

**SUBMISSION TO THE DEFRA CONSULTATION ON THE
DRAFT UK NATIONAL ACTION PLAN FOR PESTICIDES
FROM THE UK PESTICIDES CAMPAIGN**



WITHOUT PREJUDICE

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22nd October 2012

Dear Kerry Hutchinson,

Please note that any comments made within this submission to the DEFRA Consultation are Without Prejudice to the continuing legal proceedings.

The UK Pesticides Campaign's submission to this Consultation is set out as follows:-

- Section 1: Introductory comments, background and overview
- Section 2: Comments on the *draft* UK National Action Plan (NAP) for pesticides

NB. Please note that the footnotes in the written submission below also contain important information in themselves, in addition to that in the main text.

Annexes

1. The UK Pesticides Campaign's submission to the 2010 DEFRA Consultation on the implementation of the EU pesticides legislation¹:
 - **Document 1** is available at:-
<http://www.pesticidescampaign.co.uk/documents/Document%201%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Sections%201%20to%203%20.pdf> and
 - **Document 2** is available at:-
<http://www.pesticidescampaign.co.uk/documents/Document%202%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Section%204%20.%20pdf.pdf>
2. The letter I sent to the Chairman of the Pesticides Forum dated 18th June 2012 re. some serious issues with the Pesticides Forum annual reports which is available at:-
<http://www.pesticidescampaign.co.uk/documents/Letter%20to%20the%20Pesticides%20Forum%2018th%20June%202012.pdf>

SECTION 1: INTRODUCTORY COMMENTS, BACKGROUND AND OVERVIEW

- 1.1 Before coming onto the written comments in Section 2 on specific sections of the *draft* National Action Plan, it is important for me here in Section 1 to emphasise the background and overview regarding the exposures, risks, and acute and chronic adverse health impacts **for residents** exposed to pesticides from living in the locality of pesticide sprayed fields.
- 1.2 European legislation regarding the authorisation of pesticides (formerly Directive 91/414 and now Regulation 1107/2009) **requires** that **before** pesticides can be approved for use, risk assessments **must** be undertaken **to establish** that there will be "***no harmful effect***" on human health. This must apply to **all** the necessary exposure groups, **including residents**. For example, the 2006 EC document "*Questions and answers on the pesticides strategy*" states, "*A directive of 1991 on the placing on the market of PPPs seeks to prevent risks at source. It requires that a very comprehensive risk assessment is carried out for each active substance and for the products containing the substance, **before they can be authorised for use.***"
- 1.3 In early 2001 I identified serious flaws in the UK Government's so-called "*bystander risk assessment*" and as a result I started to present a case to the UK Government (which was also highlighted to the EU) regarding the fundamental failings of the current UK policy and

¹ The submission had to be submitted in 2 documents, as I ran out of time to complete the 2nd doc in full.

approvals system for protecting residents (and other members of the public) from pesticides. This included in relation to both the serious flaws within the current UK exposure and risk assessment for *bystanders*, and the fact that, to date, **there has been no exposure and risk assessment for a residents specific exposure scenario** (as residents have a completely different exposure scenario to a mere *bystander* and therefore residents and bystanders are two separate exposure groups). It also included the serious flaws within the UK monitoring system. The campaign I launched in early 2001, the UK Pesticides Campaign (www.pesticidescampaign.co.uk), has been calling for urgent changes to pesticides policies ever since to address the lack of **any** protection for residents that currently exists.

The UK Pesticides Campaign

1.4 The UK Pesticides Campaign (www.pesticidescampaign.co.uk), is the only campaign that specifically exists to highlight the risks and adverse health, environmental and financial impacts of pesticides on rural residents and communities², (as well as on other members of the public exposed). The UK Pesticides Campaign was founded in 2001 and over the last 11 years has produced extensive written and visual materials, as well as making a number of oral presentations, to highlight the UK Government's inherent fundamental failure to protect public health, in particular rural residents and communities, from exposure to pesticides sprayed in the locality of residents' homes, schools, children's playgrounds and public areas (and this applies to both acute effects and chronic long term adverse health effects). The visual materials produced included 2 videos entitled "*Pesticide Exposures for People in Agricultural Areas – Part 1 Pesticides in the Air; Part 2 The Hidden Costs*" to illustrate chemical exposure and the acute and chronic adverse impacts on residents. The work of the UK Pesticides Campaign is widely recognised not only in the UK, but also in Europe, as well as in other countries around the world³ and has led to a considerable number of prestigious environmental awards and nominations.⁴

² I myself, as the founder and Director of the UK Pesticides Campaign, have lived next to regularly sprayed fields for over 28 years, and I therefore have the direct experience of living in this situation.

³ The work of the UK Pesticides Campaign has been featured in national and international media since 2002. Examples of national media coverage include: in the Times, Financial Times, Guardian, Observer, Daily Telegraph, Sunday Telegraph, Daily Mail, Daily Express, Daily Mirror, Independent; as well as on a number of BBC TV and radio programmes, ITV programmes, Channel 4 programmes and on Sky News. In addition a number of magazines have featured the work of the campaign including: Cosmopolitan, Marie Clare, Grazia, Red, Vogue, Ecologist, Resurgence, Lifescape, Science in Parliament, Country Living, amongst others. In relation to international media coverage, articles that have featured the work of the UK Pesticides Campaign have appeared in, amongst others, the US (including CNN), Canada, Australia, New Zealand, France, Germany, Portugal, India, and The Beijing News in China.

⁴ A list of awards and nominations can be seen at Wikipedia at:- http://en.wikipedia.org/wiki/Georgina_Downs

1.5 The UK Pesticides Campaign has been fully involved in the development of the European Community's Thematic Strategy for Pesticides, including the new European pesticides legislation consisting of: 1) Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides⁵ (often referred to as the Sustainable Use Directive or SUD); and 2) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market⁶ (often referred to as the PPP Regulation).

1.6 During the development of the aforementioned European Community's Thematic Strategy for Pesticides and the new European pesticides legislation (SUD and PPP Regulation), the UK Pesticides Campaign made representations on behalf of rural residents and communities affected by pesticide spraying in their locality at a number of meetings with various parties in both Brussels and Strasbourg, including: 1) the European Commissioner for Health and Consumer Protection⁷; 2) the European Commissioner for the Environment⁸; 3) senior European Commission officials in both DG SANCO and DG Environment, including officials working in the Cabinets of the aforementioned Commissioners; 4) numerous MEPs from all political parties, including all the Rapporteur's and Shadow Rapporteur's for the Thematic Strategy, SUD and PPP Regulation. The UK Pesticides Campaign also corresponded with the EU Council, as well as the Permanent Representatives of all the 27 Member States, and has also made detailed submissions to, and had correspondence with, the European Food Safety Authority (EFSA), and its Plant Protection Products and their Residues (PPR) Scientific Panel, along with the PPR Panel's Working Group on the Toxicology of Pesticides. The UK Pesticides Campaign is also on the Expert Group on the Thematic Strategy on the Sustainable Use of Pesticides following an invitation by the European Commission. Therefore the UK Pesticides Campaign is fully aware of the contents of both the new PPP Regulation and Sustainable Use Directive.

1.7 As set out in paragraph 1.4 above, the people that the UK Pesticides Campaign represents is predominantly rural residents and communities, as well other members of the public, who are

⁵ Which came into force on 25th November 2009. The full text of European Directive 2009/128/EC is available at:- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:309:0071:0086:EN:PDF>

⁶ Which came into force on 14th December 2009 and applies from 14th June 2011. The full text of European Regulation (EC) No 1107/2009 is available at:- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:309:0001:0050:EN:PDF>

⁷ This meeting took place on 5th September 2006 in Strasbourg and was with the then Commissioner, Markos Kyprianou.

⁸ This meeting took place in January 2007 in Brussels and was with the then Commissioner, Stavros Dimas.

directly affected from exposure to pesticides sprayed in the locality of residents' homes, schools, children's playgrounds and public areas. However, it is important to stress that the UK Pesticides Campaign does not just receive reports from residents, but also from farmers, operators, ex-farm managers and other workers exposed to pesticides. The campaign also receives reports of adverse effects in dogs and other animals as well. The UK Pesticides Campaign also receives reports from people who are exposed and suffer acute and/or chronic adverse effects from other pesticide sources, (eg. such as amenity use), and therefore the reports that the UK Pesticides Campaign receives is not solely related to agriculture, but agricultural exposure does make up the majority of the cases reported.

1.8 The views of the residents and other members of the public that contact the UK Pesticides Campaign (whether by email, phone, post, or other) are always very clear, in that they are fully supportive of, and sign up to, the aims and objectives of the campaign, (and are often very pleased to discover that there is a campaign specifically representing and fighting on residents' behalf, as the UK Pesticides Campaign is the only one that is). The emails the campaign has received, often detail the individual's own acute and/or chronic adverse health effects (or that of a family member(s) or other(s), or on their domesticated animals/pets etc.) as a result of exposure to pesticides from crop spraying in their locality. The second video on the DVD entitled "*Pesticide Exposures for People in Agricultural Areas –Part 2 The Hidden Costs*" featured, just as an example, a few of the individuals and families from all over the country reporting acute and/or chronic adverse health effects in rural communities surrounded by sprayed fields. It was again clear from the content of the video that the residents featured were fully supportive of the aims and objectives of the UK Pesticides Campaign.

1.9 Over the last 11 years, since the launch of the campaign, residents and other members of the public have continued to contact the UK Pesticides Campaign to express their full support of the aims and objectives of the campaign, and therefore there have been a considerable number of emails received in total. (Also see for example the posts in response to the Guardian article in Jan 2010 at: <http://www.guardian.co.uk/environment/cif-green/2010/jan/25/georgina-downs-pesticides%20http://www.guardian.co.uk/environment/cif-green/2010/jan/25/georgina-downs-pesticides%20> As can be seen from the posts, the majority of them were from members of the public, in particular other residents living in the locality of pesticide sprayed fields, and are similar to the types of supportive comments that I receive).

1.10 Therefore I would like to stress that this submission and the measures that the UK Pesticides Campaign proposes are (as they have been all the way through the campaign)

formulated on the basis of everything that the campaign has collected/amassed over the last 11 years. This includes both in terms of scientific evidence, as well as the reports, comments and views that the UK Pesticides Campaign has continued to receive from other rural residents and communities, along with members of the public in general. This submission is therefore a response from the UK Pesticides Campaign as a representative of rural residents and communities (as well as other members of the public) affected by pesticide spraying.

Failings of the current UK policy to protect residents (and the public) from pesticides

1.11 Considering I have already meticulously and accurately detailed the failings of the current UK policy and approach to protect residents (and the public) from pesticides in previous materials, in particular, the six Witness Statements produced for the legal case *Georgina Downs v DEFRA*, then I do not need to include all the very extensive and detailed factual evidence and arguments again here in this submission, as I would just refer the Government, DEFRA, CRD and others, to those materials. (The electronic copies of which are available on the campaign website at:- http://www.pesticidescampaign.co.uk/witnessStatement_1.htm).

1.12 However, I would just reiterate the following.

1.13 The detailed factual evidence and arguments presented regarding the failings of the UK Government's policy to protect people from pesticides can be seen, in particular, in the critical second Witness Statement from the legal case, the electronic copy of the Witness Statement is at:- <http://www.pesticidescampaign.co.uk/documents/Downs%202.pdf>

1.14 The second Witness Statement produced for the legal case includes the failings of the UK Government's policy, approvals system, risk assessments, monitoring system etc. and is based on the UK Government's **very own documents, findings and statements.**

1.15 In summary, the factual evidence contained in the 2nd Witness Statement that I produced for the legal case, and which, as said, is based on the Government's **very own documents, findings and statements,** clearly confirms that the Government has fundamentally failed to:

- protect public health from pesticides, particularly rural residents;
- undertake **any** exposure and risk assessment for the long-term exposure for those who live, work or go to school in the locality of pesticide sprayed fields (which means that under European and UK equivalent legislation pesticides should never have been approved for use in the first place for spraying in the locality of such areas);

- act on its *own findings* of **82 exceedances (in realistic exposure scenarios for residents) of the limits set for exposure** (the AOEL), in some cases the AOEL was exceeded up to 20 to 30 times over, which is an *order of magnitude higher*, when **any** exceedance, on the UK Government's *own previously stated case*, and most importantly under EU law, **would lead to immediate action of authorizations being refused (or trigger prohibition/revocation if the AOEL exceedance is discovered after approval)**. It is important to stress that these AOEL exceedances were based on each exposure factor *individually*, as the UK Government's advisors, the Advisory Committee on Pesticides (ACP), and the PSD (now CRD), **wrongly** calculated each factor in *isolation* and have failed to **ever** calculate (sum) exposure factors together in the exposure calculations, which is obviously essential to do in relation to the overall exposure scenario for residents. **Therefore on the results shown in PSD's (CRD's) own findings the AOEL would have been exceeded even further when calculating exposure factors together;**
- act on the evidence of the risk of harm to human health, and further than that, act on the evidence of **harm** that is occurring, including in the UK Government's *very own monitoring system* (as the acute effects recorded in the Government's own monitoring system include, chemical burns (including to the eyes and skin); skin and eye irritancy (eg. itching, stinging, burning sensations, rashes and blistering); throat irritation (eg. sore and painful throats); damaged vocal chords; sinus pain; respiratory irritation; difficulty swallowing and chest discomfort; coughing; breathing problems and shortness of breath; headaches; dizziness; nausea; vomiting; stomach pains; flu-type illnesses; aching joints; asthma attacks, amongst other adverse health effects. Yet European legislation **requires** that pesticides can only be authorised for use if it has been **established** that there will be **no harmful effect** on human health (under the Article 4 duty). It also **requires** a proactive approach to reviewing authorisations *after* approval, including that authorisations shall be cancelled and pesticides prohibited where there is a risk of harm to human health);
- provide residents (and other members of the public) with information rights, including prior notification of spraying and access to information on the pesticides used.

1.16 The factual evidence clearly shows that the UK authorities have approved pesticides for use (a) without first assessing the exposure and risks for residents living in the locality of pesticide sprayed fields, (and which the UK Government is required to do under the relevant European legislation); and (b) without imposing **any** statutory conditions of use to protect residents from exposure, including exposures which give rise to risks to health, as well as exposures in excess of the AOEL. Such conditions of use would include the prohibition of the use of pesticides in the locality to residents' homes, as well as schools, children's playgrounds, hospitals etc.

1.17 Considering that the majority of poisoning incidents and acute adverse health effects that are recorded annually in the UK Government's *own monitoring system*⁹ are from crop-

⁹ It is also important to note that the majority of poisoning incidents and acute adverse health effects recorded each year in the Government's own monitoring system as a result of crop-spraying are for **rural residents** rather than operators, which is not surprising considering operators generally have protection and residents do not.

spraying¹⁰ then the prohibition of the use of pesticides in the locality of residents' homes, as well as in the locality of schools, children's playgrounds, hospitals, and public areas is absolutely crucial for public health protection, especially that of vulnerable groups, as there should never have been any spraying in the locality of any of these areas in the first place. Considering that studies have shown that pesticides can travel in the air for miles then the distance of the area where the use of pesticides is prohibited needs to be substantial.¹¹

Adverse impacts on human health

1.18 It is now beyond dispute that pesticides can cause a wide range of both acute, and chronic, adverse effects on human health. This includes irreversible and permanent chronic effects, illnesses and diseases. The European Commission (EC) clearly acknowledged when publishing the proposals for the new legislation under the Thematic Strategy (in July 2006) that pesticides can cause various adverse effects on human health, including on the health of rural residents who are exposed to them. For example, in the European Commission's July 2006 document entitled "*Questions and answers on the pesticides strategy*"¹² under the heading "*How do pesticides affect human health?*" the European Commission stated:

"Direct contact with the pesticide itself may occur during the time of application of the chemical but indirect exposure is the most common form of contamination. Residents and bystanders can be indirectly exposed to pesticides via spray drift. .. The effects of indirect exposure can be worse for especially vulnerable population groups such as children, the elderly or other particular risk groups (chronically sick people for instance).

Long term exposure to pesticides can lead to serious disturbances to the immune system, sexual disorders, cancers, sterility, birth defects, damage to the nervous system and genetic damage.

1.19 In the EC's July 2006 "*Impact Assessment of the Thematic Strategy on the Sustainable Use of Pesticides*," that accompanied the proposal for the new SUD, the EC stated¹³:

¹⁰ Agriculture is the sector with the heaviest use of pesticides, as approx. 80% of pesticides used in this country each year are related to agricultural use. **Therefore rural residents remain one of the highest exposure groups, and high-risk population groups, considering the frequency and duration of exposure (eg. exposed over the long-term from pesticides repeatedly sprayed in their locality).**

¹¹ As can be seen detailed in the second Witness Statement, once all relevant exposure factors and routes are included in the exposure calculations regarding residents exposure, it becomes clear that separation distances of **miles not metres** would be needed in order to prevent any exceedance of the AOEL, and in order to protect residents from the risk of harm.

¹² Source: "*Questions and answers on the pesticides strategy*" published on 12th July 2006 and available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/278&format=HTML&aged=0&language=EN&guiLanguage=en>

¹³ Source: Page 23 of the "*Impact Assessment of the Thematic Strategy on the Sustainable Use of Pesticides*" published on 12th July 2006 and available at: http://ec.europa.eu/environment/ppps/pdf/sec_2006_0894.pdf

*“Acute impairment of health - Short-time exposure to pesticides **can cause severe acute health effects**, including diarrhoea, nausea, vomiting, abdominal pain, profuse sweating, salivation, blurred vision, irritation of skin **and death** are examples that have been reported in various publications.*

Chronic impairment of health - Chronic health impairment results from a low but constant level and has a long-term character. Major incidents, in particular clear correlations between exposure and chronic effects, are not often recognised immediately since no obvious symptoms of poisoning exist.

*There are various sources for continuous exposure, like the consumption of polluted water, pesticide residues in food, regular application of PPP over many years, **or residential proximity to it and consequently direct exposure via air**. People regularly or repeatedly exposed to or working with pesticides, may have a higher risk of incidence of cancer or other chronic diseases, birth defects, cancer in offspring, stillbirths and reproductive problems, skin rashes and disorders, disturbed enzyme and nervous system.”*

1.20 The EC’s July 2006 “Impact Assessment of the Thematic Strategy on the Sustainable Use of Pesticides,” that accompanied the proposal for the new SUD, went on to state¹⁴:

*“Under real life conditions, **acute and chronic adverse effects associated with exposure to the common classes of pesticides** can vary a lot for a given substance or substance class. Conversely, different substances or substance classes **can cause** similar symptoms. For example, the following have been reported for certain classes of insecticides:*

- *ORGANOPHOSPHATES **can cause** headaches, pain, weakness, numbness in extremities, dizziness, damage to memory, mood control, chest tightness, loss of coordination, uncontrolled urination, seizures, death due to respiratory failure;*
- *CARBAMATES **can cause** headaches, genetic mutations, vomiting, birth defects, dizziness, reduced fertility, seizures, kidney damage, shortness of breath, nervous system damage;*
- *PYRETHRINS and PYRETHROIDS **can cause** lack of coordination, deep lung allergy, convulsions, pneumonia, muscle paralysis, vomiting, asthma and death due to respiratory failure.”*

1.21 These are just some of the acute and chronic adverse health effects that can result from exposure to a given substance or substance class. Residents can of course be exposed (unknowingly) to **all** these classes of pesticides, along with other classes, (as well as to innumerable *mixtures* of these and other classes), repeatedly, throughout every year, and in many cases, like my own situation, for decades, and currently under the UK policy and approach residents have **absolutely no protection at all** from the risks and related acute and chronic adverse health impacts.

¹⁴ Ibid.

1.22 The EC Impact Assessment document goes on to again highlight the position of other vulnerable groups where any health risks may be increased, as it states¹⁵:

“Effects could be amplified for especially sensitive population groups, such as children (due to specific physiological and developmental factors), the elderly (due to their possibly compromised metabolic capacity), or other particular risk groups (immunologically compromised people, chronically sick, etc.)”

