PE825 Petition by Alana Watson 
Students' Council and Higher Modern Studies Section calling for the 
Scottish Parliament to urge the Scottish Executive to ensure that every 
Scottish secondary school provides lockers for pupils' use to stop 
pupils having to carry heavy bags throughout the school day, potentially 
causing back problems.
Public Petitions Committee – a template for public petitions

Should you wish to submit a public petition for consideration by the Public Petitions Committee please complete the template below. Please refer to the Guidance on submission of public petitions for advice on issues of admissibility before completing the template. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

Details of principal petitioner:
Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to, email address and phone number if available

Alana Watson
On behalf of Rosshall Academy Students' Council and Higher Modern Studies Section.

Text of petition:
The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

The petitioner requests that the Scottish Parliament......
Creates new legislation that ensures every Scottish secondary school provides lockers for pupils' use to stop pupils having to carry heavy bags throughout the school day, potentially causing back problems.
Additional information:
Any additional information in relation to your petition, including reasons why the action requested is necessary, should not be included here. However, it may be appended to the petition and will be made available to the Public Petitions Committee prior to its consideration of your petition. Please note that you should limit the amount of any additional information which you may wish to provide in support of your petition to no more than 4 sides of A4.

Action taken to resolve issues of concern before submitting the petition:
Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern by, for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MPs. Please enter details of those approached below and append copies of relevant correspondence, which will be made available to the Public Petitions Committee prior to its consideration of your petition.

Rosshall Students' Council have met with councillors from Glasgow City Council and our local MP, Ian Davidson, about the lack of space for lockers in our new PPP school. No space can be found for lockers and pupils at this school, and many others in Scotland, have to carry heavy schoolbags throughout the day.

Request to speak:
All petitioners are given the opportunity to present their petition before the Public Petitions Committee. The Convener will then make a decision based on a number of factors including the content of the petition and the written information provided by the petitioner as to whether a brief statement from the petitioner would be useful in facilitating the Committee's consideration of a petition.

Please indicate below whether you wish to request to make a brief statement before the Committee when it comes to consider your petition.

No*

*Delete as appropriate

Signature of principal petitioner:
When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures gathered should be appended to this form.

Signature
........................................................................................................................................

Date 1/3/08 ................................................................................................................................
Additional Information:
Petition from Students' Council, Rosshall Academy, Glasgow.

We are concerned that pupils throughout Scotland are at risk of serious back injuries as a result of carrying heavy school bags over a sustained period of time. We tried without success to get lockers provision in our school and have discovered that many other schools also do not have any space for locker provision.

There is a body of evidence showing a correlation between carrying heavy bags and back problems such as scoliosis. Scoliosis is a sideways curving of the spine that can result in a 'S' shape or 'C' in the spine and can result in impaired muscle use in one side of the body.

Some other countries have legislated on this matter by, for example, banning the carrying of school bags over a certain weight.

In a survey we conducted in one day in our school we found that pupils were routinely carrying bags weighting between 6 kilos and 11 kilos.

If the average backpack weighs 12 lbs and it is lifted up 10 times in one day x 180 schooldays in a year this will mean 21,600 pounds will be lifted in one school year!

Research also shows that by their teen years more than 50% of youths experienced at least one 'low back pain episode' (Spine 1998; 23:228-34).

Carrying bags on one shoulder may also 'provoke serious postural misalignments' (Backpack Safety America).

Our school is a new school and yet no provision was made for locker space. We hope that if a law is passed no more new school buildings will be built in Scotland without lockers and that existing school buildings will be altered to provide such provision.

To protect Scotland's children from potential future back problems, we call on the Scottish Parliament to legislate to make sure that every secondary school has adequate locker provision.
CONSIDERATION OF PE825

Thank you for your letter of 9 May following up Eileen Martin’s letter of 10 March to Peter Peacock. I have previously explained in a telephone conversation that the Minister did not receive the letter of 10 March.

At its meeting on 8 March, the Committee considered comments from the petitioner - pupil representatives of Rosshall Academy, Glasgow - on Mr Peacock’s letter of 19 April 2005 and other responses which were made, and agreed to seek Mr Peacock’s comments.

