

## Mark Shaw

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**From:** Steven CD Graham  
**Sent:** 21 November 2011 12:10  
**To:** Stuart Bristow  
**Cc:** Anthony Lees; Geoff Lloyd; Neil Jamieson; Mike Cross; Craig Bell; Stephen Taylor  
**Subject:** FW: New Pilot Case: 2636/11/ENVI Complaint concerning remediation of the former Turner and Newall asbestos factory - FOD CD response  
**Attachments:** EUPilot\_file\_2636-11-ENVI.PDF; DOC\_20548.pdf; Construction Policy - Operational response note in relation to EU Pilot Case 2636 11 ENVI - complaint re remediation of former Turner and Newell asbestos factory - 21 November 2011.tr5

Stuart,

Please find attached a note explaining HSE's operational involvement with the former Turner and Newall site - Thanks to Neil Jamieson and his team of inspectors in the NW for providing the background information. It specifically attempts to answer the questions posed in the 2nd bullet in [REDACTED] email below i.e. whether the project was notifiable under CDM, whether a plan for the work was drawn up, and whether HSE supervised compliance with that plan.

Let me know if anything further is required.

Regards,

Steve

Steve Graham  
Health & Safety Executive  
Construction Division  
Policy Team  
1SW Rose Court  
2 Southwark Bridge Road  
London SE1 9HS  
[REDACTED]

<http://www.hse.gov.uk/construction/index.htm>

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**From:** Anthony Lees  
**Sent:** 10 November 2011 14:08  
**To:** Steven CD Graham  
**Subject:** FW: New Pilot Case: 2636/11/ENVI Complaint concerning remediation of the former Turner and Newall asbestos factory

Steve

We discussed briefly this morning.

Anthony

Anthony Lees  
Construction Policy Unit  
Rose Court  
[REDACTED]

**From:** Stuart Bristow  
**Sent:** 10 November 2011 11:52  
**To:** Anthony Lees  
**Cc:** Craig Bell  
**Subject:** FW: New Pilot Case: 2636/11/ENVI Complaint concerning remediation of the former Turner and Newall asbestos factory

Anthony

Apologies - meant to copy you in!

Stuart  
HSE | Westminster Office | International Unit  
[REDACTED]

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**From:** Stuart Bristow  
**Sent:** 10 November 2011 11:44  
**To:** Craig Bell  
**Cc:** Stephen Taylor  
**Subject:** FW: New Pilot Case: 2636/11/ENVI Complaint concerning remediation of the former Turner and Newall asbestos factory

Craig

Defra have agreed to take the lead on this pre-infraction case. As discussed, I'd be grateful if you could liaise with lawyers on the issue of whether we have any responsibility for directive 87/217 and with FOD to see how much we can help on the CDM question (I'm copying Anthony in as construction policy lead, but clearly the local office will need to be involved, too).

We don't have a deadline from Defra yet, but I'll update you when I hear more from them. If you need to get back to Defra colleagues, please go through myself or Stephen in the first instance. The final contribution to the response will need to be cleared by us before you seek clearance from senior managers.

Many thanks. Happy to discuss if anything isn't clear.

Stuart  
HSE | Westminster Office | International Unit  
[REDACTED]

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**Sent:** 10 November 2011 11:31

**To:** [REDACTED]  
**Cc:** [REDACTED] Stuart Bristow; [REDACTED]

**Subject:** RE: New Pilot Case: 2636/11/ENVI Complaint concerning remediation of the former Turner and Newall asbestos factory

Dear Colleagues,

Our lawyer, [REDACTED], has confirmed that the above case is a Defra lead, but would we need the help and input of both HSE and CLG. [REDACTED] assessment is as follows:

*"this case concerns the application of the EIA Directive and the implementation of Directive 87/217 on the control of atmospheric pollution by asbestos.*

*It concerns a demolition site in Widnes for which planning permission was apparently given by the Local Authority.*

*Given that this is a pilot case, it will be for one of the central government departments to respond on behalf of the UK. Given that the overall thrust of the complaint is the fear of asbestos dust in the air, I think this does fall to Defra to coordinate the response and almost certainly to somebody in ALE. I am therefore copying in [REDACTED] as this will need to find a policy home in ALE. Whether that will be [REDACTED] or someone else I am afraid I do not know.*

*Having said that, I think it will be necessary for the person coordinating the response to obtain the input of the following to inform the response:*

- *The local authority in relation to planning permission, the conditions which were attached, who is supervising compliance with those conditions and any EIA screening exercise which was carried out*
- *HSE on the regulations which implement arts 7 and 8 of Directive 87/217. In particular, whether this demolition project is notifiable to them under the Construction (Design and Management) Regulations 2007 and whether a plan for the demolition was drawn up and whether they are supervising compliance with that plan.*
- *The owner of the site on the steps they have taken to control asbestos dust.*

*Following that, it may be necessary to get comments from DCLG on the EIA screening process and possibly from other defra colleagues on the treatment and disposal of waste from this site.*

*I am afraid I have not been able to find the regulations which implement art 7 of Directive 87/217 in the time I have spent so far. I do not think this is something which falls under the Control of Asbestos Regulations 2006 (these relate to working conditions) nor is it something which is regulated under the Environmental Permitting regulations. I think HSE will know the implementing regulations and my guess is that they are responsible for enforcing them.*

*We need to coordinate a response by early January so work needs to start fairly quickly on obtaining the input I have suggested above."*

[REDACTED] – you have already said that your colleagues would be able to assist on the EIA screening process.

**Stuart** – would your colleagues be able to assist on [REDACTED] second point? Also, grateful if you could confirm [REDACTED] suggestion that HSE are responsible for enforcing the implementing regulations.

As soon as I have received confirmation from the Divisional Manager on the lead official for this case, I will ask them to liaise with both CLG and HSE in putting together a response.

Apologies to all for the delay in allocating this case correctly.

Many thanks.

Kind regards,

[REDACTED]  
Transpositions and Infractions Co-ordinator

EUIC

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Department for Environment, Food and Rural Affairs (Defra)

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