1.23 In addition to the European Commission statements, Cornell University’s teaching module *“Toxicity of Pesticides”*¹⁶ states, *“Pesticides can: cause deformities in unborn offspring (teratogenic effects), cause cancer (carcinogenic effects), cause mutations (mutagenic effects), poison the nervous system (neurotoxicity), or block the natural defenses of the immune system (immunotoxicity).”*¹⁷ As said above, chronic effects can include irreversible and permanent effects. Cornell University’s teaching module *“Toxicity of Pesticides”* states, ***“Irreversible effects are permanent and cannot be changed once they have occurred. Injury to the nervous system is usually irreversible since its cells cannot divide and be replaced. Irreversible effects include birth defects, mutations, and cancer.”***¹⁸

1.24 There has been a significant increase in recent years of a number of these chronic health conditions. For example, according to cancer statistics, an estimated 12.7 million new cancer cases and 7.6 million deaths occurred worldwide in 2008.¹⁹ There are around 298,000 new cases of cancer (excluding non-melanoma skin cancer) diagnosed each year in the UK alone, and more than 1 in 3 people will develop some form of cancer during their lifetime.²⁰ In 2008, there were more than 156,000 cancer deaths in the UK, and one in four (27%) of all deaths in the UK were due to cancer.²¹

1.25 As recognised by the European Commission, pesticides can damage the brain and central nervous system of humans. This is not surprising considering that many pesticides are neurotoxic. Parkinson’s Disease is a neurological disorder that has been repeatedly linked to

¹⁵ Ibid.

¹⁶ Cornell University’s teaching module *“Toxicity of Pesticides”* can be seen at: <http://psep.cce.cornell.edu/Tutorials/core-tutorial/module04/index.aspx>

¹⁷ To see this quote in Cornell University’s teaching module *“Toxicity of Pesticides”* click on *“Check Answer”* to the study question at: <http://psep.cce.cornell.edu/Tutorials/core-tutorial/xml/CoreTest.aspx?Q=4-19>

¹⁸ This quote can be seen in Cornell University’s teaching module *“Toxicity of Pesticides”* at: <http://psep.cce.cornell.edu/Tutorials/core-tutorial/module04/index.aspx>

¹⁹ Source: Worldwide cancer statistics from GLOBOCAN 2008 published in June 2010, which can be seen at: <http://info.cancerresearchuk.org/cancerstats/world/index.htm>

²⁰ UK statistics from Cancer Research UK published July 2010, which can be seen on the first page at: http://info.cancerresearchuk.org/prod_consump/groups/cr_common/@nre/@sta/documents/generalcontent/018070.pdf

²¹ UK statistics from Cancer Research UK published July 2010, which can be seen on the 2nd page at: http://info.cancerresearchuk.org/prod_consump/groups/cr_common/@nre/@sta/documents/generalcontent/018070.pdf

pesticide exposure in numerous international studies. One reputable study published in March 2009 found that exposure to just two pesticides within 500 metres of residents' homes increased the risk of Parkinson's Disease by **75%**.²² According to statistics from Parkinson's UK, 120,000 people live with Parkinson's in the UK, or 1 in 500 people.²³ One in 20 people who get Parkinson's is under 40 years of age.²⁴ There is currently no cure for Parkinson's.²⁵

1.26 The cost to the UK economy of just a few of the chronic health conditions that pesticides can cause is massive. In the UK alone, in 2008, cancer cost £5.13 billion in terms of NHS costs alone, and the total costs to society in England was estimated to be a staggering £18.33 billion, with these costs predicted to increase to £24.72 billion by 2020²⁶. It has been calculated that Parkinson's Disease costs the NHS £384 million per year with 78% of these costs being taken up by hospitalisations,²⁷ and the total cost in the UK of the disease is estimated to be between £449 million and £3.3 billion annually, depending on the cost model and prevalence rate used²⁸.

1.27 **Although there are a number of different causes for these chronic conditions, even if pesticides are only causing a proportion, the costs would still be enormous, particularly when added up with all the health costs of other related conditions, along with all the environmental costs.** For example, in the UK alone, the cost of removing pesticides from drinking water *alone* is estimated to be approx. £140 million per year.²⁹ It has been estimated to cost approx. a further £4.75 million to monitor pesticides at 2500 surface and groundwater sites.³⁰ It costs £2 million a year in the UK to check for pesticide residues in food³¹ and an estimated £5.4 million for pesticide monitoring in both food and livestock together.³²

²² "Parkinson's Disease and Residential Exposure to Maneb and Paraquat From Agricultural Applications in the Central Valley of California," by Sadie Costello, Myles Cockburn, Jeff Bronstein, Xinbo Zhang, Beate Ritz.

²³ Source: Parkinson's statistics taken from the Parkinson's UK website at: http://www.parkinsons.org.uk/about_parkinsons/what_is_parkinsons.aspx

²⁴ Ibid.

²⁵ Ibid.

²⁶ Source: Policy Exchange, Research Note, Feb. 2010, entitled "The cost of cancer," page 1, which can be seen at: http://www.policyexchange.org.uk/images/publications/pdfs/The_cost_of_cancer_FINAL.pdf

²⁷ Source: Parkinson's statistics taken from the Parkinson's UK website in September 2010 in a section entitled "The cost of Parkinson's to the NHS." The website has been rejigged recently and the link for that page no longer works. However, the costs statistics were on there in September 2010 as I cited them in an article I wrote for the Ecologist published on 22nd October 2010 at: http://www.theecologist.org/blogs_and_comments/commentators/other_comments/649883/the_pesticides_scandal_government_inaction_is_destroying_lives.html

²⁸ Source: "The economic impact of Parkinson's disease" by Leslie J Findley, published in September 2007. Abstract can be seen at: [http://www.prd-journal.com/article/S1353-8020\(07\)00105-8/abstract](http://www.prd-journal.com/article/S1353-8020(07)00105-8/abstract)

²⁹ Source: Jules Pretty, Professor of Environment and Society in the Department of Biological Sciences at the University of Essex.

³⁰ Source: "An assessment of the total external costs of UK agriculture," Prof Jules Pretty *et al*, August 2000.

- 1.28 It is therefore clear that chemical farming has enormous external costs in the UK every year. Obviously it goes without saying that the personal and human costs to those suffering chronic diseases and damage cannot be calculated in financial terms. The significance of these consequences requires the adoption of a **preventative approach** to make sure that the protection of human health is the overriding priority of the UK Government's pesticide policy
- 1.29 UK citizens can be exposed to pesticides from a variety of agricultural and non-agricultural sources including agricultural and horticultural uses; forestry; uses in the home and garden; and amenity uses. The agricultural sector is the largest sector, as approx. **80%** of pesticides used in the UK each year is related to agricultural use³³, and the majority of poisoning incidents and acute adverse health effects that are recorded annually in the UK Government's own monitoring system are from crop-spraying.
- 1.30 For the last 11 years the UK Pesticides Campaign has collected reports of both acute adverse health effects, as well as chronic long-term effects, illnesses and diseases, in rural communities where residents live in the locality to pesticide sprayed fields. The acute effects reported are the same types of acute effects recorded in the Government's very own monitoring system and include, sore throats, burning eyes, nose, skin, blisters, headaches, dizziness, nausea, stomach pains, burnt vocal chords and flu-type illnesses, amongst other things. The most common chronic long-term illnesses and diseases reported include various cancers, (especially breast cancer among rural women, as well as cancers of the prostate, stomach, bowel, brain, and skin), leukaemia, non-Hodgkins lymphoma, neurological conditions, (including Parkinson's disease, Multiple Sclerosis (MS) and Myalgic Encephalomyelitis (ME)), asthma, allergies, along with many other medical conditions. It is important to stress that there are a number of cases where the individuals involved **do have** confirmation from either their doctor (or other medical professional) that the acute and/or chronic effects **are caused** by pesticides. The reports cover all different age groups from the very young (including babies and young children) to the elderly. Also as I have continued to point out throughout the campaign, reports of this nature have gone on for decades.

³¹ Source: Pesticide Residues Committee (PRC) secretariat, pers comm, September 2010.

³² Source: "An assessment of the total external costs of UK agriculture," by Prof Jules Pretty *et al*, August 2000

³³ Agricultural and horticultural uses account for approx. 80 per cent of the amount of pesticides used per year in the UK. Garden, home, forestry and amenity uses account for the balance per year in the UK. (NB. Amenity use only accounts for a mere 4% of pesticide use in the UK per year, see page 24 of a chemical industry document at: http://www.cropprotection.org.uk/Attachments/Resources/1137_S4.pdf).

No balancing of interests when it comes to public health protection

- 1.31 The fundamental concern of the former European Directive 91/414 regarding the authorization of pesticides is that human health must not be at risk of harm. Recital 9 of Directive 91/414 states, *“Whereas the provisions governing authorization must ensure a high standard of protection, which, in particular, must prevent the authorization of plant protection products whose risks to health, groundwater and the environment and human and animal health should take priority over the objective of improving plant production.”*
- 1.32 This is also reflected in the new PPP Regulation, as there are a number of places within the text of the new PPP Regulation that explicitly state that the overriding primary objective of the PPP Regulation is the high level of protection of human health and the environment. For example, recital 24 states, *“The provisions governing authorisation must ensure a high standard of protection. In particular, when granting authorisations of plant protection products, the objective of protecting human and animal health and the environment should take priority over the objective of improving plant production. Therefore, it should be demonstrated, before plant protection products are placed on the market, that they present a clear benefit for plant production and do not have any harmful effect on human or animal health, including that of vulnerable groups, or any unacceptable effects on the environment.”* Article 1, paragraph 4 of the PPP Regulation states, *“The provisions of this Regulation are underpinned by the precautionary principle in order to ensure that active substances or products placed on the market do not adversely affect human or animal health or the environment. In particular, Member States shall not be prevented from applying the precautionary principle where there is scientific uncertainty as to the risks with regard to human or animal health or the environment posed by the plant protection products to be authorised in their territory.”*
- 1.33 The new Sustainable Use Directive is also clear that the protection of human health and the environment is the priority. For example, Recital 22 states, *“the objective of this Directive” is “namely to protect human health and the environment from possible risks associated with the use of pesticides.”* Recital 1 requires account to be taken of both **precautionary and preventive approaches.**
- 1.34 Article 2, paragraph 3 of the SUD states that, *“The provisions of this Directive shall not prevent Member States from applying the precautionary principle in restricting or prohibiting the use of pesticides in specific circumstances or areas.”*

1.35 It is therefore clear from the text of both the former European Directive 91/414 and the new European legislation consisting of the PPP Regulation and the SUD **that there should be no balancing of interests when it comes to public health protection.**

1.36 The evidence I produced for the legal case clearly showed that the UK Government, DEFRA, PSD (now CRD) as well as the ACP, have continued to base decisions in relation to pesticides on the protection of industry interests as opposed to what is absolutely required as the number one priority of pesticide policy and regulation – **to protect public health.**

1.37 DEFRA has previously stated³⁴ that there is not supposed to be a trade off when it comes to the risks to health from pesticides with the benefits and that if there is scientific evidence that use of a pesticide *may* harm human health that is to be considered unacceptable, and that approval for use would be refused, whatever the benefits. However, paragraphs 195 to 206 of my second Witness Statement detailed the evidence to show that the Government has continued to adopt the improper approach of *balancing* harm to human health against the (supposed) benefits of pesticide use, in which the UK Government is accepting a degree of damage to human health on the basis that *it believes* it is outweighed by other benefits (eg cost/economic benefits for farmers and the industry), **rather than adopting the absolute protective approach that is required under EU legislation for the protection of human health.**

1.38 The Government's inapt and improper balancing approach continued in the text of the previous 2010 DEFRA Consultation document. (See paras 1.30 and 1.31, footnote 15, of the UK Pesticides Campaign's submission to the previous 2010 DEFRA Consultation).

1.39 As detailed above, there can no balancing approach in a legal framework such as this, as the protection of public health must be paramount. Paragraphs 207 to 210 of my second Witness Statement pointed out that there is currently a clear mismatch and inconsistency between the Government's longstanding failure to protect people from passive exposure to pesticides and its approach in other comparable policy areas that ended in a ban for public health protection. For example, the smoking ban in public places; BSE; asbestos and straw-burning, to name but a few. The latter, straw-burning, is a very good example of: a) the vociferous objection from the industry of any legislature measures being introduced, (which has always been the same sort of industry objection in relation to any measures being introduced regarding pesticides); and b) how inadequate measures, such as small buffer zones, as well as *voluntary* approaches, (however many times they are repackaged) failed to

³⁴ In a Joint Memorandum entitled "*Progress on Pesticides*" submitted by DEFRA and HM Treasury in October 2004 to an enquiry by the Environment, Food and Rural Affairs (EFRA) Committee.

protect residents and communities. As I pointed out in paragraph 207(c) of my second Witness Statement, the industry (led by the NFU) claimed that it would damage farming if a ban on straw-burning came in, yet there was no apparent harm to the industry following the introduction of the legislation.

1.40 **The Government has statutory conditions of use for the protection of certain animal species, wildlife, and the environment, but absolutely nothing to protect rural residents and communities from exposure to pesticides, the inherent health risks, and related acute and chronic adverse health impacts. This has to now change.**

Options for the protection of residents in the EU legislation (PPP Regulation and SUD)

1.41 As a direct result of the work of the campaign I run, the UK Pesticides Campaign, the new EU legislation contains a number of critical measures for the protection of residents, including a new legal obligation for farmers and other pesticide users to provide information to residents and others on the pesticides they use (Article 67 of the PPP Regulation); and the option for a new legal requirement in the statutory conditions of use for residents to be provided with prior notification before spraying (Article 31 para 4(b) of the PPP Regulation). NB. This needs to be at least 48 hours in advance as it currently is for the protection of bees.

1.42 **However, most importantly, Article 12 of the new EU Sustainable Use Directive (SUD) concerns the prohibition of pesticide use in areas used by the general public, or by “vulnerable groups”, a term which is clearly defined in Article 3, para 14 of the new PPP Regulation 1107/2009 as including residents exposed to pesticides sprayed in their locality. Article 12 is a vital clause. Considering that the majority of poisoning incidents and acute adverse health effects that are recorded annually in the UK Government’s *own monitoring system* are from crop-spraying, then as said earlier, the prohibition of the use of pesticides in the locality of homes, schools, playgrounds, hospitals, and public areas is absolutely crucial for public health protection, especially that of vulnerable groups, as there should not be any spraying in the locality of any of these areas. (NB. Considering studies have shown that pesticides can travel in the air for miles then the distance of the area where the use of pesticides is prohibited needs to be substantial).**

1.43 These are all measures that the UK Pesticides Campaign has been calling for since the outset of the campaign at the beginning of 2001 and it is critical that all these measures are **mandatory** and must be introduced into the statutory conditions of use for the

authorization/approval of *any* pesticide to *finally* protect the health of residents and other members of the public from exposure to pesticides.

DEFRA's stated response to the Consultation on implementation of the new EU laws

1.44 Despite the fact that the new EU laws contain a number of critical measures for the protection of residents, including those that are set out above at paragraphs 1.41 and 1.42, the Government's response issued on December 15th 2010 will not result in the correct implementation of these measures, as the Government's stated response was to effectively maintain the status quo and not to bring in any mandatory measures to protect rural residents from exposure to pesticides.

1.45 The DEFRA press release issued on 15th December 2010 stated, "*As UK pesticides safety standards are already amongst the highest in Europe, only minor changes are necessary to meet the new requirements, and no compelling evidence was provided in the responses to justify further extending existing regulations and voluntary controls.*"

1.46 To say that no compelling evidence was provided in the responses to justify bringing in measures is simply not correct and in fact is outrageous. Lord Henley, who was the DEFRA Ministers responsible for pesticides at the time, was certainly provided with more than enough evidence in the documentation I provided him to confirm the failings of the current UK policy and approach to protect public health, particularly residents. However, despite the fact that Lord Henley had given a direct undertaking at the meeting I had with him on 6th July 2010 to examine the evidence I provided *prior* to taking decisions over how to implement the new European legislation, it does not appear that he did in fact read the evidence himself otherwise he could not possibly have come to such an inaccurate and outrageous conclusion.

1.47 As detailed above, the factual evidence contained in the six Witness Statements involved in the legal case *Georgina Downs v DEFRA* that confirm the failings of the current UK policy and approach to protect residents (and the public) from pesticides were based on the UK Government's **very own documents, findings and statements**.

1.48 The previous Secretary of State, Hilary Benn, had himself read a number of the documents I provided him, including the second Witness Statement, and as a result it was reported in the press prior to the change in Government, that if his party had stayed in, then **he did intend to bring in measures for the protection of residents**.

1.49 This was also clear from his statement in July 2009 where he acknowledged that the previous DEFRA Consultation was partly as a result of the legal case between myself and DEFRA (regarding pesticide exposure for residents and other members of the public), as Hilary Benn stated, "*The action brought by Georgina Downs, who I have met, has raised a number of issues concerning pesticide policy" and "We will therefore, in the light of the issues raised by Georgina Downs and the EU Directive, consult this autumn on:*

- *How to give people access to farmers' records of spraying activity near their properties;*
- *How to give prior notification of spraying activity to residents;*
- *Monitoring of how pesticides are being used;*
- *New training requirements for operators; and*
- *What else should be included in our National Action Plan."*

1.50 It is important to note the fact that Hilary Benn did not say "Whether to give" prior notification and access to information, but "How to give," and in any event the continued reliance by the coalition Government on mere voluntary measures will not comply with the new European legislative requirements.

1.51 Further, by just relying on mere voluntary measures for certain Articles of the new EU legislation then not only will it be in non-compliance with the EU legislation, for the Articles relating to prior notification and access to information it is also in complete contradiction to previous undertakings given by the Government to introduce mandatory measures for prior notice and access to information, as well in complete contradiction to the advice DEFRA officials previously gave then Ministers in 2006, which was for mandatory requirements for both prior notice and access to information.

1.52 Most importantly of all, as the UK Pesticides Campaign highlighted in the submission to the previous 2010 DEFRA Consultation, DEFRA officials had advised Ministers in June 2006 that, "*...voluntary measures can only be used where there is no health risk to residents and bystanders...*". Therefore DEFRA Ministers and officials were well aware that in the situation where the health risks and adverse effects are already accepted (including in the Government's own monitoring system) then voluntary measures were not an option and thus should never have been relied upon in the first place in a situation where public health is at stake. Yet despite this, the Government has just continued to rely on industry-led voluntary measures only.

1.53 The Government's stated response on 15th December 2010 to the previous DEFRA Consultation on the implementation of the EU pesticides legislation *yet again* clearly showed that the UK Government is simply not interested in protecting the health of the very people the Government is supposed to serve. The Government's stated response was, as ever, mainly concerned with the *alleged* impacts and burdens, (including costs) that the obligations of the new EU legislation may have on farmers, industry and other related business. As said earlier, the Government's stated response was outrageous. The policy is supposed to protect human health first and foremost. Business and industry interests must not come before public health and safety. What about the real-life adverse impacts and burdens on rural residents and communities (and other members of the public) from crop-spraying activities, which includes impacts not only on their health, but also on their environment, as well as related costs and other financial implications for them. The Government's stated response was not only a complete disgrace it made an absolute farce of a number of the coalition's hollow mantra's such as, "*We all in this together,*" along with the Prime Minister's pledge that the Coalition will be the "*greenest Government ever.*"

1.54 We have seen recently in other policy issues (ie. not related to pesticides) that when DEFRA has taken (or even merely suggested) a policy decision that is not supported by the public (and where members of the public point out that they have not been listened to) then the policy is amended/rectified accordingly. A good example of this is the recent about turn on the proposed policy to sell off the forests.

1.55 Members of the public have continued to raise their concerns to decision makers, DEFRA Ministers, MPs, other politicians and others over the use of pesticides, particularly in relation to agricultural pesticide spraying, and the lack of any measures in the Government's existing policy to protect public health. Having again bought all the submissions to the previous 2010 DEFRA Consultation from the DEFRA library (the same as I did with the submissions to the 2003 DEFRA Consultation) and having gone through many of the responses, I have seen that the submissions that other residents made to the 2010 DEFRA Consultation were again (as with the submissions to the 2003 DEFRA Consultation) clear, factual and many people highlighted their own real-life experiences of ill-health following exposure to pesticides and who were therefore in favour of long overdue controls to protect their own health and that of others living in rural communities. It is therefore clear from looking through those submissions that other residents, and members of the public in general, *again* clearly set out the key measures that they wanted to see introduced for the protection of human health and the environment. (Also many of the submissions from the public that I have read were in full

support of the UK Pesticides Campaign's key objectives). **Therefore to reiterate, the public has been voicing its concerns for years over pesticides, especially rural residents and communities exposed to pesticides from living in the locality of (and/or having children attending schools and playgrounds in the locality of) pesticide sprayed fields and yet the UK Government has continued to ignore such submissions and concerns in favour of, as ever, protecting industry and business interests and maintaining the status quo.**

1.56 DEFRA needs to urgently rethink its stated policy position of 15th December 2010, as it did with the proposed policy to sell off the forests, as DEFRA's current stated policy decision is **not supported by the public**, and members of the public have *again* clearly not been listened to by DEFRA. **Ministers must finally put the protection of the health of UK citizens first and foremost in its policy.**

SECTION 2: COMMENTS ON THE DRAFT UK NAP FOR PESTICIDES

2.1 The following comments are in relation to specific sections of the *draft* NAP document.

National Action Plans (NAPs) (Article 4 of the EU SUD text)

2.2 This DEFRA Consultation concerns the *draft* UK National Action Plan (NAP) for pesticides that each Member State has to produce under Article 4 of the EU Sustainable Use Directive.

