perceives to carry risks for human health and the environment. For example:

- The number of chemicals being considered for classification as 'substances of very high concern' (SVHCs) in 2021 was 10 within the EU and only 4 in GB.⁶ These chemicals are subject to enhanced tracking requirements and classification as an SVHC stimulates innovation in substitution with safer chemicals.⁷

¹ <https://echa.europa.eu/information-on-chemicals/registered-substances>

² [ECHA annual report 2021](#)

³ [Regulating after EU Exit \(2022\) - NAO](#)

⁴ <https://www.ft.com/content/4d1ba055-167a-4ddd-ba9c-1505535dd890>

⁵ [Regulating after EU Exit \(2022\) - NAO](#)

⁶ <https://www.ft.com/content/32e6d8e0-5869-459e-9391-d168f6dafb17>

- HSE has proposed only two substances for restriction, while ECHA has proposed 25.⁸
- The first deadline for registration of chemical safety data has been delayed to 2025⁹ and is likely to be delayed further.

In addition to the growing gap between HSE and ECHA's regulatory activity, their respective approaches to regulation are also in flux. Defra has announced its intention to change the registration process for substances in UK REACH, employing a more risk-centred model that incorporates more upfront demands for information on known uses and exposure pathways, while relying on publicly available hazard information.

Green Alliance is concerned that this change is a result of insufficient capacity within HSE and the cost of replicating full registration data as held by ECHA, rather than because it offers improved outcomes for human health and the environment. Over time the UK's approach will lead to a loss of continuity with other markets, adding to administrative burdens, and most likely fewer protections being put in place as the UK moves, in effect, to a more risk-based system. Experience from other countries such as the US show that the usage and exposure information risk-based systems rely on is rarely complete and struggles to account for the full lifecycle of a product, from manufacture to disposal or recycling. There are numerous examples of a risk based approach leading to harmful chemical exposure to the environment and human health.¹⁰ Changing to a risk-based system would be a substantial change to chemicals regulation and is likely to come into conflict with the Environment Act 2021, which enshrines five key environmental principles and which the government has said wants to be embedded in all policy making.

- When does the government intend to publish an impact assessment of the changes to REACH registration, as it is obliged under the Trade and Cooperation Act (article 347)?
- Does HSE intend to adjust tonnage bands to account for the smaller UK market and, if not, can it quantify how many substances will be subject to more limited information requirements than in the EU as a result of falling into a different tonnage band?
- Can HSE demonstrate that, in the absence of full registration data, available data to it is sufficient for implementing legally defensible controls on hazardous chemicals?
- How is HSE actively factoring the environmental principles into its policy making?
- How will HSE ensure effective enforcement of the new system, given the challenges around income, and how does it intend to monitor outcomes over time?
- Will plans to increase the size of the Chemicals Regulation Division be affected by plans to cut the number of civil servants by 90,000?

EU-UK cooperation

Regulators, policy makers, NGOs and businesses support greater regulatory cooperation between the UK and EU on chemicals regulation. It is surprising therefore that the EU-UK committee on regulatory cooperation has met only once, in October 2021, when it agreed to meet annually in future.

⁷ Monitoring the impacts of REACH on innovation, competitiveness and SMEs (2015) – European Commission

⁸ Compiled with help from CHEMTrust

⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038660/20211206-reach-letter-chemicals-industry.pdf

¹⁰ [Late lessons from early warnings](#) 2013

- When does the committee intend to meet again and how does the UK government intend to progress regulatory cooperation with respect to chemicals?

The regulator's duty

As set out in the Regulator's Code¹¹, regulators should ensure their regulatory approaches are transparent. Green Alliance is concerned that HSE's decision making is not yet as transparent as it needs to be to instil public confidence in the new system and may risk being unduly influenced by industry interests, particularly as a result of the lack of sufficient skilled capacity within the Chemicals Regulation Division.

- How does HSE intend to balance its duty to engage with those it regulates with its responsibility to protect the health of people and the environment?

HSE decisions on Authorisation and Restriction are informed by a panel of independent scientific experts known as RISEP. HSE has a duty to publish the identities of RISEP, their qualifications and declared interests.¹² Despite RISEP already advising on several decisions within REACH, at the time of writing the identities of the panel have not been published, which further inhibits transparency.

- When does HSE intend to publish the list of members of RISEP?

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¹¹ <https://www.gov.uk/government/publications/regulators-code>

¹² <https://www.hse.gov.uk/reach/resources/agency-statement-transparency-independent-scientific-advice.pdf>