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**HEALTH AND SAFETY COMMISSION
ADVISORY COMMITTEE ON TOXIC SUBSTANCES**

**Analysis of the discussion document on the Occupational Exposure Limits
(OEL) framework**

A Paper by Michael Topping

Issue

- 1 Development of a new Occupational Exposure Limits (OEL) framework in the light of the responses to the discussion document.

Timing

- 2 Subject to approval by ACTS, the Working Group will prepare a Consultative Document (CD) containing formal proposals for a new OEL framework for consideration by ACTS and HSC in spring 2003. This will be published in summer 2003, with changes to the COSHH Regulations being implemented in 2004.

Recommendation

- 3 ACTS requests its OEL review Working Group to develop formal proposals for a new OEL framework as set out in paragraphs 13–24, for consideration at March 2003 meeting.

Background

- 4 At its meeting in July 1998, ACTS discussed the drawbacks in the current OEL Framework and agreed that a working group should be set up with the remit:

"To develop a revised OEL Framework, within the context of the COSHH control hierarchy, to provide a robust tool for the management of chemicals in the workplace thereby contributing to the effective protection of workers' health."

- 5 At its meeting in November 2001, ACTS agreed the publication of a Discussion Document (DD) developed by the Working Group. The DD examined the concerns with the present system, put forward and compared three options for a revised framework and proposed a new set of criteria for establishing the limits.
- 6 The DD was published as an ACTS Discussion Document in March, with the end of July as the closing date for comments.
- 7 This paper sets out an analysis of the responses and presents the Working Groups proposals for a new OEL framework and the way forward.

Argument

- 8 Fifty-six replies were received to the DD. Of these 6 offered no comment on any part of the DD but were grateful for being sent it and asked to receive future DD/CDs. Many of the others did not answer all the individual questions. Many respondents expressed appreciation that HSE had sought views at an early stage and commented favourably on the way the issues had been set out. A typical comment was: "The options are clearly set out, represent a fair expression of extensive earlier consultations, fairly argued and without prejudice". Inevitably a few respondents (6) particularly disliked something, although 2 of these who commented on electronic availability may not have realised that the DD was downloadable from the HSE website. An analysis of responses is at Annex A.
- 9 Responses were received from Industry; Trade Unions; Health and Safety Consultants; Health and Education Sectors; Government Departments; Associations, Federations, Institutes and Societies; and individuals. A list of respondents is at Annex B.

Need for change

- 10 All of the 41 respondents answering the question agreed with the concerns about the current OES/MEL system. Only one respondent did not agree with the need for change and most (86% of 36 replies) agreed with the key objectives for a new approach.

Which Option?

- 11 **Option 1:** only 2 respondents favoured option 1 (maintain the present system with minor modifications to the indicative criteria) as they felt it is simple; easily followed; understood; and works well. However, one of these had no fundamental objections to options 2 (good practice supported by a single limit) or 2A (good practice supported by a system which flags carcinogens). None of the 56 respondents provided fundamentally new insights and other proposals for an OEL system.
- 12 **Options 2/2A:** respondents favouring option 2 felt that this was the simplest approach, but several recognised the need to ensure stringent control of carcinogens. Most respondents opted for option 2A, as being the simplest way of flagging the need for stringent control of carcinogens. There was widespread support for assessment in the DD as to how well the three options met the 7 objectives for a new system and their contribution to revitalising health and safety.

The Working Groups proposals for a new Occupational Exposure Limit Framework

- 13 The Working Group propose an approach that combines options 2 and 2A to give the "best of both worlds". The proposal is for a single type of limit and list of limits with the principles of good occupational health/hygiene practice set out in a new schedule to the COSHH Regulations. It would be drawn from existing regulatory requirements. It would not contain new duties. Good practice advice would give guidance on good occupational health/hygiene practice for specific circumstances. This approach has been adopted for the GMO regulations, extract attached at Annex C.

- 14 One of the principles of good occupational health/hygiene will be that if a substance is assigned the risk phrases R45, R46 or R49, or covered by Schedule 1 of the COSHH Regulations, exposure must be reduced as low as reasonably practicable. This will provide the flag that respondents who supported option 2A wanted and at the same time maintain the simplicity of a single limit wanted by those supporting option 2.
- 15 The Working Group identified a number of issues that they felt needed to be addressed in the consultative document:
- the benefits to industry of the proposed new system, particularly SMEs who are likely to benefit the most from the good practice advice;
 - how the recommended option sits with the approach to risk assessment/management set out in *Reducing Risks, Protecting People*;
 - the scientific basis, including how the new system will be more transparent on uncertainty than the present system; and
 - where air monitoring is appropriate.
- 16 The Working Group also felt that the CD should include practical examples of how the system will work, particularly with regard to cases where COSHH Essentials advice is not available.

COSHH Essentials and good practice advice

- 17 Thirty-six of the 38 who responded to the question supported the approach of sourcing good practice advice using COSHH Essentials guidance sheets as the default, complemented by substance or process specific sheets, as necessary. However a number of respondents expressed concern about the status of COSHH guidance and whether this approach would in fact make following COSHH Essentials guidance mandatory, since the proposed definition of adequate control is to:
- *Apply the principles of good occupational health/hygiene practice; and comply with the limit value.*
- 18 It is not the intention to elevate COSHH Essentials guidance to ACoP or mandatory status – paragraph 93 of the discussion document makes this clear. The proposed new schedule to the COSHH regulations, (see paragraph 13), would set out the legal duty. COSHH Essentials guidance sheets and the substance or process specific sheets would provide advice for specific circumstances or employers could use alternative approaches that represented good occupational health/hygiene practice. In cases where no OEL or good practice exists for a substance, the general principles of good practice would apply. However, HSE recognises that COSHH Essentials does not cover all substances. We are currently developing additional guidance sheets e.g. for process generated substances and asthmagens but this work is unlikely to be completed by 2004. In the meantime we could provide general guidance to cover the gaps.

