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## HEALTH AND SAFETY COMMISSION

### RECOMMENDATIONS FOLLOWING A REVIEW OF HSC'S ADVISORY COMMITTEE ON DANGEROUS SUBSTANCES (ACDS)

A paper by Janet Savin, ACDS Secretariat

Advisors: Colin Potter (ACDS Secretary) and Mike Tonge, Specific Interventions Division, Policy Group

Paper cleared by Les Philpott, Chairman of ACDS, and Giles Denham on 24 August 2005

#### Issue

1 The future of ACDS.

#### Timing

2 Routine.

#### Recommendation

- 3 That HSC agrees:
- that ACDS should not be reconstituted;
  - the Gas Safety Subcommittee and its Working Groups should also be wound up, with consultation on gas issues being achieved through 'forums' incorporated into the appropriate HSE workstreams. (See MISC/05/15); and
  - where further work from the other ACDS Subcommittees is required to support HSC's main Strategic Aims, it should be undertaken by Task Groups, as appropriate to meet specific business needs.

#### Background

4 ACDS was last reconstituted in April 2000. As insufficient resources were available to undertake the review/ reconstitution at the end of the 3-year period, the constitution was extended until the end 2004 by HSE's DDG (Policy). With continued pressure on HSE's resources, even that extension has been exceeded, and a decision about the future of the Committee is now well overdue.

5 Last summer the ACDS Secretariat consulted over 100 stakeholders, seeking their views on whether reconstitution of the committee could be justified, and whether ACDS provided value for money in terms of providing strategic advice to HSC. 40 responses were received, of which a small majority (55%), supported reconstitution. However, no strong reasons were provided to support this view. Nor did the responses equate with any specific

stakeholder allegiances. Crucially, the stakeholder survey did not identify upcoming work of substance that would be of strategic relevance to HSC.

6 Copies of the survey report, which summarises the main findings, and identifies a number of options, were sent to members for consideration, and it was discussed briefly at the ACDS meeting in November 2004. Members' general views were that:

- The review provided a good opportunity to review the committee's modus operandi;
- If retained, ACDS should become more strategic in its approach,
- 'Task and finish' groups should be used, rather than standing Subcommittees;
- Any future Committee meetings should be open to the public.

8 Members were urged to send any written comments or further suggestions on the report, to the Secretariat by the end of the year; however, none were received. A copy of the Executive summary is attached at Appendix A. (A copy of the full survey report is available on the HSE website - [www/hse.gov.uk/aboutus/meetings/index/htm](http://www/hse.gov.uk/aboutus/meetings/index/htm), (and paper copies are available to members of HSC on request).

9 More recently in May 2005, in line with HSE's policy of concentrating its resources on work to support HSC's priority strategic aims, the Secretariat wrote to members of ACDS to inform them that it proposed to recommend winding up the Committee and its Subcommittees because a substantive work programme had not been identified. This correspondence also provided members with a final opportunity to comment on HSE's proposals.

10 5 comments were received. Concern was expressed by one of the independent members and the MOD representative about emerging gas safety policy issues, and, in the longer term, the review of the Manufacture and Storage of Explosives Regulations 2004, which have been handled by the Gas Safety and Explosives Subcommittees respectively. Overall, respondees acknowledged that ACDS does not have a substantive work programme that might justify it being reconstituted. (See Appendix B).

### **Argument**

11 The bulk of the work undertaken by ACDS over the past few years arose from HSE's implementation of European Directives. The major regulations have now all been brought into force, but the Committee has continued to make some contribution, through advice on HSE's interpretation of these Directives, and the implementing regulations. The retention of an HSC Advisory Committee largely to advise HSE on such matters is not a cost effective use of resources.

12 Additionally, the work programmes for the four ACDS Subcommittees has been reduced considerably during the past couple of years, as indicated in the summary contained in Appendix C. This indicates that:

- the Flammable Substances S/C could be wound up;

- the gas industry is beginning to take ownership of issues and demonstrate leadership. Where consultation with the industry becomes appropriate, a 'forum' can be set up by HSE as part of the work programme;
- some continuing input may be needed in due course to take forward land use planning and societal risk issues from the Major Hazards S/C, and some outstanding explosives policy issues from the Explosives S/C. Task Groups set up as appropriate to meet specific business needs could undertake such input

### **Consultation**

13 Members of ACDS and its Subcommittees, stakeholder groups, and interested parties within HSE and other government departments were included in the survey of ACDS, and were given the opportunity to comment on the survey report.

### **Presentation**

14 There may be presentational needs in winding up ACDS etc. but we judge that can be countered by our more flexible, business need focused alternatives.