In their note, the Rosshall pupils comment on most of the responses the Committee received. You will understand that it would not be appropriate for Mr Peacock to comment in detail on the responses made by other parties whom the Committee consulted. The specific point which the pupils have addressed to Mr Peacock is their reiteration of their position that direction from the Scottish Executive is needed regarding the provision of school lockers.

We understand the perspective of the petitioners in holding to their view on this. In responding, however, we must reiterate the Executive’s role which Mr Peacock set out in his letter of 19 April to Michael McMahon. In summary, in relation to school design, that role does not involve the provision of detailed design guidance on particular aspects of school buildings and the facilities which they might include.

Mr Peacock also explained in his letter that consideration of the merits of providing lockers is not a new issue for authorities and schools. It is an issue which attracts differing viewpoints and on which different authorities and schools may reach different conclusions, often perhaps based on past
practical experience of locker provision and the range of factors which have to be taken into account in deciding whether they might have a place in particular schools.

That there are differing views is, we think, demonstrated and confirmed by the responses the Committee has received from others you have consulted. While these indicate some support for, or at least broad sympathy with, the principle of some locker provision, a number of the responses are qualified and show some reservations about the overall effects of such provision.

This, in the Executive’s view, reinforces our position that detailed decisions on the provision of lockers, as is the case with other aspects of school design and facilities, are best left to local decision making processes. Authorities and schools have a wealth of experience in matters such as these, and we see no benefit to be gained from the provision of guidance or direction from the Executive on the provision of school lockers.

Yours sincerely

Simon Forrest
Private Secretary
Petition PE825

Lockers in Schools - submitted by Rosshall Academy

Responses to the evidence submitted to the committee.

1. Response to Ronnie O’Connor, Director of Education Services

We disagree with Mr O’Connor’s evidence to the Committee. He stated that other schools in Glasgow do have lockers and that we could have them at Rosshall if we wanted. This is not the case as this new school was built without the space for lockers (amongst other space shortages). We invited him to come and identify space in our school but he has declined this invitation. He stated in his answer to our invitation that no Scottish council has a policy on lockers in schools. This is one of the reasons we submitted the petition in the first place. New schools are being built all over Scotland under the PPP project and we want to make sure that future schools have space for lockers. Extra space should have been put into the plans for Glasgow’s new PPP schools but unfortunately this did not happen as the schools in Glasgow seem to have been built to the barest specifications. We feel this was an opportunity lost. (We enclose a copy of Mr O’Connor’s email).

2. Response to Peter Peacock’s evidence.

Mr Peacock said that lockers in schools should be up to local authorities and once again we would maintain many local authorities have had the chance to put in locker space under the PPP schemes but they had failed to do this. Therefore, we would again state that direction from the Scottish Executive is needed.

We thank Mr Peacock for his commendation of our use of the Public Petitions Committee.

3. Response the Backcare’s evidence

We are pleased with Backcare’s support for our petition. We much of our research came from Backcare’s web site when we were forming our petition.
4. Response the British Chiropractic Association and Scottish Youth Parliament
Again, we are pleased with these organisations' support of our petition and thanks them for this.

5. Response to the Head Teachers' Association's evidence
The HTA supported our petition but then went onto point out 9-10 reasons why lockers were a problem. We thank them for their support and feel that their objections can be overcome fairly easily in most schools.

Kirsty Fraser       Jonathan Cunningham
Advanced Higher    Rossshall Student Council
Modern Studies
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Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to, email address and phone number if available

| Simon Brogan |

### Text of petition:
The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

Petition by Simon Brogan calling on the Scottish Parliament to urge the Scottish Executive to review the public health implications of siting oil depots in residential areas in light of the Buncefield oil depot explosion in December last year.

### Additional information:
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CECIL EUNSON, COUNCILLOR SHETLAND ISLANDS
PHONE CALL

JIM SINCLAIR, COUNCILLOR ORKNEY ISLANDS
PHONE CALL

STEVE HAGAN, CONVENER ORKNEY ISLANDS
PHONE CALL

JIM WALLACE MSP ORKNEY
Surgery x correspondence.

