



Department
for Work &
Pensions

Minister of State
for Disabled
People, Health
and Work
4th Floor
Caxton House
Tothill Street
LONDON

www.dwp.gov.uk

Sir William Cash
Chairman
European Scrutiny Committee
House of Commons
London
SW1A 0AA

21 November 2018

Dear Sir William

7733/18: Proposal to amend Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Phase 3)

I am writing to update you on the latest developments on the above proposals to amend the Carcinogens and Mutagens Directive (CMD). Specifically, on the proposed binding occupational exposure limit values (OELVs or limits) for Formaldehyde and Cadmium.

In my letter to you of 5 September 2018, I explained that, following publication of the Commission's proposals, engagement with stakeholders had identified concerns relating to these substances.

On Formaldehyde, the UK's concerns relate to its use by the funeral sector for embalming the deceased and the difficulties that the funeral sector would have in meeting the proposed limits. During the summer and autumn UK officials have been working with the Commission and their counterparts in the other Member States to determine the level of support for any changes to the Formaldehyde limit, or the time scale for its introduction.

At a meeting of the Committee of Permanent Representatives (COREPER) on 25 October the UK presented its case for revision of the proposals on Formaldehyde when used for embalming, citing the negative impact the proposals, as drafted, would have on the UK's funeral sector. The Austrian Presidency acknowledged the UK's concerns and Member States supported a three-year transition period (in addition to the Directive's two-year implementation period) before the proposed limit on Formaldehyde would apply to the embalming/funeral sector.

Although this revision to the proposals still needs to be agreed with the European Parliament (EP) as part of the forthcoming trilogue negotiations, it is nevertheless a strong outcome for the UK given that the prevalence of embalming is only high in the UK and other Member States did not share UK concerns. UK officials are already working to secure support in the EP in advance of their adoption of a first position later in November.

Negotiations in Council are continuing on limits for Cadmium, with a number of other Member States, including the UK, supporting a proposal for a revised limit combined with biological monitoring of workers. Further discussions will take place during November before Council comes to a formal position on its general approach.

Early discussions in the EP on this phase of amendments has resulted in renewed calls from some MEPs for cytotoxic and other hazardous drugs to be added to the scope of CMD. In my letters to the Committee of 24 April and 5 September 2018 on similar calls for inclusion of such drugs in Phase 2 of the CMD amendments (5251/17), I advised you that this was not supported by any specific evidence and the UK was unconvinced that it is necessary to include such drugs within the scope of the Directive. This remains the UK position.

While the UK will continue to support a revision to the proposals on Cadmium during negotiations, and oppose the inclusion of cytotoxins within the scope of CMD, maintaining the concession secured on Formaldehyde will be paramount.

We expect the three institutions to aim for a first-reading deal during trilogues so that an outcome is reached before European Parliamentary elections next year. Subject to a first reading deal, we would expect the Directive to come into force in early 2019, with limits applying from early 2021 onwards (2024 for Formaldehyde used for embalming).

I am writing to request a waiver should a vote in Council come swiftly but will nevertheless keep the committee updated on the European Parliament's first position and during trilogues.

I am copying this letter to Lord Boswell, Chairman of the House of Lords European Union Committee; to the Clerks of both Committees; Les Saunders, Department for Exiting the European Union Scrutiny Coordinator; and Kevin Dench, Department for Work & Pensions Scrutiny Coordinator.

*Yours sincerely,
Sarah Newton*

**Sarah Newton MP
Minister of State for
Disabled People, Health and Work**