### **Costs and Benefits**

15 Our proposals are broadly cost neutral in administrative costs. Benefits to HSC/E's business should be greater as the new consultative arrangements will be better focused on supporting delivery.

### **Financial/Resource implications for HSE**

16 Some resource will be released in the ACDS Secretariat, but there will be broadly corresponding increases elsewhere in HSE from the new consultative arrangements. Hence we think the new proposals are largely cost neutral.

### **Environmental implications**

17 None anticipated.

### **Other implications**

18 None anticipated.

### **Action**

19 As recommended in paragraph 3 above.

24 August 2005

**THE FUTURE OF THE ADVISORY COMMITTEE ON  
DANGEROUS SUBSTANCES (ACDS)**

**RESULTS OF A STAKEHOLDER SURVEY**

**Produced by the ACDS Secretariat**

**October 2004**

**Author: Janet Savin**

**Cleared by: Colin Potter, ACDS Secretary, Major Hazards Policy Division**

## ACDS REVIEW

### Executive Summary

1 As part of the HSC/E Programme of Change, HSC's Advisory Committees (A/Cs) have been asked to review their committee structure, their work programme, and the way in which work activities are delivered, in the light of the contribution the committee currently makes/ can make towards HSC achieving its Strategic Aims.

2 The ACDS Secretariat undertook this review in June 2004, to enable an informed decision to be taken on whether continuation of the committee was considered necessary, and whether its reconstitution was considered justifiable in terms of contributing towards the HSC's Strategic Plan, and, if so, under what terms of reference.

3 Members of ACDS, observers from other government departments, and HSE advisors etc., were asked to complete a questionnaire, seeking their views on the value of ACDS, what it had achieved, whether it contributed to HSC's Strategic Aims, what it should aim to achieve in the future, and possible areas for improvement.

### Conclusions

4 Main conclusions are:

- I. The majority of respondents (55%) want the committee to be retained. However, responses to specific questions in the survey seeking justification for ACDS to be retained failed to provide valid reasons - the main response was that the committee provides a useful discussion forum.
- II. 5% of respondents thought it should be retained only if it had a strong added-value programme, and 5% thought it could become an expert scientific A/C.
- III. The majority of respondents (77.50%) consider that ACDS contributes towards HSC's Strategic Aims. However, no valid examples were provided - moreover, dangerous substances are not included in HSC's current key Strategic Aims.
- IV. The majority of respondents (82.5%) consider that the committee's tripartite structure is still justified; however, 20% qualified their answers, e.g. "but with difficulty, because CBI does not represent industry and the trade union input is patchy."
- V. Respondents consider that the committee should adopt more flexible ways of working. Suggestions included:
  - i. Virtual consultation groups;
  - ii. More task and finish groups, rather than standing S/Cs; and
  - iii. A smaller, proactive stakeholder discussion group overseeing S/C and WG activity on specific industry sectors.
- VI. Respondents consider that the committee should be involved earlier in policy development, e.g. in negotiating EU Directives, and assisting in

- developing HSE's legislative proposals for implementing Directives, rather than assisting only in fine-tuning HSE's final proposals.
- VII. 45% of respondents consider that ACDS should not be amalgamated with another Advisory Committee, (whilst 42.50% expressed no views on this issue) - the main reason cited being that the committees' brief is already very/too wide.
  - VIII. The majority of respondents (82.5%) wish to retain some face-to-face meetings, but consider that use of e-mail should be maximised.
  - IX. Respondents consider that the ACDS Subcommittees make a good contribution to the committee's work, and should be retained. However, some believe that the Gas Safety S/C could possibly become a separate Industry A/C.
  - X. Most respondents (67.50%) consider the relative contributions from HSE staff and members are about right. However, some (10%) thought that there was too much input from HSE. Suggested ways in which this situation could be improved included:
    - i. Finding ways of encouraging members to support initiatives, and discuss and progress issues;
    - ii. Smaller groups, with strategic input from members;
    - iii. Encouraging members to submit papers on issues;
    - iv. Written papers in good time prior to meeting, with questions and answers only at meeting.
  - XI. Respondents consider that ACDS should seek opportunities for further co-operation with other A/Cs. Suggestions included:
    - i. Continuing support for joint ACTS/ACDS Working Group on Chemical Essentials;
    - ii. Possible co-operation with Chemical Industry Forum and/or Engineering Industry Forum;
    - iii. Possible Programme Board with members from each A/C to try to facilitate "joined up" working; and
    - iv. Regular meetings of A/C Secretariats to discuss areas of interaction.