Petitioners appearing before the Committee
The Convener of the Committee may invite petitioners to appear before the Public Petitions Committee to speak in support of their petition. Such an invitation will only be made if the Convener considers this would be useful in facilitating the Committee’s consideration of the petition. It should be noted that due to the large volume of petitions it has to consider, the Committee is not able to invite all petitioners to appear before the Committee to speak in support of their petition.

Please indicate below if you do NOT wish to make a brief statement before the Committee when it comes to consider your petition.

I do NOT wish to make a brief statement before the Committee

Signature of principal petitioner:
When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures ga should be appended to this form.

Signature: ........................................

Date: 25th JANUARY 2006

Please note that any additional information, copies of relevant correspondence and additional signatures should be appended to this form and submitted to:

The Clerk to the Public Petitions Committee,
The Scottish Parliament,
Edinburgh
EH99 1SP
Tel: 0131 348 5186 Fax: 0131 348 5088
e-mail: petitions@scottish.parliament.uk
Dr James Johnston
Clerk to the Petitions Committee
Parliamentary Headquarters
Edinburgh

Dear Dr Johnston,

UKPIA’s response to consideration of Petition PE936

Thank you for your letter of 16th March to Mr Hunt, our Director General, and for giving us the opportunity to submit evidence to this petition “calling on the Scottish Parliament to urge the Scottish Executive to review the public health implications of siting oil depots in residential areas in the light of the Buncefield oil depot explosion in December last year”.

UKPIA is the trade association representing the oil refining and marketing industry in the UK, and our members own and operate all the major crude oil refineries and most of the oil product distribution terminals. From this network of terminals road tankers deliver oil products (i.e. petrol, diesel, jet-fuel etc) to petrol filling stations, commercial consumers and industry. Oil products provide some 32% of primary energy in the UK, and are expected to continue to be the largest single source of energy in the UK beyond 2030 (source IEA).

At the present time the Major Incident Investigation Board (MIIB) chaired by Lord Newton has not yet concluded its investigations into the causes of the explosion at Buncefield. We note that the Terms of Reference of the MIIB include recommendations to ensure the effective management of off-site risks. The UK already has land use planning policies aimed at controlling the risks to people and the environment in the vicinity of sites holding hazardous substances, and of sites within the scope of the COMAH Regulations, and it will be appropriate to consider the MIIB’s recommendations in this context.

UKPIA’s view is that strong industrial zoning policies should be maintained so that oil depots are not “sited in residential areas”, and we have recently made the following points to HM Treasury’s Barker Review of Land Use Planning:-

1. Oil products and operations are potentially hazardous, and they are rightly the subject of extensive regulatory control to ensure risks to both people and the environment are properly controlled. An important part of the regulatory system is land use planning and the associated consents to hold hazardous substances. Additionally, major hazard sites holding large inventories of hazardous substances are also regulated under the Control of Major Accident Hazards Regulations 1999 (COMAH) by the Health and Safety Executive and Environment Agency, and have duties to take all necessary measures to prevent and mitigate the effects of major accidents involving hazardous substances, and work with local authorities to prepare emergency responses to major accident scenarios. The COMAH Regulations, based on the EU’s Seveso II directive

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96/82/EC Art 12, also require member states to have effective land use planning policies to prevent major accidents and to limit the consequences.

2. There are important balances to be struck to enable society to continue to enjoy the benefits of oil products while allowing the industry to operate efficiently and competitively, and to be able to continue to attract the considerable investment needed to meet future market demand. At present UK consumers benefit from among the lowest pre-tax prices for petrol and diesel in the EU, as a result of an efficient domestic oil refining and distribution industry and fierce competition on retail forecourts.

3. The recent incident at Buncefield oil storage terminal has shown that although incidents at hazardous installations involving off-site damage are unusual, we cannot assume they will never happen. It is important to have a land use policy around major hazard sites aimed at providing appropriate separation between major hazard sites and the public, such that society can continue to enjoy the benefits of the products, but that risks to people, property and the environment are controlled to an acceptable level, and industry can continue to invest and operate competitively and productively.