2.3 Recital 5 of the EU Sustainable Use Directive states, "*National Action Plans aimed at setting quantitative objectives, targets, measures, timetables and indicators to reduce risks and impacts of pesticide use on human health and the environment and at encouraging the development and introduction of integrated pest management and of alternative approaches or techniques in order to reduce dependency on the use of pesticides should be used by Member States in order to facilitate the implementation of this Directive.*"

2.4 Article 1 of the EU Sustainable Use Directive states, "*This Directive establishes a framework to achieve a sustainable use of pesticides by reducing the risks and impacts of pesticide use on human health and the environment and promoting the use of integrated pest management and of alternative approaches or techniques such as non-chemical alternatives to pesticides.*"

2.5 Article 4 of the EU Sustainable Use Directive states, "*Member States shall adopt National Action Plans to set up their quantitative objectives, targets, measures and timetables to reduce risks and impacts of pesticide use on human health and the environment and to*

*encourage the development and introduction of integrated pest management and of alternative approaches or techniques in order to reduce dependency on the use of pesticides. **These targets may cover different areas of concern,** for example worker protection, protection of the environment, residues, use of specific techniques or use in specific crops.”*

2.6 Regulation 4 of the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” requires the Secretary of State, the Scottish Ministers and the Department to jointly adopt a National Action Plan in accordance with Article 4 and to revise it as necessary. The UK NAP is supposed to include the provisions listed from Article 5 to Article 15 of the EU SUD.³⁵

2.7 The *draft* UK NAP is mainly based on voluntary measures *only* and does not currently contain anything that would actually result in reducing the risks and adverse impacts of pesticide use on human health, **especially not in relation to agricultural pesticide use.** **This is despite the fact that the main purpose of the new EU SUD is for reducing the risks and impacts of pesticide use on human health and the environment!** (Eg. para 15.2 of the *draft* UK NAP refers to “a range of industry initiatives to protect **health** and the environment.” Such industry initiatives are voluntary based only, for example the VI. Further, **the VI is only related to the environment³⁶ and does not focus on health.** Considering the Government does not properly recognise the risks and adverse impacts on human health from exposure to agricultural pesticides from crop spraying (especially in relation to residents) then there is no real surprise that the Government has not proposed **any** mandatory measures to reduce the risks and adverse health impacts from the use of pesticides in agriculture.³⁷

2.8 As detailed in Section 1 above, the reliance on existing or enhanced voluntary approaches will not change anything and thus will not provide any public health protection, as voluntary measures have existed for decades, have not worked, however many times they are repackaged, and are completely unacceptable in this situation. Most importantly of all, DEFRA officials previously advised DEFRA Ministers in June 2006 that, “...***voluntary measures can only be used where there is no health risk to residents and bystanders...***” Therefore DEFRA Ministers and officials are well aware that in the situation where the health risks and adverse effects are already accepted, (including in the Government’s own

³⁵ Paragraph 2 of the Impact Assessment that accompanied “*The Plant Protection Products (Sustainable Use) Regulations 2012*” states that, “Article 4 states that the Member States’ National Action Plans shall describe how they will **implement the measures necessary to implement the Directive’s requirements/aims.**”

³⁶ For example, the VI website states, “In 2001 the Government accepted proposals put forward by the farming and crop protection industry to minimise the **environmental** impacts from pesticides.”

³⁷ The *draft* UK NAP merely maintains, as ever, that “*The regulatory risk assessment and risk management process **is very effective at identifying and mitigating risk***” (paragraph 8.1 of the *draft* UK NAP).

monitoring system), then **voluntary measures are not an option and thus should never have been relied upon in the first place in a situation where public health is at stake.**

2.9 It is important to stress the fact that the main objective of any National Action Plan should actually be for the **prevention** of the risks and adverse impacts of pesticide use on human health and the environment, **as in relation to human health in particular, the risks must be prevented completely, not just reduced.** The only real solution to eliminate the adverse impacts of pesticides on human and animal health, and the environment, is to take a **preventative approach** with the widespread adoption of truly sustainable **non-chemical methods.** This would be more in line with the objectives for sustainable crop production.

2.10 Yet there also does not appear to be anything in particular in the current *draft* UK NAP regarding the use of **non-chemical alternatives**, particularly not in relation to agriculture.³⁸ This is despite the fact that one of the main objectives/aims of the new EU legislation from the outset under the Thematic Strategy is to shift policy towards the utilisation of non-chemical farming methods in order to reduce dependency on pesticides. See further the section entitled “*The Prioritisation of Non-Chemical Methods*” at paras 2.180-2.189 below.

Life-cycle

2.11 Paragraph 3.3 of the *draft* UK NAP states, “***This Plan covers those stages of the pesticide life-cycle relevant to the requirements contained in the Sustainable Use Directive. It therefore includes legislative and other controls on the marketing of pesticides, on the use of pesticides and on pesticide residues in foods and other areas affected by pesticides degradation and disposal.***”

2.12 Page 8 of the “*Impact Assessment of the Thematic Strategy on the Sustainable Use of Pesticides*” published on 12th July 2006³⁹ clearly states, “***One of the shortcomings of the current legal framework concerning pesticides is that the actual use phase, which is a key element for the determination of the overall risks that they pose, is not sufficiently addressed. The very purpose of this Thematic Strategy is to address this deficiency.***”

³⁸ I note that paragraph 17.8 of the *draft* UK NAP refers to a specific project that includes non-chemical methods as one of the approaches in **amenity weed control** on hard surfaces (roads, footpaths etc.), but, as said, there does not appear to be anything in particular regarding the use of **non-chemical alternatives** in agriculture.

³⁹ Available at:- http://ec.europa.eu/environment/ppps/pdf/sec_2006_0894.pdf

- 2.13 The EU SUD is therefore primarily concerned with the **actual use phase** and those exposed to pesticides during and after the actual application process and thus **the actual use of pesticides** (such as operators, workers, residents and other members of the public).
- 2.14 The exposure in relation to consumers exposed to any pesticide residues in food is already covered in other specific EU laws⁴⁰ and national monitoring programmes. This is supported by the fact that the word “*consumer*” does not appear anywhere in the SUD and the word “*food*” is only included when referring to separate food laws (eg. at recital 3), or a group or committee that has food in the title, such as the European *Food* Safety Authority and the Standing Committee on the *Food* Chain and Animal Health (both referred in SUD Article 21)
- 2.15 If Government wants to include issues relating to residues in food in the UK NAP then the UK Pesticides Campaign of course has no objections to that at all, but the aforementioned line in the *draft* NAP stated that it “***covers those stages of the pesticide life-cycle relevant to the requirements contained in the Sustainable Use Directive***”. Therefore it was important to clarify the fact that the purpose of the SUD is specifically related to the **actual use phase**, as the aim of the new EU legislation under the EU Thematic Strategy for Pesticides, in particular the SUD, was always very clear in that it was **to reduce the risks and impacts from the use of pesticides**, as well as to promote and encourage the use of **non-chemical methods** in order to reduce dependency on the use of pesticides.
- 2.16 Para 3.3 of the *draft* NAP goes on to state, “*As required by the Directive, the Plan takes account of the health, social, economic and environmental impacts of pesticides (whether potentially positive or negative) to protect the health of people (operators who apply pesticides, other workers, residents and bystanders and consumers) and the environment (water and aquatic environment and biodiversity).*” I am not sure that this is quite right as the SUD states (at Article 4(1) sub-para 4), “*When drawing up and revising their National Action Plans, Member States shall take account of the health, social, economic and environmental impacts of the measures envisaged, of specific national, regional and local conditions and all relevant stakeholder groups. Member States shall describe in their National Action Plans how they will implement measures pursuant to Articles 5 to 15 in order to achieve the objectives referred to in the first subparagraph of this paragraph.*” The SUD refers to “*the health, social, economic and environmental impacts of the measures envisaged*” and the *draft* UK NAP refers to “*the health, social, economic and environmental impacts of pesticides*” and considering that that entire sentence of the *draft* UK NAP does not actually make sense

⁴⁰ For example, Regulation (EC) No 396/2005 on MRLs on food and feed of animal and plant origin.

(for example it goes from “*impacts of pesticides...*” to “*to protect the health of people...*” then I thought I would query this in case there is a typo and the use of the wrong words there (ie. “*impacts of pesticides*” instead of “*impacts of the measures envisaged*”)?!

2.17 If going by the current aforementioned wording of that sentence (that as said does not actually make sense!) then, in any event, I would point out that the *draft* UK NAP certainly **does not** take account of the health, social, economic and environmental impacts of pesticides on residents, and to say that it does (which, as said, I am fairly sure is an error in wording) would be outrageous considering the Government’s continued failure to act in not bringing in any measures for the protection of residents’ health and merely maintaining the status quo!

Strategic background

2.18 Para 4.1 of the *draft* UK NAP states, “*The Plan builds on the actions and experience gained from the two previous pesticides strategies but reflecting the priorities of the Coalition Government, **particularly in reducing the burdens on business and reducing the costs, and, where appropriate, the activities of Government.** The Plan follows the direction of travel set out in the 2010 document “Consultation on the implementation of EU pesticides legislation; summary and government response” of 15 December 2010.*”

2.19 As ever with the Government, the primary concern of the *draft* UK NAP is clearly on the *alleged* impacts and burdens, (including costs) that any measures may have on farmers, industry and other related business.⁴¹ Yet, as repeatedly stated, the Government’s policy is supposed to protect human health first and foremost. Business and industry interests must not come before public health and safety. See further the earlier comments in Section 1 above.

2.20 Para 4.2 of the *draft* UK NAP then states, “*The NAP stands in its own right as the central vehicle for continuing to deliver the responsible use of pesticides. However, **it also supports wider Government objectives for health protection, the environment and for agriculture.** For England, these include:*

⁴¹ Yet, as ever, there is no reference **anywhere** in the *draft* NAP to the existing **real-life adverse health and environmental impacts and burdens on residents and communities (and the public in general) from crop-spraying activities, which again, means that there is also no recognition or inclusion of the related costs and other financial implications for residents from not introducing the necessary mandatory measures for the protection of residents.** The protection of human health is of far greater value and importance than the protection of industry finances and therefore public health protection is supposed to be the Government’s main priority and concern in its pesticides policy and approach, and which, to date, it clearly has not been.

“Improving the productivity and competitiveness of food and farming businesses, with better environmental performance”;

“Helping to enhance the environment and biodiversity to improve quality of life”;

“Adopting a proportionate approach to regulation and removing unnecessary burdens”.

2.21 Yet despite what is stated in para 4.2, it is notable that **none** of the above examples given are related to **health protection**, as they are related to either the protection of business and industry interests (eg. in relation to removing burdens on industry etc.) or to the environment **as opposed to human health** (eg. helping to enhance the environment and biodiversity etc.)

2.22 Further examples in the *draft* UK NAP where the focus and concern is on reducing the *alleged* burdens on farmers, industry and other related business can be seen in, amongst others, para 4.3 (*“The Scottish Government (SG) is also actively trying to reduce the burden of bureaucracy on Scotland’s rural land managers. A review is underway to consider how to reduce the red tape associated with farming and help farmers free up time for farming”*); para 5.2 (*“The Government is keen to ensure that regulatory burdens on businesses are kept to a minimum and reduced/removed wherever possible. For pesticides, this means that the Plan aims for non-regulatory approaches to be adopted as much as possible, and looks to stakeholder partners to deliver these. Of particular relevance in delivering the non-regulatory measures in the Plan are the two key stakeholder organisations, the Voluntary Initiative for pesticides for agriculture and horticulture, and the Amenity Forum.”*)

2.23 Other examples of this can also be seen in other recent Government documentation relating to the EU SUD, for example in paragraph 11.2 of the Explanatory Memorandum that accompanied the *“The Plant Protection Products (Sustainable Use) Regulations 2012”* it states that, **“All decisions have been taken with a view to minimising the effect on these businesses, including approaches such as; - adopting a “business as usual” policy where possible taking into account the requirements of the Directive, and attempting to replicate the existing regime as far as possible; - including a requirement that people take “reasonable precautions” rather than introducing certain prescriptive new measures, allowing businesses the flexibility to decide what measures are necessary based on individual circumstances, rather than a need for familiarisation with a raft of complex requirements; - using all available derogations; - deeming existing UK requirements as satisfying equivalent or related requirements under the Directive wherever possible, so that businesses do not have to implement unnecessary changes** (for example, existing training certificates will be deemed to meet the minimum requirements of those introduced under the Directive).”

2.24 As detailed earlier in Section 1, the Government's desire to effectively maintain the status quo and not to bring in any mandatory measures to protect the health of those exposed to pesticides, such as residents, will not result in the correct implementation of a number of the critical measures required by the new EU legislation (both the SUD and PPP Regulation).

Delivery of the UK plan

2.25 Para 5.1 of the *draft* UK NAP states, "**The Plan will be managed by the Chemicals Regulation Directorate (CRD) of the Health and Safety Executive as the UK pesticides regulator.** Strategic oversight will be maintained by Defra who have responsibility for pesticides policy, in collaboration with policy units in devolved governments. Other Government Departments may also have an interest in specific elements of the Plan."

2.26 The fact the NAP will be *managed* by the CRD is of concern for the following reasons.

2.27 The CRD, the delivery body for DEFRA's responsibility on pesticides and the key officials advising Ministers on the safety of pesticides, is also the evaluator/assessor in the UK for the authorization of pesticide products. The CRD receives approximately 60% of its funding from the agrochemical industry, which is broken down into the fees charged to companies for applications, and a charge on the UK turnover of pesticides companies.⁴² For a number of years now this has resulted in the CRD receiving around £7 million or more per year from the agro-chemical industry.⁴³ In the CRD's annual reports and accounts in relation to the CRD's business operations, the CRD's reliance on full cost recovery from the industry for CRD's "*services*",⁴⁴ including evaluating applications for product approvals is repeatedly stated.

2.28 **This has always been a completely inappropriate structure, and it means that the CRD has a financial interest in any policy decisions under consideration.**

⁴² Source para 3.1 of the 2011 DEFRA document at:- <http://www.defra.gov.uk/consult/files/110210-pesticides2011-condoc.pdf>

⁴³ For example, see para 3.1 of the 2011 DEFRA document at:- <http://www.defra.gov.uk/consult/files/110210-pesticides2011-condoc-ia.pdf> in relation to the figure for 2009/2010 which was **£7.4 million**, and in relation to examples for earlier years see page 16 of the CRD's "Annual Report and Accounts 2008/09" for the figures for 2007/08 and 2008/09 available at: http://www.pesticides.gov.uk/Resources/CRD/Migrated-Resources/Documents/A/Annual_report_and_accounts_final.pdf

⁴⁴ Also see for example, DEFRA's response to the consultation last year on the draft legislative text of two UK Regulations to support the European Regulation regarding the authorisation of pesticides (at:- <http://www.defra.gov.uk/consult/files/plant-protection-products-consult-response.pdf>) that states, "*The Department does not consider it reasonable for the Exchequer to fund the entire operation of this regulatory regime. **It is appropriate for the industry to continue to meet the costs of the services they receive.***"

2.29 Further, by CRD carrying out all the Government Consultations' on pesticides (this one included, as all the same inherent problems that I have raised in relation to previous Consultations are also applicable to this one, see paras 2.1 to 2.15 of the submission to the 2010 DEFRA Consultation), and also being the main Government agency that assesses the adequacy of the UK's policy and approach, is really effectively just asking the regulator to be judge and jury of itself, which further compounds the inappropriateness of the UK structure.

2.30 **As the UK Pesticides Campaign has continued to argue, even though CRD's main priority is supposed to be to protect public health and the environment from pesticides this obviously conflicts with the fact that the CRD's main customers/clients are its approval holders, (predominantly made up of the agro-chemical companies), and the fact that the CRD is required to meet full cost recovery for its operations, including from product applications and approvals. The CRD's very structure seems to make health and environmental considerations subordinate to pest control.** (NB. This conflict of interest was clearly apparent during the legal case *Georgina Downs v DEFRA*, and was clearly demonstrated by, for example, the two Witness Statements submitted on behalf of DEFRA by the former PSD (now CRD) Chief Executive, Kerr Wilson, to the Court of Appeal, regarding DEFRA's renewed application for a stay of the High Court Judgment and Order of Collins J. Both Mr. Wilson's Witness Statements cited various reasons for *preserving the status quo* that were **all** notably related to *alleged* financial and economic impacts on manufacturers, farmers and distributors, or the impact on agricultural productivity, if there were any changes to the current UK policy and approach for pesticides and the related approvals system. Neither of Mr. Wilson's Witness Statements displayed **any** concern whatsoever in relation to the protection of public health, as the **only** concern displayed was with the protection of industry and business interests rather than the protection of the public. As stated previously, the CRD's primary concern and focus on the protection of industry interests as opposed to people's health really has been very clear. The CRD has been determined to maintain the status quo in the UK and to appease the interests of the industry).

2.31 Therefore, as detailed, the UK's pesticide policy and control regime is based on a wholly inappropriate structure and goes some way to explaining why the pesticide industry has for many years (decades even) had such control over successive Government's policy decisions on pesticides, particularly in relation to the use of pesticides in agriculture. If the pesticide industry is effectively the ones who are "*paying*" for what controls are or are not in place for the protection of public health and the environment then the industry will of course only be willing to pay the minimum amount possible **for the least controls possible**. **Successive**

Governments have continued to reflect the position of the pesticides industry in all policy decisions taken to date on pesticides, (at least since the UK Pesticides Campaign has been in existence since early 2001) and it is quite clear that part of the reason for this can be explained by the fact that the industry are the ones who provide the majority of the funds to finance the control regime. As the UK Pesticides Campaign has pointed out previously, this would appear to be a case of “*whoever pays the piper calls the tune*.”

2.32 Therefore as long as the Government’s control regime is being funded by (and thus relies upon) the pesticides industry with the majority percentage then there will inherently continue to be reluctance on the part of the industry and the Government to introduce mandatory measures/statutory controls for the protection of public health and safety. The current approach clearly creates an inherent conflict of interests with the Government, in particular the CRD, having a financial interest in any policy decisions under consideration, and would appear to be one of the reasons why there is this current perverse system of placing the interests of business and industry over and above that of the protection of public health.

2.33 As said earlier, it is clear from the text of both the former European Directive 91/414 and the new European legislation consisting of the PPP Regulation and the SUD **that there should be no balancing of interests when it comes to public health protection**.

2.34 Therefore the primary concern of the Government should definitely not be on ensuring the *minimum cost* to the industry/business it should be on ensuring the **maximum protection for human and animal health and the environment**.

Stakeholder oversight

2.35 Paragraph 6.1 of the *draft UK NAP* states, “*Development of this Plan has included consultation with UK stakeholders including the public. Ongoing stakeholder input and oversight will be carried out by the UK Pesticides Forum, a stakeholder group, which has provided advice on responsible pesticide use to government and industry for many years (see Annex 2 for more information on the Forum). The Forum will keep the Plan under continual review, and where necessary, in consultation with Government, will set up short-life expert working groups to consider specific issues which arise or are identified. The Forum will produce an Annual Report on developments in the Plan.*” Paragraph 6.2 then states, “*The Forum will be assisted in its work by three standing working groups covering the amenity and amateur uses of pesticides and wider agricultural and horticultural grower issues.*”

2.36 An important element of SUD Article 4 is in relation to the involvement of “all relevant stakeholder groups” including the involvement and participation of the public. This is also recognised in the text of, for example, recital 7 of the EU SUD that states, “For the preparation and modification of National Action Plans, it is appropriate to provide for the application of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.” Article 4 para 5 of the SUD also states, “The provisions on public participation laid down in Article 2 of Directive 2003/35/EC shall apply to the preparation and the modification of the National Action Plans.” The EU text is therefore **very clear** in relation to providing for the involvement of “all relevant stakeholder groups,” in “the preparation and the modification” of NAPs, including public participation.