## Options

5 In the view of a small majority of stakeholders, the Advisory Committee should be retained, and reconstituted for a further period (as a minimum to December 2005). If this is the chosen option, then stakeholders consider that:

- I. The committee should meet as required by business needs, [probably no more than twice/three times per year, including one annual Open meeting].
- II. The committee should be reviewed annually thereafter.
- IV. If retained as subject Advisory Committee, the committee should seek a more proactive role - the bulk of its current workload is reactive e.g. fine-tuning HSE's proposals for implementing EU Directives.
- V. Members should be asked to undertake a more active role, including:
  - i. Showing more initiative in identifying suitable topics for discussion;
  - ii. Preparing papers for consideration;
  - iii. Contributing more to consultations on HSE policy documents;

- iv. Contributing more to requests for topics for inclusion in HSC's Forward Look;
- v. Identifying ways in which the committee can contribute towards implementation of HSC's Strategic Aims;
- vi. Participating more in discussions/debate on dangerous substances issues;
- vii. Examining the role and functions of the ACDS subcommittees to determine their future utility; and
- viii. Seeking opportunities for earlier involvement in development of HSC/E safety policy e.g. advising HSE on negotiations of EU Directives.

6 If, after consideration, this option is not chosen, then ACDS could be wound down completely; or converted into a consultative forum, which would be activated only as required. Whether the Committee is retained or not the future of the various sub-committees needs to be considered. Options for the subcommittees are:

- I. Transfer the work of the ACDS Major Hazards S/C to another A/C, possibly as a WG; or convert S/C into a consultative forum which would be activated only as required;
- II. Wind the work of the Flammable Substances S/C down completely; or transfer the work of the S/C to another A/C, (such as ACTS); convert the S/C into a consultative forum, which would be activated only as required;
- III. Wind down the ACDS Explosives S/C completely; or transfer the work of the S/C to another A/C, possibly as a WG; or convert the S/C into a consultative forum which would be activated only as required;
- IV. Wind down the Gas Safety S/C completely; or, subject to HSC approval, transfer the work of the Gas Safety S/C to an autonomous new Gas Industry Advisory Committee.

7 This report is being circulated to ACDS members for consideration and comment. There will be a slot for a short discussion at the next ACDS meeting on 23 November.

8 A copy of this report will be incorporated in a paper to be submitted to HSE's Deputy Director General concerning the committee's possible reconstitution. Decisions concerning reconstitution will be made early in 2005.

## APPENDIX B

### Summary of comments on HSE's proposals for ACDS

Name and Organisation	Comment
Hugh Robertson, TUC	<p>Aware that ACDS has not been functioning as effectively as it might of late; however, unclear what difference replacing an Advisory Committee with a Consultative Forum will make. If there is a need for an overreaching body on dangerous substances, TUC does not understand the logic of simply reducing its status.</p> <p>Hope that measures can be taken to increase the effectiveness of ACDS rather than just remove it - ACDS has a wealth of expertise for the HSE to tap.</p> <p>Concerned that winding down ACDS will mean that continuing work on Land Use Planning and Societal Risk, and Gas Safety will either cease or be reduced. Seek assurances that this work is going to continue. Consider that current work on gas safety especially is crucial and that some form of forum, which includes worker representation is necessary.</p> <p>A more obvious solution would be to ensure that the issues being referred to it are those where the Committee can feel it can add value.</p>
Dr Chris Beaton, CBI rep.	<p>Two concerns:</p> <ol style="list-style-type: none"> <li>i. Will be important to maintain consultative contacts with appropriate technically knowledgeable personnel to ensure emerging issues receive relevant consideration. Need to ensure that both industry and technical contacts are readily identifiable, and that the list of contacts is maintained. [Proposed consultative forum implies this, and it may be achievable through the CBI, TUC, academic and trade associations.]</li> </ol> <p>Need to consider the fate of the "Chemical Essentials" initiative. [As a member of the joint ACDS/ACTS working group for "Chemical Essentials", I am particularly keen to see the initiative become a reality.] It seems to have gone very quiet at present and, without ACDS (or</p>