4. We are aware that HSE is working on helping local authorities have the tools to assess the risks around major hazard sites. In most cases the major hazard site has been operating for many years, and the pressure is for more development in the vicinity. The concern is that if more development is allowed to encroach around the major hazard site, it would increase the risks to the people concerned to an unacceptable degree – putting pressure on the operator to constrain his operations and reduce the source of the risk – possibly causing the operator unacceptable expense and in extreme cases triggering closure of the site. A strong and well-balanced policy on industrial zoning is needed to ensure the best outcome for society as a whole, and to respect the rights of existing industrial operators.

5. The current system establishes consultation distances around sites with hazardous substance consents. There are two main forms of threat from development: either major development such as new shopping centres just outside the consultation distance (on which HSE will not be consulted), or smaller in-fill development inside the consultation distance. We should be aiming to provide a consistent long-term approach to both land use planning and to the regulatory control of major hazard sites under the COMAH regime.

6. We appreciate that land for development is scarce in some parts of the country, and we understand the attractions of encouraging re-development of brown-field sites. However, the same pressures mean it is often difficult, expensive, or impossible to re-locate distribution assets such as oil terminals and the associated primary supply network providing product from refineries either by ship or by pipeline. These assets need to be protected by a strong industrial zoning policy for the benefit of society as a whole.

We hope these comments are helpful

Yours sincerely

Ian McPhers
Four months after the incident, the consequences of the incident are still having a significant impact on the local community and businesses\(^2\). In the light of such a significant event, it is understandable that there should be concerns about the location of oil storage facilities and how they are regulated.

SEPA and the Health and Safety Executive (HSE) have arrangements in place which ensure that findings emerging from the formal investigation are made known. Details of the incident investigation can be found in Annex 2.

**The Scottish Context**

Oil storage depots in Scotland storing quantities of fuel above the thresholds set out in the COMAH Regulations are regulated under those by the HSE and SEPA working together. The terms of reference of the Buncefield Investigation make very clear that any lessons to be learned will be applied to all COMAH sites, including those in Scotland. This will include any amended advice to local planning authorities on developments adjacent to fuel storage sites. This should ensure that the hazards posed by oil storage depots are adequately controlled.

There are a number of oil storage depots in Scotland which for a short period of time required regulation under the COMAH regime because they held fuels which were classified as "dangerous to the environment" and in quantities which were above the threshold for this generic description of dangerous substance. However, changes to the COMAH Regulations, which came into effect on 30 June 2005, meant that these installations fell out of this regulatory regime in spite of the fact that the quantities of fuel being stored remained the same. These sites in the main, fall within the remit of HSE in terms of the Health and Safety at Work etc Act 1974 which has wide ranging application, including where work activities may affect the health and safety of the public. SEPA is concerned to ensure that the lessons from Buncefield are applied to this type of installation.

Also, for information, HSE and SEPA have met with Mr Brogan to discuss his concerns and have written to him both about inspections and to outline the legislative requirements etc.

**Safety Alert to operators of oil storage depots subject to the COMAH Regulations**

HSE issued a "safety alert" to the operators of oil/ fuel storage depots that are subject to the COMAH Regulations on 21 February 2006. This was in response to the findings of the investigation up to that date. The alert advised operators to:

- review the safety of their operations and plant to ensure that major accident hazards are being well managed
- ensure that staff are adequately trained and competent to manage these hazardous operations

Cont/d......

\(^2\) The Buncefield Investigation: Second Progress Report, paragraphs 61 to 70.
ensure that management systems are robust, and subject to effective review
ensure that relevant good practice precautions are in place and fully operational
ensure that there are appropriate measures in place for responding to, and dealing with, emergencies involving the loss of containment.

Operators were due to respond to this alert by Easter 2006.

In Scotland, the HSE and SEPA, working together, have begun a series of depot inspections targeting the findings of the investigation to date. A report on this programme of inspections is expected in late May. This will be of importance in improving the control of major accident hazards in fuel depots.