2.37 Therefore the first point to make regarding what is currently stated in paras 6.1 and 6.2 of the *draft* UK NAP is that some stakeholders have clearly had more involvement in the development of the *draft* NAP than others. For example, although the CRD maintained that the industry had not had any *direct involvement* in the drafting of the UK NAP *draft* text it is noticeable that a fair proportion of the text and/or points made is the same or similar to the text of the Guidance document that accompanied the publication of “*The Plant Protection Products (Sustainable Use) Regulations 2012*” and which it is stated in the Guidance **was written with industry**. (For example, the Guidance document states, “*This new guidance, which was drawn up in liaison with a number of key affected industry stakeholders, outlines the immediate and forthcoming changes to existing requirements that will be introduced as a result of the Directive and how to comply with the law from 18 July 2012.*”)

2.38 I would also point out that in relation to Articles 5 and 6 of the Sustainable Use Directive (SUD) relating to provisions on training and certification it would appear that the industry stakeholders were made aware of what advice was being provided to Ministers by DEFRA/CRD officials, and were able to therefore not only know the options that were being discussed but fully participate in the discussions relating to these Articles. For example, documents released to me under Freedom of Information last year clearly demonstrated the continued involvement in the policy development (of SUD Articles 5 and 6) of the farming and industry based stakeholders (which was *after* the 2010 Consultation), and who were therefore able to input to a far greater degree than those who were denied the right to access information regarding this particular policy development until seemingly *after* the policy decision had been taken (as any documentation involved in my access to information requests

to DEFRA and CRD last year and that related to the status of Articles 5 and 6 were **withheld** with the stated reason given that they were “*exempt as policy still under development.*”)

2.39 Yet, as I correctly pointed out in my letters of 14th Oct 2011 to DEFRA and CRD requesting internal reviews, it is completely unfair and discriminatory that some interested stakeholders are made aware of what advice is being provided to Ministers by DEFRA/CRD officials, and are therefore able to not only know the options that are being discussed but fully participate in those discussions, whilst other stakeholders are denied the right to access information regarding this particular policy development until seemingly *after* the policy decision has been taken. **This therefore denies some stakeholders the opportunity to input and participate in policy decisions relating to a serious public health issue of significant public importance.**

2.40 Therefore, as shown in the points made in paras 2.37 to 2.39 above, some stakeholders have clearly had more involvement in the *preparation* of the *draft* UK NAP than others.

2.41 In relation to this I would also point out that although it was repeatedly and consistently stated last year, including by Government Ministers in written statements laid in the Houses of Parliament, that a further public consultation would take place on the *draft* transposed legislative text of the new EU Directive⁴⁵ (in order for Stakeholders and members of the public to input), DEFRA later subsequently announced that the stated public Consultation on the *draft* SI text would not now take place⁴⁶, despite the repeated assurances that it would.

2.42 Many residents and others directly affected from exposure to pesticides had been waiting for the Government’s repeatedly stated second stage Consultation⁴⁷, on the *draft* transposed

⁴⁵ The now entitled “*The Plant Protection Products (Sustainable Use) Regulations 2012*”.

⁴⁶ DEFRA announced on Friday 4th November 2011 that the stated public Consultation would not now take place (despite the previous repeated assurances that it would) see <http://www.defra.gov.uk/environment/quality/chemicals/specific/pesticides/>

⁴⁷ In addition to all the references in both the 2010 Government consultation document (eg. at paras 1.19 and 2.20), as well as in the Government's response to that consultation published on December 15th 2010 (eg. at paras 2.3 and 2.4), to the fact **that there would definitely be a second stage consultation on the draft SI text of the SUD** there were also a considerable number of other places where it said that a second stage consultation **would take place**. For example the following documents that were released to me by DEFRA and CRD on August 18th 2011 under the Environmental Information Regulations (EIR):- 1) A CRD submission from CRD Director, Dave Bench, to then DEFRA Minister Lord Henley dated 13th August 2010 refers to the “**first stage consultation**” and then it goes on to say “*We anticipate conducting a further consultation early next year on the draft legislation for implementing the Directive in England and Wales.*” 2) A CRD submission from CRD Director, Dave Bench, to then DEFRA Minister Lord Henley dated 3rd December 2010 at paragraph 8 under “*Next steps*” says “*Once the response has been published we will work with stakeholders to develop detailed plans for implementation with a view to consulting on a draft SI next year.*” It then goes on to say that this consultation is “*likely to take place over the summer*” and then in Annex 1 to that submission paragraph 2.4 states, “**We will then conduct a further consultation on the draft legislation for implementing the Sustainable Use Directive in England and Wales.** *This legislation is due to come into operation on 26 November 2011.*” 3)

legislative text of the new EU Directive. This again showed that certain key stakeholders, as well as the public in general, were not consulted and allowed to input, despite the fact that it was a consultation that the Government repeatedly stated would happen in various materials.

2.43 Residents and others directly affected by pesticide exposure are one of the most important stakeholders in this issue and considering that the Government previously stated that there were 125 members of the public that submitted to the 2010 DEFRA consultation, most of whom were residents living in the locality of sprayed fields, then all those people were under the firm impression that the repeatedly stated second stage consultation would take place *prior* to the adoption of the legislation. Therefore it was highly misleading to both the public and the Houses of Parliament to have subsequently scrapped the repeatedly stated second stage consultation and the Government yet again displayed very poor practice and judgment in doing so. Further, the scrapping of the repeatedly stated consultation appeared to be completely out of line with EU Directive 2003/35/EC that **provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment**, and was also out of line with what is set down in Article 4 of the new EU Directive on the use of pesticides itself regarding Stakeholder and public participation.

2.44 Further still, considering that DEFRA **did have** a Consultation earlier last year on the *draft* legislative text of two UK Regulations to support the EU Regulation regarding the authorisation of pesticides⁴⁸ then the Government's refusal to have a Consultation on the *draft* legislative text of the now entitled "*The Plant Protection Products (Sustainable Use) Regulations 2012*" demonstrates a clear inconsistency with the Government's own previous practice of only a few months before!

In a CRD briefing dated 17th January 2011 to the then DEFRA Secretary of State, Caroline Spelman, on the new European Directive on the use of pesticides, it again states that, "*Once the detail of these proposals has been worked up, a consultation on draft implementing legislation will take place. This will probably be in May, after the elections in the Devolved Administrations.*" 4) In a DEFRA policy briefing dated 26th May 2010 for the then DEFRA Minister Lord Henley from a DEFRA official it again clearly stated, "*A second stage consultation will then be carried out on the draft implementing legislation.*" 5) In Speaking Notes for a speech that then DEFRA Minister Lord Henley gave on 20th October 2010 at a dinner debate with the Crop Protection Association it again stated, "*and there will be further consultations on draft legislation.*" 6) In a Written Ministerial Statement by the then DEFRA Minister Lord Henley, dated 15th December 2010, and laid down in the Houses of Parliament, it again stated, "*Later in the year, we will consult on the draft legislation for implementing the Sustainable Use Directive in England and Wales.*" 7) In a DEFRA briefing dated 14th December 2010 it again states under the question "*What will happen next?*" that "*Once we have worked up the detail of the measures to be implemented and undertaken further work on the impact assessment, a second consultation will be carried out on the legislation to implement the Directive by November 2011.*"

⁴⁸ Information relating to DEFRA's Consultation earlier last year on the draft legislative text of two UK Regulations to support the European Regulation regarding the authorisation of pesticides is at: <http://www.defra.gov.uk/consult/2011/03/01/plant-protection-products-1103/>

2.45 It is important to stress the fact that residents and others directly affected from the use of pesticides are of course well aware that the Government usually completely ignores their input in these Consultations anyway, but by not even having a Consultation **at all** means that residents and others did not even have the opportunity **to put on record** their concerns and objections to any aspect of the UK Government's interpretation in its *draft* transposed legislative text before it was implemented.

2.46 The fact that paragraph 6.1 of the *draft* UK NAP says that the, "Ongoing stakeholder input and oversight will be carried out by the UK Pesticides Forum" and that "The Forum will keep the Plan under continual review.." would appear to contradict what is stated in para 2.4 of the *draft* UK NAP that states, "The NAPs are to be developed with public participation, and in addition to any periodic public consultations, comments are welcome on the UK Plan at any time" and which does not merely restrict it to those on the Pesticides Forum. However, it is all well and good to say that "*comments are welcome*" on the UK Plan at any time, but it does not mean much if nothing is likely to be done as a result of those comments. Therefore this needs to be clarified in relation to **what action**, if any, would actually be taken in response to 1) comments, and information and evidence submitted on the UK Plan, and 2) when those comments are submitted by those who are not on the Pesticides Forum considering that paragraph 6.1 of the *draft* UK NAP says that the "*ongoing stakeholder input and oversight will be carried out by the UK Pesticides Forum*"?!

2.47 It would therefore appear from what is stated in paras 6.1 and 6.2 of the *draft* UK NAP that some stakeholders will clearly have more involvement in the **modification** of the UK NAP than others, and thus any **modification** will also **not** involve "**all relevant stakeholder groups**" including the involvement and participation of the public. This would therefore not be in line with recital 7 and Article 4 of the EU SUD, nor in line with Directive 2003/35/EC.

2.48 As can be seen from what is stated in paragraphs 6.1 and 6.2 of the *draft* UK NAP, the Government/DEFRA/CRD intends to rely on the Pesticides Forum for the monitoring and review of the National Action Plan. This can also be seen in other paragraphs of the *draft* UK NAP such as at paragraph 7.1 which refers to the Pesticides Forum's "*suite of indicators to monitor how pesticides are being used **and the impact they are having***", paragraph 8.3, paragraph 8.4 that states, "*Progress in the priority areas will be looked for over the five years of the Plan. Indicators will be examined annually in the Pesticides Forum report to provide the quantitative measure of this progress*" as well as in paragraph 18.1, as well as in Annex 2.

2.49 There are a number of very important points to make regarding the Pesticides Forum.

2.50 In Annex 2 entitled “*The Pesticides Forum – brief description and role*” it states, “*The Pesticides Forum has the following terms of reference: To bring together the views of those concerned with the use and effects of pesticides; To identify their common interests; To assist the effective dissemination of best practice, advances in technology, and research and development results. To advise Government on the development, promotion and implementation of its policy relating to the responsible use of pesticides.*”⁴⁹

2.51 Firstly, it is important to stress the fact that the Pesticides Forum does **not** involve **all** stakeholders, as there is **no** representative on the Pesticides Forum on behalf of those directly affected and adversely impacted from exposure to pesticides and this is something that has always been of great concern to the UK Pesticides Campaign. Secondly, as can be seen from the letter I sent to the Chairman of the Pesticides Forum on 18th June 2012 (and which I have included with these comments as **Annex 2**) there are some serious issues with the Pesticides Forum annual reports, including the inclusion of a number of grossly inaccurate statements within the annual reports. These include such statements as that in the Executive Summary of the current 2011 report that states, “*The work of the UK Pesticides Forum in 2011 confirms that the use of pesticides is **not** adversely impacting on the health of UK citizens or the environment.*” **This is simply not factually correct, and in fact even just going by the UK Government's own monitoring system it shows cases of acute effects recorded in members of the public each year.** As said this inaccurate statement is just one of a number of inaccurate statements contained within the Pesticides Forum annual reports each year.

2.52 Having recently investigated this issue it was confirmed by the Pesticides Forum Secretariat (which is provided by the CRD) that **no** Pesticides Forum member had dissented, or objected, to such statements and this included organisations that are supposed to be on the Pesticides Forum as organisations concerned about the adverse impacts of pesticides on human health and the environment. Further, the current 2011 report is not an isolated case, as this non-dissenting, and thus agreeing with and signing up to, the contents and inaccurate statements in the Pesticides Forum annual reports has actually been going on **for years**, as according to conversations that I have had with the Pesticides Forum Secretariat there was **no** dissenting to any of the same sort of statements from any of the Pesticides Forum members in relation to the 2008, 2009 and 2010 reports either. This means that UK Ministers are highly likely to have been informed by the regulators, the CRD, when highlighting the various

⁴⁹ Para 13 of the Impact Assessment for the “*The Plant Protection Products (Sustainable Use) Regulations 2012*” also points out the Pesticides Forum is a body “**which advises Ministers generally on the use of PPPs**”

Pesticides Forum reports to those Ministers, that the reports had been agreed by **all members** of the Pesticides Forum, including the various NGOs and purported and supposed environmental and consumer organisations that are members of the Pesticides Forum.

2.53 It is of course absolutely imperative that any organisation that is involved in a Forum that provides advice to Ministers, (which is one of the main objectives of the Forum as stated in each one of the Forum reports), must know what it is signing up to and agreeing with, especially when that organisation purports to be representing a *link* of other organisations as well, as it could then look as if all those other organisations are also agreeing with the content

2.54 It is, as said above, most certainly **not** correct for the Pesticides Forum annual reports to have maintained, since at least 2008, that “*the use of pesticides is not adversely impacting on the health of UK citizens or the environment*” and if I had not spotted this then who knows how many more years all the members of the Pesticides Forum would have carried on non-dissenting, and thus agreeing with and signing up to, the same and/or similar grossly inaccurate statements within the contents of the subsequent Pesticides Forum annual reports.

2.55 It is also important to point out that the Pesticides Forum has always been dominated by industry based organisations. The UK Pesticides Campaign strongly maintains that there is no proper, robust, **independent** consideration and evaluation in the UK of the various indicators and schemes that are in place regarding the health and environmental impacts of pesticides.

2.56 **Therefore, as said, there is serious concern regarding the Pesticides Forum as DEFRA Ministers have been receiving advice from the Pesticides Forum for many years, and yet year after year the Forum has wrongly asserted that, “the use of pesticides is not adversely impacting on the health of UK citizens or the environment.” Considering the grossly inaccurate statements that the Pesticides Forum has continued to make year after year, effectively denying the adverse health and environmental impacts of pesticide use, then it is of serious concern that it is intended that the Pesticides Forum be responsible for the monitoring and review of the UK’s NAP after it has been adopted.**

2.57 There can only be involvement of *all relevant stakeholders* if **all** the relevant stakeholders are actually involved. However, as detailed previously within the complaints in Section 2 (at paras 2.16 and 2.17 of the submission that the UK Pesticides Campaign made to the 2010 Consultation, and which is included again at Annex 1), the Government, and in particular CRD, continues to ignore one of the most important Stakeholders in this issue, as not only has there never been any representation for residents and others adversely impacted from

exposure to pesticides on the Pesticides Forum, more importantly, there has never been any such representative on any of the various National Action Plan groups either, especially the human health group. There are a considerable number of people, particularly residents, who have been adversely impacted as a result of the use of pesticides sprayed in their localities, and therefore it is completely unacceptable to not have any representation of residents (or others adversely affected) **with the direct experience of living in the locality of sprayed fields**, on any of these groups. This is despite the fact that the UK Pesticides Campaign has continued to express interest in representing residents on any related Action Plan Groups, particularly the health group, and has continued to point this out to the CRD. **The non-inclusion of any representative specifically for residents interests is a very significant and serious omission and is highly discriminatory and so needs to be urgently rectified.**

2.58 I was recently informed by CRD that the Action Plan Groups are to be abolished with instead some Working Groups set up as and when they are required. Para 6.1 of the *draft* UK NAP also refers to this where it states, “*The Forum will keep the Plan under continual review, and where necessary, in consultation with Government, will set up **short-life expert working groups** to consider specific issues which arise or are identified,*” and then at para 6.2, “*The Forum will be assisted in its work **by three standing working groups covering the amenity and amateur uses of pesticides and wider agricultural and horticultural grower issues.***” Therefore, I reiterate again that the UK Pesticides Campaign would be keen to input into any working group related to human health considering the specific focus area of the campaign is related to the exposure of residents, and others, and related risks and impacts etc.

2.59 **To reiterate, it is imperative that all relevant Stakeholders are involved in all aspects of the National Action Plan, and in particular this must include those adversely affected by the use of pesticides such as residents and communities. Such stakeholders, including the public, should be able to participate fully not only in the drafting, development and implementation of the NAP (which this Consultation is *partly* related to, see above comments at paras 2.37 to 2.40), but also in the workings, monitoring, review and modifications of the NAP, as well as the development, workings, monitoring, review and modifications of any related national indicators, all of which are currently intended, as stated in the *draft* UK NAP, as being under the responsibility of the Pesticides Forum.**

Specific requirements for the protection of residents

2.60 As set out in Section 1 above, the Government has, to date, failed to take any measures to protect residents from the exposures, risks, and adverse impacts of crop-spraying, including:

(i) By failing to act on information and evidence (including in its own monitoring system) as to the exposures, risks and acute and chronic adverse health effects to residents from crop-spraying.

(ii) By failing reasonably to examine the effects (including synergistic and cumulative effects) of multiple (and combined) exposures for residents to mixtures of different pesticides.

(iii) By failing to maintain any appropriate system to record and adequately examine, **and then proactively act upon**, cases of acute effects and illnesses in residents from exposure to pesticides.

(iv) By failing entirely to have **any** system (let alone a reasonable or appropriate one) to record and adequately examine and investigate (**in order to proactively act upon**) cases of residents (and others, such as children attending schools in the locality to pesticide sprayed fields) reporting chronic effects, illnesses and diseases from exposure to pesticides sprayed in their localities.

2.61 Therefore the Government has unjustifiably failed to take practical regulatory measures to provide **any** protection (let alone effective protection) for residents, including the failure to prohibit the use of pesticides, under the statutory conditions of use, in the locality of residents' homes, and the failure to provide access to information and prior notification rights

2.62 Further, as can be seen in my various Witness Statements from the domestic legal proceedings, for years the UK Government has continued to mislead and misinform the public, especially rural residents, over the safety of agricultural pesticides sprayed on crop fields throughout the country, as UK Ministers, officials and UK Government advisors have just carried on publicly asserting, amongst other things, that the current system is "*robust*" and provides "*adequate protection*". The reports of adverse health effects that are received in the UK Government's own monitoring system shows that the UK Government has *knowingly* allowed residents (and other members of the public) to continue to suffer from adverse health effects, year in year out, without taking **any** action to protect public health. (See paras 82 and 148 to 152, and footnotes 122, 123, 124, 219 and 220 of the second Witness Statement).

2.63 Therefore whilst the Government may be interested in reducing the impacts of pesticides on certain environmental areas⁵⁰ such as water, wildlife etc. there has not, to date, been any

⁵⁰ The UK Pesticides Strategy was originally developed in relation to the environmental impacts of pesticides and **not** the health impacts. Although the UK Government would no doubt argue that health is now included in the UK's Pesticides Strategy and forthcoming NAP there is, as said earlier, nothing within either the current strategy nor the *draft* UK NAP that would result in reducing the risks and adverse impacts of agricultural pesticide use on human health, and in fact there is not even any real recognition in the UK of the problem of the adverse impacts of pesticides from crop spraying, especially in relation to impacts on residents. As said earlier, the UK *draft* NAP is mainly based on voluntary measures *only* and reliance on the industry based Voluntary

such comparable interest in the reduction of the impacts on the health of residents and other members of the public from exposure to pesticides in crop sprays, and in fact there is not even any real recognition in the UK of the problem of the risks and adverse impacts on residents. The fact that exposures have been allowed to continue and nothing has been done to protect residents' health is, as I have continued to argue over the last 11 years, simply outrageous.

2.64 EU legislation **requires** a proactive approach to reviewing authorisations *after* approval, including that authorisations shall be cancelled and pesticides prohibited where there is a risk of harm to human health. This is critically important, as MS have a duty to comply with the requirements under the EU pesticides legislation regarding authorisations and if there is a risk of harm to human health, whether it be acute or chronic, then the pesticide or pesticides concerned are supposed to be cancelled. **This is a European legal requirement on MS.**

2.65 **Most importantly, EU legislation requires that pesticides can only be authorised for use in the first place if it has been established (under Article 4 duty) that there will be no harmful effect on health. That applies to both acute and chronic adverse health effects.**

2.66 Therefore, as I have continued to point out since the outset of the campaign, considering the serious failings of the current UK policy and approvals system for protecting residents from pesticides, (including in relation to the fact that, to date, there has never been any assessment of the risks to health for the long term exposure of residents (as residents have a completely different exposure scenario to a mere *bystander* and therefore residents and bystanders are two separate exposure groups), and the serious inadequacies of the UK Government's existing monitoring system, including that it does not even deal with chronic effects at all), then I reiterate that under European legislation **pesticides should never have been approved for use in the first place for spraying in the locality of residents' homes, schools, playgrounds, and other areas where members of the public may be present.**

2.67 In relation to the targets included in National Action Plans, paragraph 1 of Article 4 in the EU SUD states, "*These targets may cover different areas of concern, for example worker protection, protection of the environment, residues, use of specific techniques or use in specific crops.*" Considering that there is currently no exposure and risk assessment for residents and following the previous significant exceedances of the AOEL that were identified when some *limited* additional exposure estimates were carried out for residents exposure then the Government must, without any further delay, undertake the following:

Initiative (VI). **It is important to stress again the fact that the VI is only related to the environment and does not focus on health.**

- produce an adequate assessment of the risks to residents that includes in the exposure calculations long-term repeated exposures over many years from all exposure factors and via all exposure routes **and then added all together (summed)**;
- review all existing authorizations, and in particular all existing conditions of use in such authorizations, granted by the Government so as to ensure those authorizations are within the AOEL for a residents specific exposure scenario;
- ensure that no pesticide product is or remains authorized for use unless it has been established, on an adequate assessment of the risks to residents, to have no harmful effect on human health, where such harm does not mean no “serious” harm **but means any adverse effect**.

