

EVERSHEDS
SUTHERLAND

Helping you see clearly

Our experienced REACH
(European Chemicals
Regulation) lawyers





Eminent environment practice with international capabilities. Advises an array of blue-chip clients on the full spectrum of environment matters, including shale oil and gas work. Recommended for expertise in chemical regulations, with a number of clients from this sector. Extensive experience representing clients in Environment Agency investigations and prosecutions.

Chambers 2019 — Environment — Band 1.



REACH – The European Chemicals Regulation

Although the European Chemicals Regulation (REACH) has been in force since 2007, it continues to present challenges for compliance. Its broad scope and complex provisions require an understanding not only of the legal issues, but also the technical and scientific background. This requires expert legal advice.

What we do for our clients

We can advise you on all aspects of REACH, whether you manufacture in or import into the UK and/or European Economic Area (EEA), are a downstream user in the UK/EEA responding to enquiries regarding particular substances or a supplier of articles. You will benefit from our experience in dealing with REACH across a wide range of industries, not just the chemical sector but also aviation, petroleum and industrial engineering.

You may have questions regarding your operations in or across the UK and/or EEA, the impact of Brexit and/or you may be considering a reorganisation which may impact upon your REACH registrations.

Whatever the issue, we will work closely with you to understand your specific business concerns and objectives, using our extensive experience to help develop innovative solutions.

Examples of our work includes advising:



On REACH compliance audits and in the context of responding to letters alleging non-compliances from regulators and customers.



On pragmatic solutions in relation to regulatory developments including Brexit related strategies.



On strategy to ensure that a non-UK/EEA group with multiple manufacturing entities has appropriate REACH registrations for all relevant supplies into the UK/EEA.



On data sharing requirements including how to protect confidential business information, negotiating letters of access and contractual matters linked to Substance Information Exchange Forum (SIEF) and Consortiums.



In relation to proposals for authorisations and restrictions and the steps which can be taken in response.



On the confidentiality aspects of REACH, including as part of registrations, restrictions and authorisations.

Why work with us?



The environment team which is led by Jane Southworth “stands out for its chemicals expertise”.

Legal 500 2019 – Planning and Environment – Tier 1.



Registration strategy – we assist with registration strategy, including consideration of who is the “importer” for REACH purposes within a corporate group. Sometimes it’s possible to rationalise multiple registrations of the same substance by different group companies through changes to the supply chain. We also advise on issues relevant to particular types of substances including intermediates and polymers.



Solutions – we work closely with clients to develop pragmatic solutions in relation to regulatory developments including Brexit.



Advising suppliers – we advise suppliers in many sectors, ranging from retail to automotive, on requirements applicable to articles including how the 0.1% weight by weight of Substances of Very High Concern (SVHCs) is calculated.



Data protection – we work with potential registrants and registrants in relation to the data which may be available, confidentiality issues in the context of disclosure requirements and ensuring that the necessary data access arrangements are in place. We also advise on issues relating to costs of data in particular where there is an ECHA decision requiring additional testing.



Support – requirements for global harmonisation of classification and labelling of chemicals present new challenges, with obligations relating to safety data sheets. We can support you in this area.



Authorisation applications – we advise on authorisation applications, including confidentiality aspects and regularly work with consultants on these issues.



Restrictions – we advise on the impact of restrictions and proposed restrictions. Recently we have advised on the impact of a proposal to remove a restriction under REACH for a particular substance and replace it with a prohibition under the Persistent Organic Pollutants Regulation.



Regulatory overlap – we regularly advise on borderline products and how those products should be regulated under relevant regimes including REACH, the BPR (Biocidal Products Regulation) and the Cosmetics Regulation.



Team approach – we regularly work with consultants and in-house technical experts as well as lobbyists to achieve our clients’ goals.



Disputes – we have successfully disputed ECHA decisions including those rejecting/cancelling registrations. We also advise on strategy to address concerns raised by regulators and customers regarding potential non-compliance.