	ACTS?), it may founder.
<p>Dr Tony Cox, Independent member of ACDS</p>	<p>Basically agree with what is proposed, assuming the transfer of gas safety to an sector-based committee, (and with DfT taking the lead on dangerous goods, and COMAH and DSEAR being fairly settled), on basis that ACDS does not have enough continuing business to justify its existence, and has no great workload in prospect.</p> <p>ACDS had moved towards a more inclusive membership in recent years - would not like to see that progress lost when the new consultative forum is constituted - opportunity might be taken to move further in that direction.</p> <p>Need to clarify the nature of the new body and how it is going to be used by HSE:</p> <ul style="list-style-type: none"> <li>• an expert committee?</li> <li>• a stakeholder committee?</li> <li>• a mixture like ACDS was?</li> <li>• or a forum to bounce consultations off?</li> </ul> <p>Need to ensure that the process is not reduced to a rubber - stamping exercise.</p> <p>Important that HSE/HSC's advisory/consultative committees are constructively engaged at the formative stage of new policy initiatives.</p> <p>Helps to have some independent members who are experts in the subject.</p>
<p>Professor Gordon Walker - Independent member of ACDS</p>	<p>Accept that ACDS in its current form was not as effective as it could be.</p> <p>Difficult to evaluate consultative forum as an alternative without knowing more about what this is, how it would operate, what its remit and role would be etc.</p> <p>Would like to see the replacement for ACDS exhibit the following characteristics: Broad membership of stakeholders, including public interest; Proactive rather than just responsive remit i.e. more than just consultative, and not just a body for HSE to go to with pretty much finished proposals - advising on strategic and longer term issues and taking on more innovative proactive work when appropriate; Continued representation from external science</p>

	<p>and social science experts, rather than only reps of organizations;  A flexible subgroup structure set up when needed, rather than on a standing basis; and  An independent chair.</p>
<p>Commander Jacqui King, MOD (Observer on ACDS, and member of both the Explosives and Major Hazards S/Cs)</p>	<p>Main concern is the effect of dissolving ACDS on work being conducted by the subcommittees.</p> <p>ACDS may have delivered MSER but how does HSE intend to monitor the legislation and ensure its technical content remains current?</p> <p>HSE needs to have a programme for verifying, validating and developing the technical content of MSER and explosive classification legislation.</p> <p>If ACDS is wound down where will HSE gain funding/executive authority to conduct the types of trials that are necessary to support a robust modern safety distance framework?</p> <p>Not sure that a consultative forum the appropriate mechanism for this.</p>

### Current position of ACDS Subcommittees

#### Major Hazards S/C

1 This has not met since February 2004, and there are no plans to meet in the foreseeable future. HSE's current major hazards work includes implementing amendments to the Seveso 2 Directive, implementing recommendations following HSE's review of land use planning, and, subject to Ministers' approval, a possible cross-government project to review policy on land use planning based on societal risk. However, it is uncertain whether this would require the active participation of ACDS or the Major Hazards S/C.

#### Flammable Substances S/C

2 This last met in February 2003 to discuss HSE's final proposals for the ACOPs and guidance for the Dangerous Substances and Explosives Atmospheres Regulations 2002 (DSEAR). Much of the work of the Flammable Substances S/C and the Petrol Working Group has been suspended to allow more HSE resources to be diverted into supporting work contributing more directly towards HSC's Strategic Aims.

#### Explosives S/C

3 The work of the of the Explosives S/C has included a fundamental review of consequences models of explosive effects, and assisting HSE in the review of Explosives Act 1875, and in developing proposals for the Manufacture and Storage of Explosives Regulations 2004 (MSER). Work on these regulations is now complete, and there has been no further substantive work identified for the S/C (although the working of the MSER will need to be reviewed in due course).

#### Gas safety S/C

4 A Gas Safety Sub Committee (GSSC) was established under the Advisory Committee on Dangerous Substances (ACDS) and carried forward work from HSC's Fundamental Review of gas safety, essentially through revising the two codes of gas safety regulations, and addressing competence and publicity.

5 This work has effectively drawn to a close as a consequence of:

- 1) HSC's decision last year not to proceed with revising the regulation;
- 2) HSC's new strategy of encouraging industry to take ownership and demonstrate leadership (in particular, where industry is rising to the challenge on gas publicity and competence); and
- 3) stakeholder consultation that is built in through a 'forum' as a part of the current research contract work on the regulations.

6 More recent gas safety matters are being taken forward as follows:  
A new international Standard (ISO 17024) setting out requirements for certifying bodies from 1 April 2005 required the Nationally Accredited Certification Scheme for Individual Gas Fitting Operatives (ACS) to have a scheme committee to develop and maintain the scheme. The Gas Safety S/C's Working Group 3, dealing with Operative Competence, has been converted into the ACS Scheme Committee following consultation with WG3 members and UKAS.

7 HSE currently provides the Chair and Secretariat to this ACS Scheme Committee, but is seeking to withdraw now that it has completed the action required by ISO 17024 and for the Committee to be industry-led.