2.68 If a proper and full exposure assessment was undertaken for residents (that would have to include in the exposure calculations **all** the exposure factors and routes, both higher and lower levels of exposure, **and then added together**) **then the result would be that pesticides would simply not be allowed to be approved at all for use in the locality of residents’ homes, as well as schools, children’s playgrounds, nurseries, amongst other areas.**

2.69 As briefly highlighted in Section 1 above under “Options for the protection of residents in the EU legislation (PPP Regulation and SUD)” the new EU legislation contains a number of critical measures for the protection of residents. **The UK Government must urgently introduce these mandatory measures into the statutory conditions of use for the authorization/approval of any pesticide to finally protect the health of residents.**

2.70 Article 31 of the EU PPP Regulation under “Contents of authorisations” states at para 4(a) that “The requirements referred to in paragraph 2 may include the following: (a) a restriction with respect to the distribution and use of the plant protection product **in order to protect the health of** the distributors, users, bystanders, **residents**, consumers or workers concerned or the environment, taking into consideration requirements imposed by other Community provisions; such restriction shall be indicated on the label.”

2.71 Therefore the EU legislation includes provisions that Member States can adopt regarding requirements for specific restrictions/conditions of use for the protection of residents’ health.

2.72 The various Articles of the SUD and PPP Regulation that are most relevant to residents are set out below in more detail, along with the corresponding title, if any, in the *draft* NAP.

i) Article 12 of the SUD (entitled *Reduction of risk in specific areas in the draft UK NAP*)

2.73 The *draft* UK NAP again completely misrepresents Article 12(a) of the EU SUD text. I previously made very detailed comments about DEFRA/CRD's factually and legally incorrect interpretation (in a number of places) of the EU text for Article 12 in paras 2.44 to 2.86 of the UK Pesticides Campaign's submission to the 2010 DEFRA Consultation. I would refer the Government, DEFRA, CRD and others, to those paragraphs of the previous submission. (The submission is included again as Annex 1 to this submission).

2.74 However, I would reiterate a few of the key points again here.

2.75 The relevant text for Article 12 in the new European Sustainable Use Directive states that, "*Member States shall....ensure that the use of pesticides is minimised **or prohibited** in certain specific areas*" then under a) it says "*areas used by the general public **or by vulnerable groups as defined in Article 3 of Regulation (EC) No 1107/2009**...*"

2.76 The definition of *vulnerable groups* in Article 3 of Regulation (EC) No 1107/2009 is clearly defined as, "*'vulnerable groups' means persons needing specific consideration when assessing the acute and chronic health effects of plant protection products. These include pregnant and nursing women, the unborn, infants and children, the elderly and workers **and residents subject to high pesticide exposure over the long term***".

2.77 **It is therefore very clear from the EU text that the option for the prohibition of pesticide use in areas used by the general public or by vulnerable groups (as defined in Article 3 of Regulation No 1107/200) includes "residents subject to high pesticide exposure over the long term" as a result of pesticide spraying in residents' localities.**

2.78 The fact that DEFRA/CRD have continued to wrongly maintain that residents in residential areas are "*not*" included in this Article is factually and legally incorrect when the text of Article 12 **clearly refers** to vulnerable groups as defined in Article 3 of Regulation (EC) No 1107/2009 and which includes residents. I have previously confirmed with the European Commission that the vulnerable groups definition is very clear and that it does include residents (as it clearly says it does), and of course it is areas where there are vulnerable groups, as defined in the new Regulation, that Article 12(a) is supposed to be related to. **Therefore residents in residential areas is included in this Article.**

2.79 Rural residents are a group with one of the highest levels of exposure to pesticides, as residents and communities are exposed on a long-term basis to mixtures of pesticides, repeatedly sprayed, in their locality, throughout every year, and in many cases, for decades. Obviously residents will also include **other vulnerable groups**, as defined in Article 3 of Regulation 1107/2009, such as infants and children, the unborn, pregnant and nursing women and the elderly.⁵¹ Therefore DEFRA/CRD's inaccurate misinterpretation of Article 12(a) would appear to be saying that none of these groups live in the locality to pesticide sprayed fields! In fact as can be clearly seen, the definition of vulnerable groups (in Article 3 of Regulation (EC) No 1107/2009), actually covers residents **more than once**, first in the fact that residents is included as a vulnerable group in itself, and secondly, in the fact that infants and children, the unborn, pregnant and nursing women and the elderly can of course **all** be residents. It is again important to stress the fact that the area where babies and young children spend most of their time is **at home** (ie. from when they are born to before they go to school).

2.80 As I pointed out in the submission to the 2010 Consultation, it would appear that DEFRA/CRD have intentionally misinterpreted Article 12(a) and the definition of vulnerable groups (which anyone can see includes residents!) in order to try and avoid the issue of agricultural pesticide spraying in the locality to residents' homes, as well as schools, children's playgrounds and other areas where vulnerable groups or other members of the public may be present. In fact it is highly noticeable that DEFRA/CRD completely ignored agricultural pesticide spraying altogether in the context of Article 12(a) in the previous 2010 DEFRA Consultation document as it repeatedly referred to it only in the context of amenity use. As I pointed out in the UK Pesticides Campaign's submission to the previous 2010 Consultation, this is again factually and legally incorrect, as it does not say **anywhere** in the EU text that it is only related to amenity use of pesticides as the EU text just says, ***"use of pesticides is prohibited in areas used by the general public or by vulnerable groups..."*** **The "use of pesticides" would therefore include pesticides used for agricultural and horticultural spraying applications and there is nothing in the EU text to say it does not.**

2.81 In fact it is telling that whilst DEFRA/CRD completely ignored agriculture in this Article for point a) and continued to maintain that it is just related to amenity use, this is not the case for b) and c) which do include agriculture as well in both the previous 2010 DEFRA Consultation document and now in the *draft* UK NAP, which again shows the deliberate

⁵¹ And will also include other vulnerable groups which are not defined in Article 3 of Regulation (EC) No 1107/2009, and where the health risks are increased, including people who are already ill, and those taking medication (and where any interactions or synergistic effects between pesticides and the medication must be taken into account), amongst others.

attempt to exclude agricultural pesticides spraying when it comes to exposure for the public and vulnerable groups at point a). I reiterate that there is nothing that says it is only for amenity use, it specifically says vulnerable groups, and it specifies residents in the definition of vulnerable groups, the wording of which is of course related to residents in agricultural areas as it clearly says in the EU text "*residents subject to high pesticide exposure over the long term*". It is obviously widely recognised and acknowledged within Europe that when referring to "*residents*" in the context of pesticide exposure that it is related to residents living in the locality of pesticide sprayed crop fields, as **residents has now been defined in a number of European documents, and in all the definitions for residents, it is related to people living in the locality of pesticide sprayed crop fields.** As I pointed out in the previous submission, in many cases spraying takes place within inches of a resident's home, see for example the two photos included at Annex 4 of the previous submission to the 2010 Consultation which show a resident's home within approx. 12 inches of a regularly sprayed field and so any spraying clearly takes place in the resident's area, air and living environment

2.82 **As said, DEFRA/CRD's interpretation is therefore again factually and legally incorrect as Article 12(a) does include pesticides used for agricultural and horticultural spraying applications.**

2.83 As said above, the *draft* UK NAP again completely misrepresents Article 12(a) of the EU SUD text as in the "*Overview*" it states at para 15.1 that, "*Measures are in place to reduce the risks associated with the use of pesticides in: public spaces; conservation areas; and areas recently treated with pesticides which are accessible to agricultural workers.*"⁵²

2.84 As detailed above, this is simply not the language of the EU text and thus is not what the EU text says. It does not say "*public spaces*" or "*public places*" (which is the wording used in para 15.3 of the *draft* UK NAP document) and this is again just DEFRA/CRD's attempts to try and misinterpret the requirements in Article 12(a) as being just related to amenity use. The EU text clearly states that the "*use of pesticides is prohibited in areas used by the general public or by vulnerable groups...*" This does not mean merely "*public spaces*" or "*public*

⁵² The same misrepresentation of Article 12(a) of the EU SUD text is also in the background to the Plant Protection Products (Sustainable Use) Regulations on the CRD website as it states, "*The Plant Protection Products (Sustainable Use) Regulations 2012 transpose Directive 2009/128/EC on the Sustainable Use of Pesticides. The Directive includes a number of provisions aimed at achieving the sustainable use of pesticides by reducing risks and impacts on human health and the environment. These include: the establishment of National Action Plans; compulsory testing of application equipment; provision of training for, and arrangements for the certification of, operators, advisors and distributors; a ban (subject to limited exceptions) on aerial spraying; provisions to protect water, public spaces and conservation areas; the minimisation of risks from handling, storage and disposal; and the promotion of low input regimes (including Integrated Pest Management (IPM)). Progress is to be measured through the use of 'risk indicators'.*"

places” but **in any areas used by** the general public or by vulnerable groups, including in areas where residents and other vulnerable groups are present such as the spraying of pesticides in the areas where residents’ homes, schools, children’s playgrounds are situated.

2.85 It is also important to point out that in the Thesaurus for alternative words to *area* it says “*district, environment, locality, neighbourhood, province, quarter, region, sector, terrain, territory, vicinity, zone*” therefore when replacing “*area*” with a number of those words it further emphasises the meaning of *area* as it is in the EU text that, “*Member States shall...ensure that the use of pesticides is minimised or prohibited in certain specific areas/localities, vicinities, zones*” then under a) the specific areas/*localities, vicinities, zones*” in question are: a) areas/*localities, vicinities, zones*” used by the general public or by vulnerable groups as defined in Article 3, para 14 of the PPP Regulation. Therefore this is *in the localities of vulnerable groups* and that clearly includes residents living in the locality of sprayed fields and who are, as defined in Article 3, para 14 of the PPP Regulation, subject to high pesticide exposure over the long term. **Therefore as said, this is in the localities where residents and other vulnerable groups are present, such as the spraying of pesticides in the areas where residents’ homes, schools, children’s playgrounds etc. are situated.**

2.86 However, there is an important point in relation to all the above, as having previously examined in June 2012 the text in relation to Article 12 in the actual “*Plant Protection Products (Sustainable Use) Regulations 2012*” and having sought some specific advice, it appears that the wording in the actual “*Plant Protection Products (Sustainable Use) Regulations 2012*” **does not** specifically exclude Article 12 to just being related to amenity use only. There is nothing to say this in the “*Plant Protection Products (Sustainable Use) Regulations 2012*” and therefore considering that the “*Plant Protection Products (Sustainable Use) Regulations 2012*” **is the actual legislation** then it would appear irrelevant if any other documentation provided by DEFRA and/or CRD, whether it be the NAP itself (which as far as I am aware will not be a legislative document), or any related guidance document, tries to say that Article 12 is only related to amenity use, as there is nothing in the “*Plant Protection Products (Sustainable Use) Regulations 2012*” that actually states this.

2.87 The relevant sections of the “*Plant Protection Products (Sustainable Use) Regulations 2012*” are as follows. Under “*Use of plant protection products*” Regulation 10 states,

“10.—(1) A person who uses, or causes or permits an individual to use, a plant protection product must ensure—

(c) **when the product is used in any of the places listed in paragraph (2)**, that the amount used and the frequency of use are as low as reasonably practicable.

(2) The places referred to in paragraph (1)(c) are—

(a) areas used by the general public or by **vulnerable groups**;

(6) In this regulation—

(c) “vulnerable groups” means persons needing specific consideration when assessing the acute and chronic health effects of plant protection products, including pregnant and nursing women, the unborn, infants and children, the elderly and workers **and residents subject to high plant protection product exposure over the long term.**”

2.88 “*Vulnerable groups*” is clearly defined in both Article 3, para 14 of the EU Regulation and as can be seen above in Regulation 10(6)(c) of the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” as including “**residents subject to high pesticide⁵³ exposure over the long term**” as a result of agricultural pesticide spraying in the locality of residents’ homes. Therefore as said above, there is nothing in the “*Plant Protection Products (Sustainable Use) Regulations 2012*” that says that it is only related to amenity use.

2.89 However, Regulation 10 of the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” omits any reference of the prohibition of pesticides in areas used by the general public or by vulnerable groups, as Regulation 10 of the “*Plant Protection Products (Sustainable Use) Regulations 2012*” is only in relation to the **minimisation** of pesticides in areas used by the general public or by vulnerable groups. Yet Article 12 of the EU SUD requires “*that the use of pesticides is minimised **or prohibited** in certain specific areas.*”

2.90 Therefore although Regulation 10 of the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” does include “**residents subject to high pesticide exposure over the long term**” as a result of agricultural pesticide spraying in the locality of residents’ homes, it is only in relation to the **minimisation** of pesticides with no mention of prohibition. (It is noticeable though that it is used in the Explanatory Memorandum accompanying the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” as in the Table under “*Transposition Note*” regarding Article 12 and under “*Objective*” it states, “*Member States to ensure that the use of pesticides is minimised **or prohibited** in specific areas*”).

⁵³ It is not clear why the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” has not used the same terminology as the definition given in Article 3, para 14 of European Regulation 1107/2009, which refers to “**pesticide exposure**” as opposed to “**plant protection product exposure**” as used in the “*Plant Protection Products (Sustainable Use) Regulations 2012.*”

2.91 As the UK Pesticides Campaign has continued to point out the most important action that must be taken is to prevent exposure for residents and communities by the **prohibition** of spraying and the use of pesticides in the locality of residents' homes, schools, children's playgrounds, as well as other areas where vulnerable groups or other members of the public may be present. Therefore the UK Government **must** urgently implement the option in the new European Directive on the Sustainable use of Pesticides (Article 12) **for the prohibition of pesticide use in areas used by the general public or vulnerable groups**, including by its definition **"residents subject to high pesticide exposure over the long term"** as a result of agricultural pesticide spraying in the locality of residents' homes. Therefore the prohibition of pesticide use in areas used by the general public or vulnerable groups **must** include the prohibition of agricultural pesticide use/spraying in the locality of residents' homes, as well as in the locality of schools, children's playgrounds, hospitals, and public areas. This must be introduced into the statutory conditions of use for the authorization of *any* pesticide. This is absolutely crucial for public health protection especially that of vulnerable groups, as there should not be any spraying in the locality of any of these areas. **As repeatedly stated previously, the absence of any risk assessment to date in the UK for residents, means that pesticides should never have been approved for use in the first place for spraying in the locality of resident's homes, schools, children's playgrounds, amongst other areas.**

2.92 Considering studies have shown that pesticides can travel in the air for **miles** then the distance of the area where the use of pesticides is prohibited would need to be **substantial**. For example, a reputable study in California found pesticides located up to **3 miles** away from pesticide treated areas and calculated health risks for rural residents and communities living within those distances. (Lee *et al*, 2002).

2.93 One study involving nearly 700 Californian women showed that living within a mile of farms where certain pesticides are sprayed, during critical weeks in pregnancy, increased by up to 120% the chance of losing the baby through birth defects. (Bell *et al*, 2001).

2.94 A study published in the Journal of the American Medical Association (JAMA) that confirmed acute illnesses in children and employees from pesticides sprayed on farmland in the locality of schools pointed out that a number of US states now require the prohibition of spraying in the locality of schools in an attempt to protect children from exposure, including one state where the distance of the area where the use of pesticides is prohibited in the locality of schools is **2.5 miles**. (Alarcon *et al*, 2005).

2.95 **The areas where the use of pesticides is prohibited can of course still be managed and/or farmed using non-chemical farming methods. This would include rotation, physical and mechanical control and natural predator management. See further below under the heading “*The Prioritisation of Non-Chemical Methods.*”**

2.96 The UK Pesticides Campaign would like to briefly respond to a few other specific statements regarding SUD Article 12 “*Reduction of pesticide use or risks in specific areas*”.

2.97 First of all as just cited in the previous paragraph Article 12 of the EU SUD has as the heading “*Reduction of pesticide use or risks in specific areas.*” However, in the *draft* UK NAP the title of the related section is “*Reduction of risk in specific areas.*” Firstly, it should say “*risks*” (plural) as in the EU text, and not “*risk*” (singular), as Article 12 has a), b), and c) and thus is related to reducing the risks to various exposure groups, including in relation to humans and wildlife etc. and not just one group. Secondly, the *draft* UK NAP text has omitted any reference of the first part of the title of Article 12 of the EU SUD text regarding “*Reduction of pesticide use*” in specific areas. The title in the UK NAP should reflect the same text as that which is in the SUD, “*Reduction of pesticide use or risks in specific areas.*” (It is noticeable that the full title of Article 12 is used in the Explanatory Memorandum accompanying the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” as in the Table under “*Transposition Note*” regarding Article 12 and under the heading “*Objective*” it states, “*Requires the reduction of pesticide use or risks in specific areas.*”)

2.98 Paragraph 15.3 of the *draft* UK NAP under “*Regulatory Measures*” states that, “*The pesticide regulatory risk assessment process assesses the risk to human health (operators, consumers, bystanders **and residents**).* *Where appropriate, risk management measures are imposed so as to mitigate any risk. For example, re-entry levels are set for workers going into treated crops, and there is a specific risk assessment for pesticides used in public places.*”⁵⁴

2.99 Also paragraph 191 of the Impact Assessment that accompanied “*The Plant Protection Products (Sustainable Use) Regulations 2012*” states that, “*The UK has extensive existing measures to control the use of pesticides and to protect specific areas, including: - the pesticide regulatory risk assessment process which identifies risks and imposes appropriate risk mitigation measures (this includes making specific assessments for certain vulnerable groups where pesticides are used in situations in which such populations are present or*

⁵⁴ In relation to DEFRA/CRD’s wording of “*public places*” see the earlier comments at paras 2.83 to 2.85.

imposition of statutory re-entry intervals to treated areas to control the exposure of agricultural workers to pesticide applications)...”

2.100 The only existing assessment to date in the UK for those exposed to pesticides from spraying applications is the so-called “*bystander risk assessment*”. As detailed extensively in previous submissions, the existing short-term “*bystander*” model used by the Government⁵⁵ is based on dermal and inhalation exposure from a single pass of a sprayer, based on a person 8 metres from the spray boom, for five minutes only, or even less, as a previous paper by the PSD (now CRD), in fact shows calculations based on just *one* minute’s exposure rather than five minutes’ exposure⁵⁶ (see paragraphs 7 and 8a of the second Witness Statement). Also, the *bystander* exposure assessment is predominantly based on exposure to only one *individual* pesticide at any time, which is a fundamentally flawed approach considering that agricultural pesticides are rarely used individually, but are commonly sprayed in mixtures (cocktails) – quite often a mixture will consist of 4 or 5 different products mixed together. Each product formulation in itself can contain a number of different active ingredients, as well as other chemicals, such as solvents, surfactants and other co-formulants (some of which can have adverse effects in their own right, even before considering any potential synergistic effects in a mixture(s)). The existing *bystander* model does not factor in the additional exposures which someone will receive if exposed to a mixture of pesticides at the same time. Various studies have shown that mixtures of pesticides (and/or other chemicals) can have synergistic effects.⁵⁷ (See paragraph 56(g) of the second Witness Statement).

⁵⁵ This *bystander* risk assessment is merely a mathematical *predictive* model based on *estimates* and *assumptions* rather than the actual real-life exposures occurring.

⁵⁶ The exposure to spraydrift for five minutes (or less) from the spray cloud at the time of the application *only* from a single pass of the sprayer, is then calculated/assumed by DEFRA to be at that level, only for 5 minutes (or less) each day, over just a 3 month period (or less), see footnote 71 of the second Witness Statement. Yet **residents** are repeatedly exposed from various exposure factors and routes to *mixtures* of pesticides and other chemicals, throughout every year, and in many cases for decades.