I trust the Committee finds the above comments of value. If you do require further information, please do not hesitate to contact either me, at the address on the initial page, or Rob Ebbins in the first instance, at SEPA’s Edinburgh Office, Clearwater House, Heriot Watt Research Park, Avenue North, Riccarton, Edinburgh, EH14 4AP, Tel: 0131 449 7296.

Yours sincerely

Campbell Gemmell
Chief Executive
Dr James Johnston
Clerk to the Public Petitions Committee
TG.01
Parliamentary Headquarters
Edinburgh
EH99 1SP

Dear Dr Johnston

SEPA’s Response to Petition 936

I write in response to the Public Petitions Committee’s request to submit views on the issues raised by the above petition. Petition 936 calls on the Scottish Parliament to urge the Scottish Executive to review the public health implications of locating oil storage depots in residential areas in the light of the Buncefield incident last year. In summary, SEPA considers that such a review would not be worthwhile at this time as the formal investigation into the incident has not been concluded. Significantly, the cause of the incident which led to such severe consequences has not been established. Without this vital information any review by the Scottish Executive would be limited. In particular, it would be very difficult to establish whether the hazards posed by other oil storage installations are adequately controlled or not. Reasons for this view are set out in this letter.

The Significance of the Buncefield Incident

The major incident at the Buncefield Oil Storage Depot on Sunday 11 December 2005 injured 43 people and caused significant damage to both commercial and residential properties in the vicinity of the depot. Around 2,000 people were evacuated and sections of the nearby M1 motorway were closed on the advice of the emergency services¹.

The subsequent fire burned for several days, emitting large clouds of black smoke into the atmosphere which dispersed over southern England and beyond. The Department for Environment, Food and Rural Affairs (DEFRA) is planning to report on the impact on air quality in May 2006.

Large quantities of foam and water were used to control the fire. The contaminated firewater is awaiting disposal and investigations into the contamination of the land and groundwater continue.

Cont'd.....

¹ The Buncefield Investigation: (first) Progress Report, paragraph 1.
Annex 1  Terms of Reference of the Buncefield Major Incident Investigation Board

1. To ensure the thorough investigation of the incident, the factors leading up to it, its impact both on and off site, and establish its causation including root causes.

2. To identify and transmit without delay to duty holders and other appropriate recipients any information requiring immediate action to further safety and/or environmental protection in relation to storage and distribution of hydrocarbon fuels.

3. To examine the Health and Safety Executive's and the Environment Agency's role in regulating the activities on this site under the COMAH Regulations, considering relevant policy guidance and intervention activity.

4. To work closely with all relevant stakeholders, both to keep them informed of progress with the investigation and to contribute relevant expertise to other inquiries that may be established.

5. To make recommendations for future action to ensure the effective management and regulation of major accident risk at COMAH sites. This should include consideration of off-site as well as on-site risks and consider prevention of incidents, preparation for response to incidents, and mitigation of their effects.

6. To produce an initial report for the Health and Safety Commission and the Environment Agency as soon as the main facts have been established. Subject to legal considerations, this report will be made public.

7. To ensure that the relevant notifications are made to the European Commission.

8. To make the final report public.
Annex 2  The Incident Investigation

Due to the quantities of fuel stored at the Buncefield Oil Storage Depot, the site is regulated by the Health and Safety Executive (HSE) and the Environment Agency (EA), working together, under the provisions of the Control of Major Accident Hazards Regulations 1999 (as amended) ("the COMAH Regulations").

Following the incident, a formal investigation has been initiated by the HSE and the EA. The terms of reference of the investigation are given at Annex 1 to this letter. The investigation is overseen by an independent Board appointed by the Health and Safety Commission. Although public health issues are not explicitly mentioned in the terms of reference of the investigation they are implicit in the investigation. This includes the mitigation of accidents, including emergency planning aspects.

Information from the investigation so far indicates that the explosions and fire at Buncefield were the result of the formation of a flammable mixture of petrol, or similar spirit, and air that subsequently ignited.\(^3\) It is understood that the damage caused by the explosions and fire at Buncefield was much more extensive than that previously predicted for installations of this type. Understanding how the flammable mixture formed is an important aspect of the continuing investigation and is being given priority by the HSE/EA team.