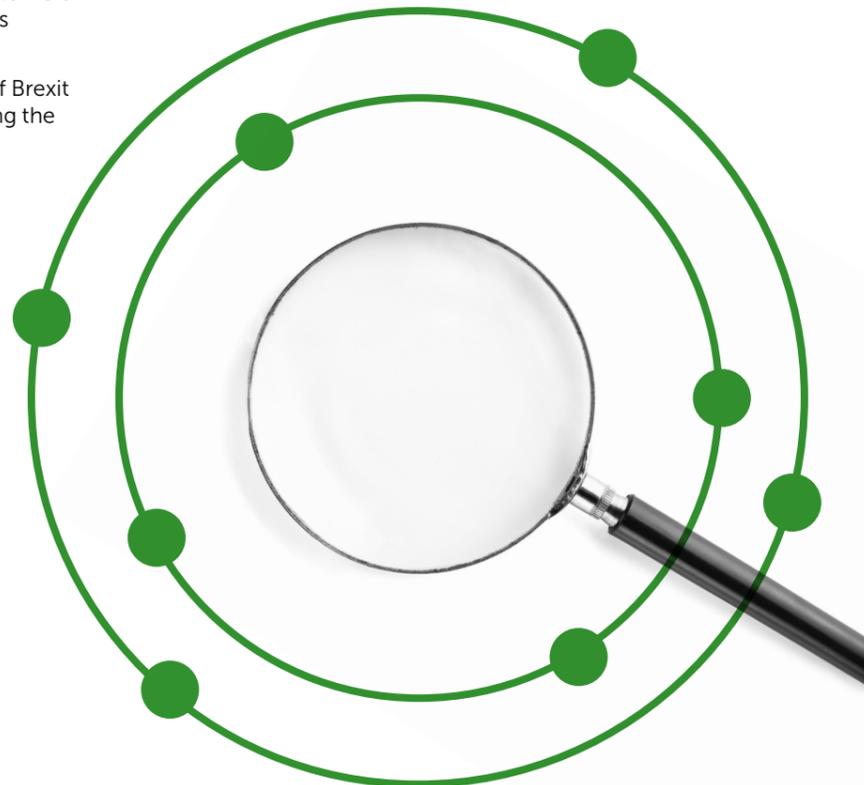
Brexit and UK REACH

The UK ceased to be a member of the EU on 31 January 2020. A transition/implementation period will run until 31 December 2020. During the implementation period market access will continue on the current terms and REACH will continue to apply in the UK. If not already, companies which do business in the UK and/or part of their supply chain involves the UK should consider the impacts and ensure appropriate steps are taken to minimize any supply chain disruption. Future UK regulatory requirements will depend on any trade deal that is reached.

We have supported clients in developing Brexit related strategies including in the context of:

- potential options to ensure any EU REACH Registrations remain valid in the event a trade deal is not reached;
- appointing an Only Representative and the legal documentation required;
- data access issues; and
- key issues to discuss with suppliers and customers and strategy to present potential issues in as positive a manner as possible.

We have also advised in relation to the impact of Brexit on other chemical compliance regimes including the Biocidal Products Regulation.



Other services we offer

Environmental legal issues present an ongoing compliance challenge for all businesses. Regulators and increasingly the public are placing new and more stringent demands on businesses to meet enhanced environmental standards. This is driven by global developments such as the circular economy, concerns around the use of non-recyclable plastic and climate change.

We have specialist non-contentious and contentious environmental lawyers (criminal and civil) who often work with colleagues across the EU (and further afield) to provide co-ordinated global advice from a single UK contact. This ensures that you receive consistent, seamless and fully integrated advice, without having to liaise directly with individual lawyers across many jurisdictions.

We provide advice on the full range of environmental issues including:

- ✓ land contamination
- ✓ waste classification
- ✓ environmental permitting issues
- ✓ water related issues
- ✓ assisting clients in defending criminal prosecutions brought by regulators (including the Environment Agency)
- ✓ chemical compliance issues including under the Biocidal Products Regulation and the Regulation on Classification, Labelling and Packaging
- ✓ producer responsibility
- ✓ emissions and emissions trading
- ✓ inputting into corporate and property transactions
- ✓ supporting clients to resolve a range of civil environmental disputes including challenging and defending regulatory decisions, through Judicial Review

Key contacts

For more information, please contact:



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Jane Southworth is commended by market sources for her *"in-depth knowledge of the subject"* with one praising her chemicals expertise. *"She knows the technical aspects of REACH and provides very good advice"*. She is also recommended for her environmental law support on transactions.

Chambers describes **Jane Southworth** as *"wonderful and technically brilliant"* with clients saying that she is *"proactive and offers commercial business advice."*



Catherine Manning
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Catherine Manning is noted by Legal 500 for non-contentious environmental and health and safety matters.

Catherine has extensive experience in advising on highly complex and specialised environmental issues. Chemicals-related work is a particular specialism, including the application of EU Regulations such as REACH (the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation), CLP (the Regulation on Classification, Labelling and Packaging) and the BPR (the Biocidal Products Regulation).

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