⁵⁷ A few examples include: 1) a study published in “*Toxicology*,” in January 2002 entitled, “*Interactions between pesticides and components of pesticide formulations in an in vitro neurotoxicity test*,” by J.C. Axelrad, C.V. Howard, W.G. McLean; 2) a study published in March 2009 entitled, “*Parkinson’s Disease and Residential Exposure to Maneb and Paraquat From Agricultural Applications in the Central Valley of California*,” by Sadie Costello, Myles Cockburn, Jeff Bronstein, Xinbo Zhang, and Beate Ritz **and which found exposure to two pesticides within 500 metres of residents’ homes increased Parkinson’s Disease risk by 75%**; 3) Frawley JP, Fuyat HN, Hagan EC, Blake JR, Fitzhugh OG., Marked potentiation in mammalian toxicity from simultaneous administration of two anticholinesterase compounds. *J Pharmacol Exp Ther.* 1957;121:96-106; 4) Olgun S, Gogal RM, Jr., Adeshina F, Choudhury H, Misra HP. Pesticide mixtures potentiate the toxicity in murine thymocytes. *Toxicology.* 2004;196:181-195. (NB. A number of other studies are referred to within my sixth Witness Statement in a section entitled “*Combined/synergistic effects, accumulative toxicity.*”)

2.101 As meticulously and accurately detailed in my second Witness Statement, when the PSD (now CRD) did undertake estimates for just a *limited* number of other realistic⁵⁸ exposure factors that are **not** currently included in the risk assessment for bystanders,⁵⁹ (namely exposure at 1 metre from the sprayer; 24 hour inhalation to vapour; and exposure of children to residues via skin contact and hand-and-object-to-mouth activities in neighbouring gardens after spraying) it found **82 examples of exceedances of the limits set for exposure** (the AOEL)⁶⁰, in some cases an *order of magnitude* higher, when *any* exceedance on the Government's *own previously stated case*, **should have triggered a prohibition/revocation.**

2.102 Yet despite the results obtained, astonishingly **no action** was taken to revoke approvals of the pesticides that were shown **in the PSD's very own estimates** to exceed the AOEL; no further estimates were carried out on all the other pesticides approved for use at that time, and nor has this been done subsequently; and no change was made to the *bystander* assessment model. **Further still, evidence in my second Witness Statement shows that it seems that Ministers were not even informed by officials of these very serious AOEL exceedances (in some cases by 20 or 30 times over).**⁶¹

2.103 It is important to stress again the fact that these AOEL exceedances were based on each exposure factor *individually*, as the Government's advisors, the Advisory Committee on Pesticides (ACP), and the PSD (now CRD), **wrongly** calculated each factor in **isolation** and has failed to **ever** calculate (sum) exposure factors together in the exposure calculations, which is obviously essential to do in relation to the overall exposure scenario for **residents**. Therefore on the results shown in the PSD's own findings the AOEL would have been exceeded **even further** when calculating exposure factors together.

⁵⁸ In 2002, the Advisory Committee on Pesticides (ACP) asked the PSD to undertake new pesticide exposure estimates as a result of having recognised the **realistic scenarios** I had presented regarding exposure for residents living in the locality of pesticide sprayed fields.

⁵⁹ There are a number of different exposure factors that are relevant for rural residents and communities. These include long term exposure to pesticides in the air, exposure to vapours, **which can occur days, weeks, even months after application**, reactivation, precipitation, pesticides transported from outdoor applications and redistributed into an indoor air environment, as well as long-range transportation, as studies have shown that pesticides can travel in the air for **miles**. Paragraph 56 of my second Witness Statement, details all the exposure factors and routes that *are not covered* by the bystander risk assessment model, (but which would all be relevant for the exposure scenario of residents).

⁶⁰ European legislation clearly specifies that the AOEL **must not be exceeded**, if it is, then authorizations must be refused, and if the AOEL exceedance is discovered *after* approval, it must trigger prohibition/revocation.

⁶¹ It should be noted that these very serious and *illegal* AOEL exceedances were completely ignored by the Court of Appeal in its Judgment in 2009 as a result of having *substituted* my evidence with that of the 2005 Government requested and funded RCEP report that had not identified them and thus had no reference to them.

- 2.104 Therefore the PSD's estimated exceedances of the AOEL clearly demonstrate that products have been in use in the UK which have led to residents being exposed to levels **greatly** in excess of the AOEL, on a regular basis, year after year.
- 2.105 The current UK assessment model for *bystanders* is inadequate to assess even the exposure of such bystanders, and **fails entirely** to address the exposure of **residents**, as the overall exposure a resident receives cannot possibly be calculated if some of the exposure factors are ignored in the exposure calculations, which they currently are.
- 2.106 Therefore, to date in the UK, **there has been no exposure and risk assessment for a residents specific exposure scenario** (as residents have a completely different exposure scenario to a mere *bystander* and therefore residents and bystanders are two separate exposure groups).
- 2.107 **The fact that there has never been *any* assessment of the risks to health for the long-term exposure for those who live and/or go to school in the locality of pesticide sprayed fields, is an absolute scandal considering that crop-spraying has been a predominant feature of agriculture for over 50 years. The absence of any risk assessment means that pesticides should never have been approved for use in the first place for spraying in the locality of resident's homes, schools, children's playgrounds and public areas.**
- 2.108 Further, the sentence in paragraph 15.3 of the *draft* UK NAP document that states, "*Where appropriate, risk management measures are imposed so as to mitigate any risk. For example...there is a specific risk assessment for pesticides used in public places*"⁶² is misleading for the following reasons: 1) as detailed above, there is no adequate risk assessment currently undertaken in the UK in relation to exposure for the public, especially in relation to residents living in the locality of sprayed fields; 2) even if there was, to give that as an example of risk management measures that are imposed so as to mitigate any risk is completely wrong as any risk assessment undertaken is not the same as any risk management measures imposed, as they are two different things; 3) there are **no** mitigation measures put in place in the UK in relation to residents exposure (that includes babies, children, pregnant women, people already ill, those taking medication, and the elderly etc.) as there are **not** currently **any** statutory conditions of use imposed in the UK to protect residents from exposure to pesticides, the inherent health risks, and related acute and chronic adverse health impacts. Such conditions of use would include the prohibition of the use of pesticides in the

⁶² In relation to DEFRA/CRD's wording of "*public places*" see the earlier comments at paras 2.83 to 2.85.

locality of residents' homes, as well as schools, children's playgrounds, hospitals etc. As said, the full detailed evidence regarding the failings of the current UK policy and approach are contained in the 150 page second Witness Statement (available at: <http://www.pesticidescampaign.co.uk/documents/Downs%202.pdf>).

2.109 Farmers cannot control pesticides once they are airborne (either at the time of application or subsequently) and so the exposure that residents receive is as a result of the *permitted* use of pesticides. Therefore as exposure for residents cannot be controlled, then it must be **prevented altogether** by changes to existing policies to focus on **eliminating exposure**.

2.110 **Therefore, as said above, the most important action that must be taken is to prevent exposure for residents and communities (and other members of the public) by prohibiting spraying and the use of pesticides in the locality of residents' homes, schools, playgrounds, as well as other areas where vulnerable groups or other members of the public may be present, and this must be introduced into the statutory conditions of use for the authorization/approval of any pesticide. Mandatory measures must be introduced to finally protect the health of residents and other members of the public from exposure to pesticides. These measures have to be at Governmental level from changes to its policy so that it is consistent for all rural residents across the country.**

2.111 It is important to stress again (as the UK Pesticides Campaign did in the submission to the 2010 DEFRA Consultation) the fact that it is simply not acceptable for the risk management measures regarding exposure in the locality of residents' homes, schools, children's playgrounds and public areas to merely be *the use of low-risk plant protection products and biological control measures*. In relation to the use of low-risk plant protection products, this means nothing when pesticides are rarely used one at a time, but are commonly used in **mixtures**. This means that there could be 4 products classified as low risk and when mixed together could well result in a high risk to human health, aside from the fact that the Government insists that **any** pesticide sprayed is currently low risk to humans regardless of the substance or substance class, (which is not correct as a result of the existing policy and approach being fundamentally flawed, see above, and in more detail in the second Witness Statement). Therefore the use of low-risk plant protection products, will not effectively change anything and is really just more of the same. In relation to the suggestion for "*biological control measures*," this should absolutely have not been included in the definition for non-chemical methods in Article 3 of Regulation 1107/2009, in the absence of defining what biological control methods it was referring to, as considering some, such as

biopesticides, can still contain chemicals, then obviously it cannot in any way be defined as non-chemical. **Therefore neither the use of low-risk plant protection products nor biological control measures will do anything at all to mitigate the risks to human health that residents and other members of the public currently face from exposure to pesticides sprayed in the locality of homes, schools, playgrounds and public areas.**

2.112 The only real solution to eliminate the adverse health and environmental impacts of pesticides is to take **a preventative approach** and avoid exposure altogether with the widespread adoption of truly sustainable **non-chemical farming methods**. This would be more in line with the objectives for sustainable crop production, as the reliance on complex chemicals designed to kill plants, insects or other forms of life, cannot be classified as sustainable. **Therefore as said above at para 2.95, the areas where the use of pesticides is prohibited can of course still be managed and/or farmed using non-chemical methods. See further below under the heading “The Prioritisation of Non-Chemical Methods.”**

2.113 In relation to the reference in paragraph 15.3 of the *draft* UK NAP under “Regulatory Measures” that states, “Where appropriate, *risk management measures are imposed so as to mitigate any risk. For example, re-entry levels are set for workers going into treated crops,*” it is important to again point out the following (as I did in the UK Pesticides Campaign’s submission to the 2010 DEFRA Consultation).

2.114 Whilst agricultural workers re-entering treated areas are able to protect themselves with the necessary information about the pesticides that have been used, the risks and related acute and chronic adverse effects, and will be wearing any appropriate PPE etc. bystanders (eg. walkers and others who may be using the public footpath through the treated fields) will not have **any** mitigation and risk management measures **at all**. Also as the CRD is well aware, bystanders can be present in the field **during** application and can be a metre or less away, (something which is **not** currently included in the risk assessment for bystanders, as the bystander model is based on a person standing 8 metres from the spray boom) as can be seen in the picture included with the UK Pesticides Campaign’s submission to the 2010 DEFRA Consultation (at Annex 4). The photo referred to shows a number of walkers on a footpath which is running through a field and who are about to be met by a tractor spraying the field. **Under the existing policy and approach people in this situation currently have no protection at all, and neither do dogs or other domesticated animals that may also be present in the field during and/or after application. Therefore there is definitely also a need to include new controls in relation to this area in order to protect the health of any**

members of the public entering treated areas during and/or after application, (eg. walkers), as well as for the protection of dogs and other domesticated animals.

2.115 As said earlier, for further points regarding Article 12 of the European SUD see paragraphs 2.44 to 2.86 of the UK Pesticides Campaign's previous submission to the 2010 DEFRA Consultation. (The submission is included again as Annex 1 to this submission).

**ii) Article 67 of the PPP Regulation re. access to information (not included in *draft* NAP)
ii) Article 31(3)(b) of PPP Regulation re. prior notification (not included in *draft* NAP
ii) Article 10 of the SUD regarding prior notification (not included in the *draft* UK NAP)**

2.116 All the aforementioned Articles in the PPP Regulation or the SUD are all related to access to information or prior notification for residents. I previously made very detailed comments regarding access to information and prior notification for residents in paras 3.2 to 3.70 and paras 4.3 to 4.23 of the UK Pesticides Campaign's submission to the 2010 DEFRA Consultation. I would refer the Government, DEFRA, CRD and others, to those paragraphs of the previous submission. (The submission is included again as Annex 1 to this submission).

2.117 However, I would reiterate a few of the key points again here.

2.118 The *draft* UK NAP, which is supposed to include the provisions listed from Article 5 to Article 15 of the EU SUD Directive, currently does not have any reference at all to the subject matter at Article 10 of the EU SUD. Article 10 states under the heading "*Information to the public*" that, "*Member States may include in their National Action Plans provisions on informing persons who could be exposed to the spray drift.*" It is unclear why the requirements in Article 10 of the EU SUD have been omitted in the current *draft* UK NAP.

2.119 **Measures regarding prior notification and access to information are in both the SUD (eg. Article 10) and PPP Regulation (eg. at Article 31 para 4(b) and Article 67), and are in addition to the general obligations regarding access to information, communication and awareness-raising for the general public that are included in Article 7 of the SUD.**

2.120 The UK Pesticides Campaign has been calling for mandatory requirements for both prior notification and access to information for over 11 years now, most importantly in relation to **ground spraying**.⁶³ It is critical that these measures are introduced into the statutory

⁶³ As there were some legal requirements that already existed in the UK for prior notice of aerial spraying.

conditions of use for the authorization of **any** pesticide to finally provide residents and other members of the public with access to the necessary information on the pesticides used.

2.121 It is important to point out that the Government has on numerous occasions previously received advice (from various different Government advisors) that mandatory requirements for both prior notification and access to information should be introduced. In fact in 2004 then DEFRA Ministers actually gave an undertaking for **mandatory** not voluntary access to information and prior notification for residents, which was a stated commitment that was never carried through. Then in 2006, DEFRA officials *again* advised then Ministers **to introduce mandatory requirements for both**, and advised those Ministers that voluntary measures can only be used when there is no health risk to residents. Therefore as said earlier, voluntary measures were not an option and thus should never have been relied upon in the first place in a situation where the health risks and adverse effects are already accepted, (including in the Government's own monitoring system). **Yet despite this, the Government has never acted on the advice it has received to introduce either prior notification or access to information and has just continued to rely merely on the industry-led preference of voluntary measures only. Therefore it does appear that, to date, DEFRA Ministers have continued to refuse to introduce prior notice and access to information for residents predominantly (and even solely) based on the objections of the industry.**

2.122 Voluntary measures have existed for decades, have not worked (however many times they are repackaged) and are completely unacceptable in this situation. The Government has, to date, failed to establish any effective and accessible procedure enabling residents living in the locality to sprayed fields, to have **full and direct access** to all the necessary information about crop-spraying in the locality to their homes, as well as a right to prior notification before any spraying. In any event, in relation to **access to information** there is actually now a new legal obligation for farmers and other pesticide users to provide information to residents on the pesticides they use, as a result of Article 67⁶⁴ of the PPP Regulation on pesticides, as the Regulation was directly applicable in all EU MS from 14th June 2011. Therefore despite

⁶⁴ The new legal obligation for farmers and other pesticide users to provide information to residents on the pesticides they use is Article 67 of the EU Regulation, which can be seen on page 33 at:- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:309:0001:0050:EN:PDF> The relevant text states, "Professional users of plant protection products shall...keep records of the plant protection products they use, containing the name of the plant protection product, the time and the dose of application, the area and the crop where the plant protection product was used. They shall make the relevant information contained in these records available to the competent authority on request. **Third parties such as the drinking water industry, retailers or residents, may request access to this information by addressing the competent authority.**"

repeated attempts by successive Governments' in the UK not to introduce such a mandatory requirement, the new EU legislation now forces the UK Government to have to do so.

2.123 Until now residents have only been able to access information in the UK if their local farmer provides it *voluntarily*, something which in the vast majority of cases is simply not forthcoming. Further, although many residents have tried to access the information on the pesticides sprayed in their locality via enforcing authorities for pesticides, such as the UK's Health and Safety Executive (HSE), including under Freedom of Information and Environmental Information Regulations, the UK HSE has previously maintained that it can only disclose the information to individual residents with the "*consent of the person who provided it*,"⁶⁵ and therefore if a farmer declined to disclose the information then residents had no law to fall back on to force disclosure. **This was always an untenable situation, as people have a fundamental right to know the information necessary to make informed and knowledgeable decisions in order to try and protect their health and the health of their family from any harm. Although obviously the fundamental point is that people should have the right not to be exposed to these chemicals at all in the first place.**

2.124 In the Guidance on the CRD website entitled "*Guidance for those affected by the Plant Protection Products (Sustainable Use) Regulations 2012*" one of the questions states, "*Is the information to be made available to the public directly without a request from a specific member of the public or is information to be made available on request via the competent authority?*" The answer given to this question in the Guidance states that, "*The Chemicals Regulation Directorate (CRD) is only obliged to consider releasing information it actually holds and is not required to obtain information purely in response to a request it has received for it. Unless required for a specific statutory purpose CRD will not generally hold copies of spray records. However where such records are held CRD will consider their release in response to a specific request for them in accordance with the legislative provisions of the Environmental Information Regulations 2004 and the Data Protection Act 1998.*"

⁶⁵ For example, in a letter dated 3rd April 2003, the then Director General of the HSE, Timothy Walker stated, "*HSE inspectors are also authorised to exercise the powers of inspectors contained in the Health and Safety at Work etc. Act 1974 (1974 Act), which include for example, the power to make and carry out examinations and investigations and in the course of these, to obtain information. However, information obtained by inspectors using these powers is subject to limits on disclosure under the Act and generally, this means it can only be disclosed with the consent of the person who provided it.*" He went on to say that, "*As a matter of course, HSE inspectors routinely encourage pesticide users voluntarily to pass information on the products they use to members of the public who believe they have been exposed to and/or made ill as a result of exposure. Where they decline to do so, inspectors seek to obtain their consent to allow the information to be disclosed by HSE. Although in many cases users are happy to allow the information to be made available by either route, in some cases, for commercial or other reasons they feel unable or unwilling to consent to disclosure.*"

2.125 This is a clear attempt by DEFRA/CRD to try and avoid the obligations under Article 67 of the new EU Regulation on pesticides, as DEFRA is trying to interpret the requirements of Article 67 differently as to what is set out in the new Regulation by saying that it (ie. DEFRA/CRD) only has to provide the information if they already hold it and not if they have to actively ask farmers for it. **That is simply not factually or legally correct as Article 67 is very clear in that the Competent Authority⁶⁶ would have to provide access to the information upon the request of a third party, such as residents.** There is therefore a clear requirement that the Competent Authority would have to provide the third party with access to the information in order to comply with Article 67. **The Competent Authority in the UK is therefore now under a legal obligation to provide access to information to residents who request it.** Therefore if a resident asks for access to spray record information the Competent Authority would **not** be able to just ignore that request,⁶⁷ the Competent Authority would be under **an obligation** to request that information from the pesticide user and provide it to the resident. **That is what the requirement in Article 67 provides for.**

2.126 In relation to this I would highlight an article that was originally written by one solicitor and published in May 2011 in the leading solicitor's journal in the UK (entitled "*Solicitors Journal*"), and was then published by another solicitor on his legal firm's website on 1st September 2011. The statement by both solicitors who authored the article that, "*The Regulation stops short of insisting that all this information must be sent to the "competent authority" (likely to be Defra) as a matter of course, but third parties (including residents) will be able to ask Defra to provide this information, which would undoubtedly have to trigger a request of the farmer*" clearly supports the **correct interpretation** that the UK Pesticides Campaign has continued to argue regarding Article 67 of the PPP Regulation. Therefore it is very useful that two separate solicitors have clearly recognised that if a resident contacts the UK authority to request access to the information **then it has to undoubtedly trigger a request by the UK Authority for that information from the farmer concerned (in order to be able to then pass it on to the resident who has requested it, as required by Article 67 of the new European PPP Regulation).** The

⁶⁶ "Competent Authority" is defined in Article 3, para 30 of the new EU Regulation as meaning, "any authority or authorities of a Member State responsible for carrying out the tasks established under this Regulation."

⁶⁷ Further, the CRD would obviously not be able to pick and choose who they provide information to. As I pointed out in the UK Pesticides Campaign's submission to the previous 2010 Consultation, there was no suggestion in the system which had already been approved by Ministers (in 2007, following a PSD pilot study) to be rolled out on a national scale (and which was something which DEFRA relied on in court, but which has, yet again, as with all previous Ministerial commitments in relation to introducing measures for residents, not to date been implemented), of the CRD effectively selecting which third parties it would provide information to.

aforementioned article by the two separate solicitors is available at:-
<http://www.lexology.com/library/detail.aspx?g=33156cc0-5904-492f-aba0-9fb70b92c7d6>.

2.127 It is important to stress that if MS do not implement certain measures into their national policies that they are supposed to under the new EU legislation, then it will be in non-compliance with the new EU legislation (and which could lead to infraction proceedings being taken by the European Commission, which could then incur significant financial penalties for any Member State that fails to correctly adopt and implement into their national policies the mandatory measures that are required under the EU laws (eg. PPP and SUD)).