An understanding of the exact mechanism by which the flammable mixture formed is important in two ways. The first is that this is essential to establishing whether such an event could occur at other fuel storage depots and identifying the means by which such risks can be eliminated or mitigated. The second is so that the HSE’s advice to local planning authorities on developments adjacent to fuel storage sites can be reviewed and, if necessary, amended. HSE’s advice is also used for emergency planning purposes.

The aim of health and safety advice relating to land use planning is to mitigate the effects of a major accident on the population in the vicinity of hazardous installations. Such advice is given through the hazardous substances consent process. Key to this process is the establishment of three risk zones or contours around the installation. This is based on a detailed assessment of the hazards and risks presented by the installation in question. The outer zone establishes the distance within which proposed developments are the subject of consultation between the local planning authority and the HSE (the so called "consultation distance"). More information on how the HSE gives advice is given in the (first) progress report on the investigation\(^4\). Information from the Buncefield Investigation may require these consultation distances to be amended.

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\(^3\) The Buncefield Investigation: Progress Report, paragraph 14
\(^4\) The Buncefield Investigation: Progress Report, Annex 2
Dear Dr Johnston

Re: Petition PE936

Thank you for the opportunity to respond to the above petition.

The events at Buncefield clearly raise a number of general concerns regarding the potential adverse effects of accidents or incidents at such sites. My understanding is that there are a number of official enquiries in progress by the relevant regulatory authorities regarding the incident which, in due course, may provide useful information.

It may be that on the basis of such enquiries, recommendations may be made on the future siting of such facilities in proximity to inhabited areas at a UK level. Until such time as these enquiries are complete I would not personally wish to comment further.

Yours sincerely

Dr Colin Ramsay
Consultant Epidemiologist
Dr James Johnston  
Clerk to the Public Petitions Committee  
The Scottish Parliament  
TG.01  
Parliamentary Headquarters  
Edinburgh  
EH99 1SP

2 May 2006

Thank you for your letter of 16 March concerning petition PE936 by Simon Brogan calling on the Scottish Executive to review the public health implications of siting oil depots in residential areas following the incident at Buncefield last year.

You asked for my comment on the issues raised in the petition.

HSE will be considering the findings of the Buncefield investigation and any recommendations that it may make. The terms of reference of the investigation are wide ranging and include (at para 5) the need for consideration of mitigation measures as well as prevention. HSE therefore feel it would be premature to undertake a review involving siting of oil depots until further details on Buncefield are known.

We are keeping in touch with the emerging findings and when the causes of the incident are known any relevant lessons will be applied across the industry.

In the interim, some important proactive measures are being taken under existing legislation – in particular the Health and Safety at Work etc Act 1974 (enforced by HSE) and the Control of Major Accident Hazards Regs – COMAH (enforced in Scotland by HSE and SEPA as the joint competent authority).

Actions already in hand include the following:

- HSE has issued a safety alert with precautionary advice to operators of fuel storage sites subject to COMAH following the publication of a progress report by the Buncefield Major Incident Investigation Board;
HSE has requested that operators with consent to store quantities of petrol, oil or other fuels subject to the Control of Major Accident Hazards (COMAH) Regulations 1999, review their operations in the light of information obtained from the investigation and report the outcomes of those reviews to HSE. HSE and SEPA inspectors are carrying out targeted inspections at those sites. These inspections deal with containment integrity issues such as tanks, pipework and bunds and management arrangements. Inspectors will discuss any reasonably practicable improvements that should be made, and will, if necessary use their enforcement powers to ensure that timely improvements are made;

There are also storage sites that hold lower quantities of fuel etc and therefore do not come under the COMAH Regulations. The primary legislation that applies in these circumstances is the Health and Safety at Work etc Act 1974 which has wide-ranging application, including where work activities may affect the health and safety of other people. Duty holders at these sites are required to comply with relevant good practice, including that specific to fuel storage facilities. Most of these sites are operated by the same companies who operate the COMAH installations so they should be aware of the appropriate standards. These sites are routinely inspected and inspectors have the powers to ensure that the necessary precautionary measures are in place.