2.128 However, it is important to point out that the new law under Article 67 of the PPP Regulation is only via a *third party* which the UK Pesticides Campaign has continued to point out is wholly inadequate, especially in the event of an immediate poisoning when getting that information is critical and going through a third party would only add unnecessary and in some cases extremely dangerous time delays. **The UK Pesticides Campaign has continued to campaign from the outset (in 2001) for direct access to information for residents.** It is important to note that the importance of direct access to information for residents and others, and for immediate disclosure, has previously been recognised by DEFRA, as in 2006, documentation formulated for Ministers consideration by DEFRA's *Chemicals and Nanotechnology Division* clearly recognized the benefits of direct access, as DEFRA officials stated, "*Benefits of direct access to spray records will mostly be for acute exposure where time is potentially critical in terms of determining correct treatment.*" (See footnote 254 of the second Witness Statement from the legal case *Georgina Downs v DEFRA*). Also, the benefits of access to the necessary chemical information in relation to being able to gain the appropriate medical assessment and treatment was also recognized by DEFRA officials in the same document, as the preceding sentence to the aforementioned one stated, "*Benefits are in potentially improved health care from being able to diagnose or eliminate any pesticide related effects on bystander health.*"⁶⁸ (See footnote 255 of the second Witness Statement).

2.129 The UK Pesticides Campaign has continued to argue since the outset of the campaign in 2001, **that mandatory requirements for both prior notification and access to information are absolutely imperative.** Not only is it beneficial for residents and other members of the public who are exposed to pesticides sprayed in their locality so that they are able to know

⁶⁸ It should be noted that DEFRA, ACP and PSD (now CRD) often incorrectly refer to both residents and bystanders under just "*bystanders*" as per the statement referred to here. **As the UK Pesticides Campaign has continued to point out since the outset of the campaign in early 2001, residents and bystanders are two separate exposure groups and therefore should be referred to as such.**

what they are being exposed to (and in relation to prior notification to take any necessary action to try and reduce exposure as much as possible), it is also vital to be able to: 1) test for the presence of those particular pesticides in blood and/or body fat; 2) enable doctors to give the correct assessment and treatment of anyone who suffers adverse health effects (whether they be acute or chronic), as a doctor cannot possibly make a proper assessment of a patient's health effects unless this information is kept and provided; 3) feed back into the monitoring system, otherwise pesticide related ill-health statistics will never have a hope of being accurate or complete; and 4) provide crucial information for epidemiological purposes, as there is no way to trace exposure and correlate effects **when there is no knowledge of what has been used and thus what people have been exposed to.**

2.130 As the UK Pesticides Campaign pointed out in the submission to the previous 2010 DEFRA Consultation, the British Medical Association (BMA) advocated prior notification and access to information in its 1990 report; and one of the Government's own advisory committees, chaired by Professor Solly Zuckerman, as far back as 1951, also advocated prior notification and access to information. As set out earlier at paras 1.18 to 1.22, the acute and chronic adverse impacts of long-term exposure to pesticides, including for people living in the locality to sprayed fields, has been clearly acknowledged by the European Commission in the development of the new EU laws. Providing access to information to residents and other members of the public **does not** need to be overburdensome and in any event the benefits would far outweigh any burdens on pesticide users having to provide the information.

2.131 **The Government must correctly implement Article 67 of the EU PPP Regulation that provides a new legal obligation for farmers and other pesticide users to provide information to residents and others on the pesticides used. However, the fact that Article 67 of the European Regulation is only for accessing information via a *third party* is inadequate and therefore the Government should go even further than what is specified in Article 67 of the EU Regulation and ensure that it is for direct access to information for residents on the pesticides used in their locality, which is critical to avoid unnecessary and in some cases very dangerous time delays in obtaining access.**

2.132 In relation to **prior notification**, there can be absolutely no justification for denying residents the right to know this information in advance of any pesticide use in their localities.

2.133 There is already scope within the new EU legislation for prior notification to be introduced by MS as **Article 31 para 4(b) of the PPP Regulation**⁶⁹ provides the option for a new legal requirement, in the statutory conditions of use, for residents to be provided with prior notification before spraying. **This is the more appropriate place for prior notification to be introduced rather than under the EU SUD Article 10, although it is in both places.**

2.134 Further, it is imperative that the prior notification that residents receive includes information about all the products, as well as all the ingredients contained within those products, that are to be used in each spraying application in the locality of their homes etc.

2.135 In relation to the Government's stated response on 15th December 2010 regarding **prior notification**, paragraph 15.3.2 of the Government's response (to the previous 2010 DEFRA Consultation) document stated, "*Advance notification: We do not believe it is appropriate to introduce a statutory requirement for operators to provide advance notice of planned spray operations to members of the public living adjacent to sprayed land.*" This response was simply outrageous, especially considering that I had informed DEFRA Ministers and officials in November 2010 of the positive response from representatives at the Environment Agency regarding opportunities for opening up the Environment Agency's flood warning system for other hazard warnings, with pesticides prior notification being something that was of interest to them. The enquiries I made with the Environment Agency representatives were in direct follow up on something that was discussed with Jim Paice at the meeting I had with him and his then private secretary David Scott in March 2010, and it was also mentioned at the meeting with then DEFRA Minister Lord Henley on 6th July 2010 (and it was also referred to in para 3.18 of the UK Pesticides Campaign's submission to the 2010 DEFRA Consultation).

2.136 In short, at the meeting in March 2010 with Conservative MP James Paice and David Scott, when discussing the option in the new EU laws for a new legal requirement in the statutory conditions of use for residents to be provided with prior notification before spraying, both James Paice and David Scott highlighted the system used by the Environment Agency to provide flood warnings, as James Paice pointed out that it was a good example of how a hotline phone notification system can work in practice (and James Paice pointed out that he is signed up to receive the flood alerts himself). I therefore subsequently made some enquiries

⁶⁹ The option for a new legal requirement in the statutory conditions of use for farmers and other pesticide users to provide residents with prior notification before pesticide spraying is Article 31 paragraph 4(b) of the new European PPP Regulation, which can be seen on page 19 at:- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:309:0001:0050:EN:PDF> The relevant text states, "4. The requirements referred to in paragraph 2 may include the following: (b) the obligation before the product is used to inform any neighbours who could be exposed to the spray drift and who have requested to be informed."

with the Environment Agency regarding its flood warning system in order to provide Ministers with further information as to whether a similar system would be workable in relation to a prior notification system for residents. In an email to the then DEFRA Ministers Lord Henley, James Paice and the then DEFRA Secretary of State, Caroline Spelman, on 4th November 2010, I pointed out the following information that had been provided to me by the Environment Agency.

2.137 The Environment Agency has operated a telephone warning service since the mid-1990's. According to representatives at the Environment Agency the latest version of their service 'Floodline Warnings Direct' or FWD has been operating successfully since January 2006. The Floodline Warnings Direct is the "push" system and there is also a "pull" system in the recorded messaging service. Having had some initial discussions with the Environment Agency's national advisor for the flood warning systems (and who plans its future development), the Environment Agency representatives I spoke to were, at that time, looking into opportunities for 'opening up the service' for other hazard warnings, with pesticides prior notification being something that was of interest to them once I had approached them about it.

2.138 The Environment Agency representatives pointed out to me that obviously considering that the infrastructure was already there in the Environment Agency's existing flood warning system then there would be the possibility of utilising that infrastructure in order to provide warnings for other hazard alerts, such as in this case prior notification for residents before any pesticide spraying in their locality, and that the costs of providing such a system are likely to be greatly reduced considering it would be opening up a service that already exists.

2.139 I also pointed out in a subsequent email to the then DEFRA Ministers Lord Henley, James Paice and Caroline Spelman on 9th November 2010 that I had meant to point out in the email of the 4th Nov. 2010 that I was informed by the representatives at the Environment Agency (that I had made the enquiries with regarding the Environment Agency's flood warning system) that it could be technically feasible to develop a prior notification system to warn people **no less than 48 hours in advance of pesticide spraying**. *(NB. Considering that the UK Pesticides Campaign has always called for any prior notification to be at least 48 hours' prior notice, the same as required for the protection of bees, then I pointed out to the aforementioned then DEFRA Ministers that I had specifically checked whether this would be possible with the Environment Agency representatives, as I would not have suggested this prior notification system to Ministers if I had been informed by the Environment Agency that 48 hours prior notification would not have been technically feasible).*

2.140 I pointed out in the email of 4th November 2010 that it was important that DEFRA Ministers were aware of this information *prior* to the Government's decision concerning the implementation of Article 31 para 4(b) of the PPP Regulation regarding the option for a new legal requirement in the statutory conditions of use for residents to be provided with prior notification before any spraying in their locality, and asked the DEFRA Ministers to take the information into account in their considerations. Considering the importance of this information and especially considering that prior notification was one of the points involved in the legal case against the UK Government regarding its policy and approach, and the critical fact that is now before the European Court of Human Rights, then it was imperative that this information was passed on to the then Ministers at the time it was sent for their consideration. However, it appears from the information that I have received to date, that neither DEFRA nor CRD officials passed this critical information on⁷⁰. (NB. I suspected this was the case at the time and so I found a number of other ways to ensure that the letters did get to the aforementioned Ministers, but even so, whether the Ministers did actually read the important information or not, they certainly did not give any serious consideration it).

2.141 As the UK Pesticides Campaign has continued to point out to the Government over the last 11 years, a hotline based phone system set up and funded by Government would appear to be the most practical and the least burdensome and most likely the least costly option for providing mandatory prior notification to residents before any spraying in their locality.

2.142 **The Government must urgently adopt Article 31 para 4(b) of the PPP Regulation that provides the option for a new legal obligation for farmers and other pesticide users to provide residents with *prior notification before* pesticide spraying. This needs to be at least 48 hrs in advance as it currently is in the UK in relation to the protection of bees.**⁷¹

⁷⁰ Also, considering that Lord Henley and James Paice had both given an undertaking to examine carefully the documentation I provided, then this information should have been passed on to them by DEFRA and CRD officials, and further, as said earlier, this information was in relation to something James Paice himself had raised at the meeting in March 2010 and so *again* officials should have passed on the follow up information to it

⁷¹ In the UK there is a legal obligation in the statutory conditions of use to provide **48 hours prior notification** for beekeepers (in relation to protecting bees). This legal obligation is for products that may harm bees and that are labeled as '*harmful*', '*dangerous*', '*extremely dangerous*' or '*high risk*' to bees. Yet pesticides that carry clear warnings on the labels and safety data sheets in relation to **human exposure**, such as "*Very toxic by inhalation*," "*Do not breathe spray; fumes; or vapour*," "*Risk of serious damage to eyes*," "*Harmful, possible risk of irreversible effects through inhalation*," "*May be fatal if inhaled*" etc. etc. do not have any comparable notification requirements in the UK as there is for bees. This is an extraordinary situation, that bees are given protection, but not humans. Considering 48 hrs notice is workable for protecting other species then it should be the same for protecting humans, especially the most vulnerable groups. It should be noted that Mr. Justice Collins clearly recognised in the High Court Judgment in Nov. 2008 that, "*It is difficult to see why residents should be in a worse position*" than bees! This prior notification should apply to **any** pesticides applied, and not just some (especially considering pesticides are commonly used in mixtures which could result in increased

- 2.143 It is critical that the aforementioned measures regarding prior notification and access to information are **mandatory** and must be introduced into the statutory conditions of use in the UK for the authorization/approval of *any* pesticide to *finally* provide residents with the **full and direct access** to all relevant and necessary information about crop-spraying in their locality.
- 2.144 It is important to note that the *draft* report of the ACP's PAHES group recognised the importance of specific information in order to accurately identify exposures. This includes information on the pesticide products that are used in each spraying application, the active ingredients contained within, as well as any other ingredients such as the co-formulants. This information must be collected for exposure data, as it is important to have access to information on exposures as well, to assist in assessing acute and chronic impacts. **The draft PAHES report therefore recommended that mandatory requirements for both prior notification and access to information for residents should be introduced in the UK.**
- 2.145 As said, there are simply no justifiable reasons for the Government to continue to deny this basic information right to residents and other members of the public exposed to pesticides, as people have a fundamental right to know the information necessary to make informed and knowledgeable decisions to protect their health and the health of their family from any harm. **Although obviously the fundamental point is that people should have the right not to be exposed to these chemicals at all in the first place.**
- 2.146 One additional point regarding access to information is in relation to the requirement in Article 67 of the PPP Regulation for professional users of pesticides to keep records of the pesticides they use for "*at least three years.*" The UK Pesticides Campaign has continued to point out to both the UK Government and EU politicians (including the European Commission, MEPs, amongst others) that three years is completely inadequate, especially considering that in the UK records for health surveillance **for workers** are kept for **40 years due to potential chronic health effects** (eg. various cancers, neurological conditions or other conditions that can have a long latency period). Therefore it shouldn't be any different in relation to residents and others exposed over the long-term and at risk of chronic adverse effects, **and so this is another area in which the UK Government should go further than what is specified in Article 67 of the EU Regulation, as the requirement regarding record keeping should be for all professional users of pesticides to keep records of the pesticides they use for at least 40 years.**

toxicity due to synergistic effects etc.) Therefore it should be obligatory under the statutory conditions of use in the approval for **all** pesticides to notify residents at least **48 hours prior to any aerial or ground spraying application** to enable people to take the necessary precautions to try and reduce exposure as much as possible.

2.147 For further information and points regarding prior notification and access to information for residents see the relevant paras in the UK Pesticides Campaign’s submission to the 2010 DEFRA Consultation (and which is included again with this submission as Annex 1)⁷²:

- **Document 1** (paragraphs 3.2 to 3.70 and related footnotes) at:- <http://www.pesticidescampaign.co.uk/documents/Document%201%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Sections%201%20to%203%20.pdf> and
- **Document 2** (paragraphs 4.3 to 4.23 and related footnotes) at:- <http://www.pesticidescampaign.co.uk/documents/Document%202%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Section%204%20.%20pdf.pdf>

iii) Article 7 of the SUD (entitled *Information and awareness-raising in the draft NAP*)

2.148 Although Article 7⁷³ provides general obligations regarding access to information, communication and awareness-raising for the general public it also includes specific requirements involving residents. Therefore I have included it within this sub-section that is still under the main heading entitled “*Specific requirements for the protection of residents*”

2.149 The case and arguments that I have continued to present both in the UK and in Europe over the last 11 years is that whilst *bystanders* may be deemed to have lower exposures than operators, **residents** will have far higher exposures than bystanders, and in many cases even operators, especially if operators have used all the personal protective measures at their disposal in order to reduce their exposure to a minimum whilst they are working with pesticides. For example, unlike operators, residents: 1) will not have any personal protective equipment (PPE), and in any event, they would obviously not be expected to wear it on their own property and land; 2) are currently unlikely to have any prior notice of spraying, and 3) are currently unlikely to have any access to information *in advance* on the pesticides sprayed in their locality. **As set out above, the recognition that the exposure for residents living in the locality of pesticide sprayed fields is high has clearly been recognised in the new EU legislation on pesticides as residents are now specifically defined as a “vulnerable group” in Article 3, paragraph 14 of the new European PPP Regulation 1107/2009 which recognises that residents are “subject to high pesticide exposure over the long term.”**

⁷² The submission had to be submitted in 2 documents, as I ran out of time to complete the 2nd document in full.

⁷³ It is unclear why the requirements in Article 7 of the European Sustainable Use Directive (SUD) are **not** included in “*The Plant Protection Products (Sustainable Use) Regulations 2012*” that transposes the SUD?!

2.150 Further, the text of the EU PPP Regulation specifically refers, in various places, **to the requirements** regarding the protection of vulnerable groups, including residents. For example, at: Recitals 8, 24; Article 4 para 2(a), para 3(b); and in Annex IV under section 2.

2.151 Also, the fact that residents can be regularly exposed to pesticides, and are therefore one of the highest exposure groups, is further recognised in Article 7 of the new European Sustainable Use Directive (SUD)⁷⁴ as Article 7(2) contains the requirement that Member States must “*put in place systems for gathering information on pesticide acute poisoning incidents, as well as chronic poisoning developments where available, among groups **that may be exposed regularly to pesticides such as** pesticide operators, agricultural workers or **persons living close to pesticides application areas.**” However, although Article 7(2) puts residents alongside operators and agricultural workers in terms of the high level of exposure to pesticides of the 3 exposure groups⁷⁵, it should be reiterated again that unlike operators, residents will not be expected to have any protective clothing and/or use any mitigating measures to prevent exposure to pesticides used/sprayed on crop fields in their localities. **This is why, as said previously, the UK Pesticides Campaign has continued to point out that residents are a group with one of the highest levels of exposure to pesticides.***

2.152 It is also important to point out again (as I did in the previous submission to the 2010 DEFRA Consultation) that the majority of poisoning incidents and acute adverse health effects recorded each year in the UK Government’s own monitoring system are for **residents, as a result of crop-spraying (and thus the agricultural use of pesticides)**, rather than operators, which is not surprising considering operators generally have protection and residents do not. (See para 73 and footnote 116 of the second Witness Statement produced for the legal case). Agriculture is the sector with the heaviest use, and amounts to approx. 80% of pesticides used in the UK each year. **Therefore rural residents remain one of the highest exposure groups, and high-risk population groups, considering the frequency and duration of exposure (eg. exposed over the long-term, to mixtures of pesticides,**

⁷⁴ Also, Recital 11 of the EU SUD states, “*Research programmes aimed at determining the impacts of pesticide use on human health and the environment, **including studies on high-risk groups**, should be promoted at European and national level.*”

⁷⁵ The exposure groups included in Article 7(2) are residents, operators, and agricultural workers, as Article 7(2) recognises that these 3 groups are regularly exposed to pesticides. It is therefore important to note that Article 7(2) does **not** include bystanders, as bystanders are not a group regularly exposed to pesticides and therefore do not have the same level of exposure to pesticides as residents, operators and workers. Nor does Article 7(2) include consumers as Article 7(2) is related to exposure groups regularly exposed to pesticides during and after the actual application process and thus **the actual use of pesticides**, as opposed to consumers exposed to any pesticide residues in food and which are covered in other EU laws. See earlier comments at para 2.14 above.

repeatedly sprayed, in the locality of residents' homes, throughout every year, and in many cases, like my own, for decades).

2.153 The *draft* UK NAP only has limited reference to residents and does not recognise or acknowledge the high exposures for residents living in the locality of pesticide sprayed fields and the fact that residents are a high-risk population group. Nor does it specifically include the acute and chronic adverse health impacts reported by residents. (NB. Incidentally just to add that there does not appear to be any reference to any specific acute and chronic adverse health effects *in general* (ie. for any exposure group), which again would appear to be an important omission, as there should be reference somewhere within the *draft* UK NAP to the particular types of acute and chronic adverse health impacts considering that the UK NAP is supposed to include monitoring and surveying of impacts of pesticide use on human health).

2.154 **Therefore considering that it is recognised in Article 7(2) of the EU SUD that residents are an exposure group with a high level of exposure to pesticides then the draft UK NAP needs to be amended so that this is also clearly reflected in the final UK NAP.**

2.155 In relation to the monitoring and surveying of the impacts of pesticide use on human health and the environment, SUD Article 7(2) contains the requirement that Member States (MS) must “*put in place systems for gathering information on pesticide acute poisoning incidents, as well as chronic poisoning developments where available, among groups **that may be exposed regularly to pesticides such as** pesticide operators, agricultural workers **or persons living close to pesticides application areas.**” Yet the current *draft* UK NAP does not include **anything** in relation to the aforementioned requirement in Article 7(2) **at all**. It is unclear why the requirements in Article 7(2) of the SUD have been omitted in the *draft* UK NAP, and also appears to have been omitted in relation to the UK “*Plant Protection Products (Sustainable Use) Regulations 2012*” as well, (which in fact omits Article 7 in its entirety).*

2.156 This needs to be amended so that there is a clear section within the UK NAP regarding Article 7(2) of the SUD. There should also be a specific section entitled “**Monitoring and surveillance of residents**” in which it is detailed what, if anything, the UK is currently doing, or intending to do, to implement the obligation in Article 7(2) of the SUD for MS to “*put in place systems for gathering information on pesticide acute poisoning incidents, as well as chronic poisoning developments where available, among groups **that may be exposed regularly to pesticides such as.....persons living close to pesticides application areas.**”*

2.157 As detailed earlier, the only (albeit wholly inadequate) monitoring system there is in the UK regarding residents is in relation to the acute incident reports and acute effects, which is in relation to various exposure groups (operators, workers, residents, and bystanders), and is therefore *not* specifically related to residents, although, as said at para 2.152 above, the majority of poisoning incidents and acute health effects recorded each year in the UK Government’s monitoring system are for residents as a result of crop-spraying (and thus agricultural use of pesticides). **Therefore, as said, the final UK NAP needs to detail what, if anything, the UK is currently doing, or intending to do, to implement the obligation in Article 7(2) of the SUD, if the UK is going to comply with the obligations in Article 7(2).**

2.158 As set out in Section 1 above, residents are an exposure group that, to date, in the UK at least, have been largely ignored and it has only been as a result of the efforts of the campaign I run on behalf of residents that residents are even on the map now so to say! Considering that residents are specifically referred to in both the new EU SUD and the PPP Regulation (and are also included in the new definition of *vulnerable groups* in Article 3, paragraph 14) then there definitely needs to be more reference to residents in the final UK NAP, and the Government **must ensure that residents are included as a priority group**, especially considering that residents are included in Article 7(2) of the EU Sustainable Use Directive.