In conclusion, we are looking very carefully at the progress reports prepared by the Buncefield investigation team, and in due course, we will be considering the conclusions and recommendations of the report by Lord Newton to see what lessons are to be drawn from this incident and their application elsewhere.

In the meantime, having put several proactive measures in place, we will continue to liaise closely with the Scottish Executive, in particular Planning Division (land use planning) and Energy and Telecoms Division (emergency planning); and of course SEPA as our partner in the joint competent authority under COMAH.

GEOFFREY PODGER
Chief Executive
Dr James Johnston  
Clerk to the Petitions Committee  
TG.01  
The Scottish Parliament  
EH99 1SP  

19 July 2006  

Dear Dr Johnston  

PE936 – Oil Depots in Residential Areas  

Thank you for inviting us to comment on this petition. For your information, the petitioner has written to us following the Committee’s decision to seek a response from COSLA.  

The petitioner’s letter to us focuses on fire services’ ability to cope with a major incident within a depot. There is no mention of the public health implications of the siting of depots, and as such we are unclear as to whether the petitioner is worried about public health or public safety. We see these two issues as being different, albeit related in the event of an accident or incident.  

While we are unsure of the exact point which the petitioner wants to be addressed, we would expect any depot to have an emergency plan which had been fully consulted on with relevant local agencies such as the fire and health service. Local authorities develop their own emergency plans, and these too should take account of particular industries in the area which may pose a particular risk. As a result, we expect that emergency action plans will be in place in order that any incident is appropriately handled, including any follow up after the incident. Where incidents occur at other locations which may inform these emergency plans, we would expect any lessons from these incidents to be learnt and plans updated accordingly.  

We believe that the petitioner’s interest relates to existing depots, and would expect that consideration would be given to any health and safety issues as part of the planning process for the siting of any new depot.  

I trust that this is helpful. If the Committee has any more specific comments please contact us.  

Yours sincerely,  

Hannah Reeve  
Policy Officer
CONSIDERATION OF PETITION PE936

Thank you for your letter of 16 March about the above petition from Mr Simon Brogan calling on the Parliament to urge the Executive to review the public health implications of siting oil depots in residential areas in light of the Buncefield oil depot explosion in December last year.

The Scottish Executive, along with UK Government departments and agencies, will of course carefully consider the findings of Lord Newton's investigation into the explosion and fire at the Buncefield establishment and any recommendations regarding controls on the siting of such establishments or of other developments in the vicinity of such installations.

It may be helpful if I outline the current arrangements with regard to major accident hazards and development in their vicinity. In so doing, I shall take Mr Brogan’s reference to “public health implications”, to mean the risk of injuries or fatalities from fire, explosion or public exposures to hazardous substances released as a result of a major accident at such installations.

Control of the siting of new developments is primarily a planning matter, and it would be for the planning authority for an area, in the first instance, to consider whether planning permission should be granted for a particular development. There are also planning controls on the presence of hazardous substances. Again, it is for the planning authority for an area to consider the granting of hazardous substances consent.

The operation of hazardous installations comes under the jurisdiction of the Health and Safety Executive (HSE) in relation to the Health and Safety at Work Act 1974, and both the HSE and the Scottish Environment Protection Agency in relation to the Control of Major Accident Hazards (COMAH) Regulations 1999.

The UK is required to comply with the provisions of the European Directive on the control of major accident hazards involving dangerous substances (Directive 96/82/EC as amended), known as the Seveso II Directive. The Directive gives rise to the COMAH Regulations 1999 and a number of the
specific requirements in planning legislation relating to development of, or near, establishments to which the Directive applies. The Directive applies to establishments at which substances it describes are present above certain specified threshold quantities. Its aim is "...the prevention of major accidents which involve dangerous substances and the limitation of their consequences for man and the environment, with a view to high levels of protection throughout the European Union in a consistent and effective manner".