2.159 Following on from the points raised in the above paras re. the obligations in Article 7(2) of the SUD there are also some important points re. the obligations of Article 7(1) of the SUD

2.160 Article 7(1)⁷⁶ lists a number of specific areas in which MS shall take measures to inform the general public and to promote and facilitate information and awareness raising programmes and the availability of information relating to pesticides for the general public.

2.161 These specific areas include informing the general public of the risks of pesticides and the potential acute and chronic effects for human health, non-target organisms, and the environment arising from their use, and the use of non-chemical alternatives.

2.162 The general public **must** be informed about both the health and environmental risks, and acute and chronic adverse impacts, related to the use of pesticides, as well as information on the use and availability of non-chemical alternatives. **This is absolutely imperative as it**

⁷⁶ The full text of Article 7(1) of the EU SUD states, “*MS shall take measures to inform the general public and to promote and facilitate information and awareness-raising programmes and the availability of accurate and balanced information relating to pesticides for the general public, in particular regarding the risks and the potential acute and chronic effects for human health, non-target organisms, and the environment arising from their use, and the use of non-chemical alternatives*”.

would enable people to have the information necessary to make informed and knowledgeable decisions and take any related actions regarding the protection of their health and surrounding environment.

2.163 As I previously pointed out in the UK Pesticides Campaign's submission to the 2010 DEFRA Consultation, in relation to the words in Article 7(1) that states, "*and balanced information*" – the information is either right or it is not and there is no such thing as ***balance*** when it comes to the protection of human health. A good comparison of this is in relation to smoking and the clear warnings of the adverse health impacts that are required **by law** to be on cigarette packets, as the public health warnings and facts that are provided on the labels are factually correct (and are there to warn people about the dangers and risks associated with smoking). It is not then "*balanced*" out with industry pr spiel and propaganda about the, for example, "*significant benefits of smoking,*" although I would fully accept that this happened in the past with cigarette advertising, which was obviously subsequently banned, because it was completely inappropriate. Therefore considering the health risks and acute and chronic adverse health effects that pesticides can cause, then it cannot have industry trying to (and even worse, being allowed to) *balance* the factually accurate information provided⁷⁷ about the human health risks and adverse impacts by saying it is *all safe* and there is *no risk* when that is simply **not factually correct** (and in some states in the US it would be a federal offence for the industry to make such claims).

2.164 The one short paragraph that is currently included in the UK Government's *draft* NAP as an "*Overview*" of the information and awareness-raising obligations (that are imposed on MS by Article 7(1)) consists of the following text. At para 11.1 of the *draft* UK NAP it states, "*Government and other stakeholders employ a variety of measures to share general and specific information on the risks and benefits of pesticide use with the general public. A wide range of comprehensive advice and information on pesticides is available on CRD's website. Information on pesticides also comes through the monitoring systems in place to provide pesticide indicators. The most common situation in which members of the public require information on pesticides is through the purchase and use of non-professional products.*"

2.165 Under the heading "*Information and awareness-raising*" the UK's *draft* NAP then goes on to predominantly highlight the measures that industry and other stakeholders undertake regarding information and awareness-raising and yet current awareness-raising schemes and initiatives undertaken by the PPP industry and/or producers organisations and/or farmers'

⁷⁷ Banking on the fact that it is factually accurate information that is provided, as it depends who is providing it!

unions are targeting the users of PPPs rather than the general public. Such initiatives are more related to the obligations of SUD Article 6(3) rather than to the obligations of Article 7(1) which is a direct obligation on Member States and is thus directly related to Member States.

2.166 **There does not appear to be anything in the *draft* UK NAP that would reflect what is required regarding information and awareness-raising within Article 7(1) of the SUD.**

2.167 Incidentally, in relation to the sentence underlined above that is contained in the UK's *draft* NAP that states, "*The most common situation in which members of the public require information on pesticides is through the purchase and use of non-professional products*", this is highly misleading, as the most common situation in which members of the public, in particular residents and communities in the countryside, require information on pesticides and/or come into contact with pesticides, is as a result of the use of approx.. 22,000 tonnes of pesticides on British farmland every year. As said earlier, considering that approx. 80% of pesticides used each year are related to agricultural use (and that agricultural use accounts for approx. 86% of sales per year) then the statistics also appear to support this. The aforementioned sentence in the *draft* UK NAP again just further demonstrates the reluctance of the authorities here in the UK to acknowledge the exposures, risks and adverse impacts of pesticides (especially re. residents) from crop spraying and thus agricultural use of pesticides.

2.168 The Government, DEFRA, CRD, other officials and advisors, need to start providing the public with the correct, accurate, and complete information about the risks that are inherent in the use (and spraying) of pesticides. As said above, it is imperative that members of the public are provided with the information necessary to make fully informed and knowledgeable decisions to try and protect their health and health of their family from harm.

2.169 The correct and accurate information provided would obviously need to include information on what all the routes of exposure are (ie. oral, dermal, inhalation, as well as eyes) and what the various sources of exposure are (eg. for people who live in the locality of sprayed fields this would include both outdoor and indoor air, water, dust, soil etc.) Citizens would also need all the necessary chemical information of what chemicals they are being exposed to, including in relation to the increased toxic effects of chemical mixtures etc.

2.170 Further, the UK Government needs to start acting on the information provided by individuals reporting to DEFRA and/or CRD. For example, many individuals submitted to the 2003 and/or the 2010 DEFRA Consultations' on pesticides reporting adverse health effects. I know I purchased copies of all the submissions! Yet, to my knowledge, the UK Government

did not follow up on any of the individuals reporting their adverse health effects. It should, and should also follow up on any other reports it receives from members of the public adversely affected from exposure to pesticides. Further, the UK Pesticides Campaign has continued to point out that there needs to be a proper independent reporting system in place in the UK for both acute and chronic adverse health impacts, with access to cross-specialists support, depending on the chronic health impacts suffered by individual patients (ie. consultant neurologists, toxicologists, immunologists, cardiologists etc.)

2.171 As said above, there does not appear to be anything in the *draft* UK NAP that would reflect what is required regarding information and awareness-raising within Article 7(1) of the EU SUD. This is despite the obligations within Article 7 itself, as well as other obligations contained within the EU SUD. For example, Article 4 of the EU SUD that provides for MS to adopt National Action Plans (NAPs) and which has among the objectives the reduction of risks and impacts of pesticide use on human health and environment. **Therefore MS are supposed to include in their NAPs measures to comply with Article 7.**

2.172 The UK Government itself has not undertaken any national communication and awareness raising programmes regarding agricultural pesticides. (Obviously the Voluntary Initiative is an **industry based initiative** and is **not** one run by the UK Government). Therefore, as said, there does not appear to be anything in the *draft* UK NAP that would reflect what is required regarding information and awareness-raising within SUD Article 7(1).

2.173 In relation to the sentence in para 11.1 of the *draft* UK NAP under the heading “*Information and awareness-raising*” and then under “*Overview*” that states, “*A wide range of comprehensive advice and information on pesticides is available on CRD’s website*”

2.174 There is no doubt that the CRD does provide information regarding pesticides, EU law, the UK regulatory system, and the UK Government’s policy *in general* on the CRD’s website. However, that is not adequate to meet the specific requirements of Article 7(1) of the EU SUD in which Member States are required to **take measures to inform the general public and to promote and facilitate information and awareness raising programmes and the availability of accurate information relating to pesticides for the general public, in particular regarding the risks and the potential acute and chronic effects for human health, non-target organisms and the environment arising from their use, and the use of non-chemical alternatives.** The CRD website does **not** recognise anywhere the **real** risks and related acute and chronic effects for human health, particularly regarding

residents, and especially in relation to the risks and adverse health impacts from the approved use of pesticides in the UK.⁷⁸

2.175 It is a matter of fact that the only real awareness raising and communication of information to the general public regarding pesticides in the UK over the last 10 years has been as a result of the work and representations of the campaign I run, the UK Pesticides Campaign, as the work of the campaign has had significant and sustained coverage in both national and international media since 2002. Examples of national media coverage include: in the Times, Sunday Times, Financial Times, Guardian, Observer, Daily Telegraph, Sunday Telegraph, Daily Mail, Daily Express, Daily Mirror, Independent, Independent on Sunday, Metro; as well as on a number of BBC TV and radio programmes (including Breakfast News, News at 1, 6 o'clock News, 10 o'clock News, News 24, BBC News Channel, Politics Show, Countryfile, The Food Police, Radio 4's: Today programme, Woman's Hour, You and Yours, PM, The World at One, Costing the Earth, Farming Today; BBC World Service, BBC Radio 5 Live); ITV and Channel 4 programmes (including Lunchtime News, Evening News, 10 o'clock News, That's Esther, Channel 4 News,); and on Sky News. In relation to international media coverage, articles that have featured the work of the UK Pesticides Campaign have appeared in, amongst others, the US (including CNN), Canada, Australia, New Zealand, France, Germany, Portugal, India, and The Beijing News in China. In addition a diverse range of magazines have also featured the work of the campaign including: Cosmopolitan, Marie Clare, Grazia, Red, Vogue, Ecologist, Resurgence, Lifescape, Private Eye, Science in Parliament, Country Living, The Big Issue, New Consumer, Easy Living, Ethical Living, Spirit and Destiny, Landworker, Positive Health, amongst others. The work of the campaign has also been featured in a number of books including "*The Vitamin Murders*" by James Fergusson; "*Scared to Death*" by Christopher Booker/Richard North; "*Toxic Airlines*" by Tristan Loraine; "*People Power*" by Jon Robins and Paul Stookes; and "*Discover Organic*".

2.176 No other campaign regarding pesticides has ever generated this level of media coverage in the UK over a relatively short space of time, and without the coverage generated by my

⁷⁸ I note that in para 214 of the Impact Assessment that accompanied "*The Plant Protection Products (Sustainable Use) Regulations 2012*" it acknowledges the risks and impacts from the "*misuse and abuse of these hazardous chemicals by untrained operatives*" that "*could result in incidents which adversely affect the health of individuals or animals or damage neighbouring crops or the environment*" but the exposure, risks and acute and chronic adverse impacts for residents is **not** specifically related to the misuse, abuse or illegal use of pesticides, **but is predominantly related to the permitted, approved use of pesticides in the UK**, (as all the exposure factors related to the exposure scenario for residents are all out of the control of farmers and can only be prevented by changes to existing policies to focus on eliminating exposure). Therefore, as said in para 2.174 above, there is certainly no recognition in any documentation produced by CRD and/or DEFRA that I have seen re. the risks and related acute and chronic effects for residents **from the approved use of pesticides in the UK.**

campaign then there would have been no real outreach to the general public over the last 10 years. Representatives of the UK Government and/or its advisors were sometimes quoted in the media coverage of my campaign but this was usually in the form of the UK Government representatives and/or its advisors denying that there are any health risks and adverse health impacts from the use of pesticides in the UK and asserting that pesticides used for crop spraying in the UK are “safe” and that “robust controls” are in place to protect the public and thus that there is no concern over pesticide use. The UK Government has continued to issue inaccurate information and statements playing down the seriousness of the risks to public health (in particular for residents) from crop spraying and exposure to pesticides.

2.177 Therefore as set out above, there does not appear to be anything in the current draft UK NAP that would meet the specific requirements in both Article 7(1) and Article 7(2).

2.178 It is of great concern among residents in the UK that certain measures within the SUD and PPP Regulation are not currently being implemented correctly by the UK.

2.179 The UK Government must urgently implement all the aforementioned specific requirements for the protection of residents (as set out above at paras 2.60 to 2.178).

The Prioritisation of Non-chemical Methods

2.180 I previously made very detailed comments regarding the prioritisation of non-chemical methods in paras 2.30 to 2.34, 2.69, 2.71, 2.86 to 2.97 and paras 4.24, 4.36, 4.38, 4.76, 4.78, 4.132, 4.138, 4.151, 4.155 of the UK Pesticides Campaign’s submission to the 2010 DEFRA Consultation. I would refer the Government, DEFRA, CRD and others, to those paragraphs of the previous submission. (The submission is included again as Annex 1 to this submission).

2.181 I would add the following few additional points to those made in the previous submission.

2.182 As stated earlier, there does not appear to be anything in particular in the current *draft* UK NAP regarding the use of **non-chemical alternatives**, particularly not in relation to agriculture.⁷⁹ This is despite the fact that one of the main objectives/aims of the new EU legislation from the outset under the Thematic Strategy is to shift policy towards the

⁷⁹ I note that paragraph 17.8 of the *draft* UK NAP refers to a specific project that includes non-chemical methods as one of the approaches in **amenity weed control** on hard surfaces (roads, footpaths etc.), but, as said, there does not appear to be anything in particular regarding the use of **non-chemical alternatives** in agriculture.

utilisation of non-chemical farming methods **by promoting and encouraging use of non-chemical methods in order to reduce dependency on pesticides.**

2.183 There is no doubt that the widespread use of pesticides in farming is causing serious damage to the environment, wildlife and, above all, human health. The only real solution to **eliminate** the adverse health and environmental impacts of pesticides is to take a **preventative approach** and avoid exposure altogether with the widespread adoption of truly sustainable **non-chemical farming methods**.⁸⁰ This would obviously be more in line with the objectives for sustainable crop production, as the reliance on complex chemicals designed to kill plants, insects or other forms of life, cannot be classified as sustainable. Considering the health and environmental costs associated with pesticides (eg. see related paras in Section 1 above), it makes clear economic sense to switch to non-chemical farming methods. **It is a complete paradigm shift that is needed, as no toxic chemicals that have related risks and adverse impacts for any species (whether humans or other) should be used to grow food.**

2.184 Therefore, as I pointed out in the UK Pesticides Campaign's submission to the 2010 Consultation, the Government needs to prioritise non-chemical methods in the UK's National Action Plan, as there should be a section specifically within the National Action Plan to take forward the objective/aim within the new EU legislation of **promoting and encouraging the use of non-chemical methods in order to reduce dependency on the use of pesticides.**

2.185 As highlighted at para 2.33 in Section 2 of the UK Pesticides Campaign's submission to the 2010 Consultation, in 2003 the then DEFRA Minister for Food and Farming, Lord Whitty, stated that, "*Reducing reliance on pesticides is a priority, and we want to find alternative, more environment-friendly pest controls for farmers and growers.*" However, **this statement has not been backed up by any real action by the UK Government to move away from chemical dependency and the strong ties with the agro-chemical industry to the development of sustainable non-chemical farming methods.**

2.186 **The UK Pesticides Campaign would therefore urge the UK Government to prioritise as a matter of urgency the development and introduction of non-chemical methods.**

2.187 Incidentally, it is important to just stress again the fact that the system called **Integrated Pest Management (IPM)** is **not** the same as non-chemical methods. Although the references to IPM in the SUD clearly *prioritises* non-chemical methods within IPM, to date there have been many different definitions and interpretations of IPM. In any event, IPM is a system

⁸⁰ Such methods would include rotation, physical and mechanical control and natural predator management.

that still uses pesticides to some degree (whichever definition one goes by). To give an example of my own experiences of IPM in the UK, the farmers that were farming the fields next to our property insisted they used IPM, and yet they were known to spray 30 times in 6 months with mixtures of different pesticides! Therefore in *reality*, and in practice, IPM does not necessarily involve lower pesticide use. IPM is a weaker and more compromised system than utilising complete **non-chemical** systems, which, as said, is one of the main objectives/aims of the new EU legislation under the Thematic Strategy to shift policy towards the utilisation of **non-chemical** farming methods in order to reduce dependency on pesticides.

2.188 To give a further example of the differences between IPM and non-chemical methods see the article at:- <http://www.enevspf.com/latest-news/science-a-environmental/31034-connecticuts-historic-pesticide-legislation-threatened-by-ipm-bill.html>. Although the article is largely related to the use of pesticides on lawns (and in Connecticut) note it states,

- *"In the years since the original bill was introduced by state senator Ed Meyer, a robust natural lawn industry has sprung forth in an around Connecticut. Numerous groundskeepers have adapted practices that allow for the maintenance of excellent playing fields — yet the synthetic chemical industry has never stopped lobbying the legislature to roll back the protection to include "integrated pest management." **IPM allows for synthetic chemical pesticides at the discretion of the licensed applicators.**"*
- *"The pro-pesticide strategy is to call the elimination of the pesticide ban 'Integrated Pest Management,' but what it really stands for is business as usual," said Dr. Jerome Silbert, a pathologist from Connecticut. "If this bill (5155) passes it will be a major setback for the protection of young children from involuntary exposure to toxic lawn pesticides."*
- *"This was well thought out and well explored law by all parties," said Alderman. "The state should not roll this law back because industry and SOME grounds keepers would like to use pesticides again under the guise of Integrated Pest Management. **When IPM has been mandated in other states it has proven to be unenforceable — because it allows pesticides — and once pesticides are allowed one cannot tell how much or how many times they are used. IPM has not proven to be a workable method when mandated for schools.**"*

2.189 For further information and points relating to the prioritisation of non-chemical methods, as well as the differences between non-chemical methods and IPM, see the relevant sections in the UK Pesticides Campaign's previous submission to the 2010 DEFRA Consultation on the implementation of the EU pesticides legislation⁸¹:

- **Document 1** (paras 2.30 to 2.34, 2.69, 2.71, 2.86 to 2.97, and related footnotes) at:- <http://www.pesticidescampaign.co.uk/documents/Document%201%20of%20the%20UK>

⁸¹ The submission had to be submitted in 2 documents, as I ran out of time to complete the 2nd document in full.

<http://www.pesticidescampaign.co.uk/documents/Document%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Sections%201%20to%203%20.pdf> and

- **Document 2** (paras 4.24, 4.36, 4.38, 4.76, 4.78, 4.132, 4.138, 4.151, 4.155 and related footnotes) at:-

<http://www.pesticidescampaign.co.uk/documents/Document%20of%20the%20UK%20Pesticides%20Campaign%27s%20submission%20to%20the%202010%20DEFRA%20Consultation%20-%20Section%204%20.%20pdf.pdf>

2.190 The factual evidence clearly confirms the fact that in relation to the exposure of residents **more than enough evidence already exists** (evidence of AOEL exceedances; harm to the health of residents and others exposed, including in the UK Government's *own monitoring system* etc.) **for action to be taken now** with the introduction of mandatory measures for the protection of residents health, and that are very long overdue. Most importantly, such mandatory measures would include the prohibition of the use of pesticides in the locality of residents' homes, as well as schools, playgrounds, etc. **as pesticides should never have been approved for use in the first place for spraying in the locality of residents' homes, schools etc., in the absence of any risk assessment for those exposed in such scenarios.**

2.191 **Considering the risks, and acute and chronic adverse health impacts of pesticide use, then a preventative approach must be utilized, especially in relation to the protection of vulnerable groups including residents, babies, children, the elderly, and those already ill**

2.192 The adoption of the new EU legislation, with its aim of utilizing non-chemical methods to reduce dependency on pesticides, gives the coalition Government the chance to overhaul the existing policy and approach in order to make the protection of public health the number one priority of the Government's policy and regulations. A different approach is urgently needed.

2.193 For further information and detailed points see the UK Pesticides Campaign's previous submission to the 2010 DEFRA Consultation on the implementation of the EU pesticides legislation, and which I have included again to accompany this submission, at Annex 1.

Please note that, although I have not had time to specifically refer to them, the various questions included in the DEFRA Consultation letter, dated 30th July 2012, will have been answered by the detailed comments set out within this submission, along with the two accompanying Annexes.

Please note that this submission has had to be produced in haste in order to meet the deadline for this Consultation. A separate section is also being prepared regarding some of the measures and actions within the *draft* UK NAP that I have not had time to include in this main section. However, the separate section on some of the other SUD Articles is not exclusively related to the NAP consultation, and in fact in relation to aerial spraying, much of it is actually related to "*The*

Plant Protection Products (Sustainable Use) Regulations 2012” that came in in June 2012. Therefore I shall just send it on when it is done as it is wider than just being related to this Consultation and thus is something I would be sending CRD irrespective of the Consultation.

As said at the beginning of this submission, any comments made by me are, of course, **Without Prejudice** to the position taken by me, and the evidence and arguments advanced by me, in my legal case, both through the domestic courts, and before the European Court of Human Rights.

Please can you confirm receipt of this written submission.

Thanks and kindest regards,

Georgina Downs FRSA.

UK Pesticides Campaign.

www.pesticidescampaign.co.uk