The majority of the Directive’s requirements are implemented through the COMAH Regulations. Article 12 of the Directive deals with land use planning, and is implemented through Town and Country Planning legislation and procedures. Specifically:

- The Planning (Hazardous Substances) (Scotland) Act 1997
- The Planning (Hazardous Substances) (Scotland) Regulations 1993
- The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 – "The GDPO"
- The Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983 – "the 1983 Regulations"
- The Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 – "the 1997 Direction"

The Planning (Control of Major Accident Hazards) (Scotland) Regulations 2000 amended the Planning legislation mentioned above in order to comply with the Directive.

The Planning Hazardous Substances legislation requires that a consent must be obtained for the presence of the substances in the Directive above the quantities specified therein. The responsibility for considering applications for consent, enforcement procedures and the like rests, in the first instance, with the planning authority. The legislation sets out consultation requirements, including with HSE, enforcement powers and rights of appeal to the Scottish Ministers.

Where hazardous substances consent is granted, HSE will put in place a consultation distance around the site. Within the consultation distance are three zones – inner zone, middle zone and outer zone – based on the levels of risk of a “dangerous dose” being received in the event of an accident. The size of the zones and the consultation distance will depend on the particular substances and quantities of same which could be present at the site under the consent.

In accordance with the GDPO, planning applications for certain developments within the consultation distance must be subject to consultation with HSE. Based on the nature of the development, its location in relation to the zones and their assessment of risks, HSE will “advise against” development or “not advise against” development. Where HSE advise against development and the planning authority still wish to grant planning permission they must notify the planning application to the Scottish Ministers in accordance with the 1997 Direction. It is then for Ministers to decide whether to call-in the application for their own determination or to clear it back to the planning authority, who may then proceed to grant planning permission.

In line with the Directive, the GDPO requires planning authorities to consult with HSE, amongst others, on planning applications for new establishments to which the Directive applies (this application for planning permission is in addition to any need to obtain hazardous substances consent from the planning authority). Where HSE is concerned about such a planning application, it is open to them to ask the Scottish Ministers to call-in the application.
The 1983 Regulations have also been amended to incorporate requirements of the Directive. Amongst others things, planning authorities must, when preparing their structure and local plans, have regard to the objectives of preventing major accident hazards and limiting the consequences of such accidents and to the need, in the long term, to maintain appropriate distances between these establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest.

I hope this information is of assistance to the Committee.

LINDA CRAIK
PS/DD
Dear Sir/Madam,

I would like to draw your attention to the following which I think is relevant whilst considering the above Petition. The Shore St oil depot in Kirkwall is a very cramped site with access by Fire Service vehicles restricted to 2 sides. One side facing the harbour might be unusable due to the lie of the land, in the event of a fire, with burning oil and fire water flowing that way. This is a site that can hold 1680 tonnes of diesel and kerosene when full, in above ground tanks.

A relevant fire at Watson’s Petroleum Depot Hunters Lane, Newbold Rd, Rugby occurred, through arson, on January 12th 2005 at 9pm. Six above ground tanks, half empty, holding 140 tonnes went up. It took 5 hours to put out. What is significant is the quantity of assets required to deal with it. These included 30 appliances, 100 firemen, 30,000 litres of foam and water drawn from the River Avon. Crews were mobilised from most fire stations in Warwickshire, as well as units from the West Midlands, Northamptonshire and Leicestershire.

I have read very carefully all 3 reports issued by the Buncefield Inquiry and they make very disturbing reading, not least because this
was supposed to be a highly scrutinised top-tier CORAH site. No less than 8 “fail-safe” systems designed to prevent tank overfilling failed completely at Buncefield. The bunding also failed resulting in loss of fuel, foam and firewater off-site. This failure resulted in these liquids following the lie of the land. This is of relevance to my 1st paragraph.

I believe that what is significant in regard to Kincraigie’s oil depot in the light of the above is that there is no physical margin of safety and that the cramped conditions of this site and the quantity of fuel stored make its presence a truly massive risk.

Do keep me in touch.

Yours sincerely,

P.S. WATSON’S DEPOT INFORMATION drawn from 22-OFS 21ST JAN 14TH 2005 RUGBY ADVERTISER