Linking COSHH Essentials into the OEL framework

19 Thirty-seven also responded about an electronic package with all of them feeling that linking OELs; COSHH Essentials; EH64 and key COSHH guidance would be helpful to duty holders. 32 saying it would be helpful to most and 5 saying a minority. For a system using good practice to be effective, it is essential that HSE's advice is available free of charge.

Criteria for setting OELs

20 There was strong support for the proposed criteria for setting OELs, however a respondent expressed concerns that in criterion 1 the use of the phrase "the evidence available", may imply deductions about the likely impact of the substance on health given its components and what is known about their effects, even where there is as yet no evidence about the substance itself. However, this is not the way the HSC sets limits, – for example comparative data is taken into account (see Paper WATCH 20/2002 Chemical Substitutes for Glutaraldehyde in Sterilisation of Medical Equipment). With criterion 2, two respondents expressed the view that the over-riding consideration must be to set the value at a level at which there is no damage to the health of individuals, with the precautionary principle in mind. These issues are dealt with in paragraphs 103 of the discussion document as follows.

"103. For the reasons laid out in paragraph 99, it is clear that with OELs set by Criterion 2 there could be no guarantee of complete health protection. However, wherever possible, the OEL would not be set at a level at which there is positive evidence of adverse effects on human health. Unfortunately, there will be a small minority of substances for which this is not possible because of socio-economic considerations. For such substances the OEL value would be arrived at following detailed considerations of the costs of improved control solutions balanced against the estimated health benefits from reducing exposure. These arguments would be set out in regulatory impact assessments."

21 The Working Group agreed that the CD will include explanatory text with the criteria setting out how these issues will be addressed. In addition the flow diagram at Figure 1, page 29 of the DD, which sets out the logic will be included. A more detailed flow chart which shows the decision making process that the limit setting committee will need to go through will be set out in an annex in the CD.

Integrating existing OELs into the new framework

22 Most respondents supported preference B in the discussion document, "a new system would have about 150 OELs, all of which would be judged to be soundly based from a scientific/technical standpoint and would all match the new OEL criteria. However a number of major stakeholders did not support preference B, including 4/5 unions responding, who chose preference A and the CIA who were unable to select any of the preferences. Annex D explores approaches to integrating existing limits into the new framework.

23 The Working Group is concerned that wholesale deletion of OELs could send the wrong signals, and would not be helpful to employers. However it was agreed that we did not want to incorporate "uncertain" limits into the new system if there are health risks at the OEL value. The Working Group did agree that limits which, following consultation, were considered "unsafe" could not be incorporated into

the new system. Similarly there is no value in maintaining limits for banned substances.

- 24 The Working Group agreed the proposal for a joint meeting with WATCH to discuss the allocation of substances to the various categories (see Annex D). In addition the Working Group asked HSE to compare for the uncertain substances the COSHH Essentials hazard band as derived from the OEL with that derived from the R phrase. This analysis will inform the Working Groups recommendations in the CD for transferring existing OELs into the new system.

Regulatory Impact Assessment

- 25 Although only a few respondents commented on the draft RIA, the information provided will inform the RIA which will accompany the formal proposals.

Communication Plan

- 26 Not relevant

Evaluation Plan

- 27 Not relevant

Relevant Control Systems

- 28 Not relevant

Consultation

- 29 Publicity for the review involved the TUC; safety representatives, SMEs, trade and supplier associations, CIA, ROSPA, Chambers of Commerce, IACs and the insurance industry.
- 30 HSE spoke at IOSH's evening branch sessions between January and August 2002. These sessions attracted generalist health and safety professionals and safety representatives.
- 31 The editor of Annals of Occupational Hygiene published an editorial on the proposals in the March 2002 issue of the Annals; and the Health and Safety Practitioner published an article on the proposals.

Costs and Benefits

- 32 An initial Regulatory Impact Assessment was in Annex 1 of the DD.

European implications

- 33 The need to conform to the EU perspective was one of the main considerations in conducting the review. The approach suggested is in keeping with current EC requirements regarding Indicative and Binding Occupational Exposure Limit Values (IOELVs and BOELVs), and likely future developments.

Devolution

- 34 None. Health and safety regulation is conducted on a Great Britain wide basis.

Action

35 ACTS is invited to request its OEL review Working Group to develop formal proposals for a new OEL framework as set out in paragraphs 13 -24, for consideration at the March 2003 meeting.

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Discussion Document DDE19 – Occupational Exposure Limits Framework

Breakdown of responses

This annex sets out the number of respondents who replied to each of the questions in Annex 3 of the discussion document. It also contains pie or bar charts as appropriate to help draw out the main trends emerging from external consultation. For some questions, further discussion of the broad areas of comment is contained in the argument section of the main paper. While the annex and associated charts are based on simple numbers of responses, analysis of the comments did take into account the status of respondents.

56 responses were received to the DD, however 6 of these offered no comment on any part of the DD. The percentages shown are the percentage of the respondents replying to that particular question.

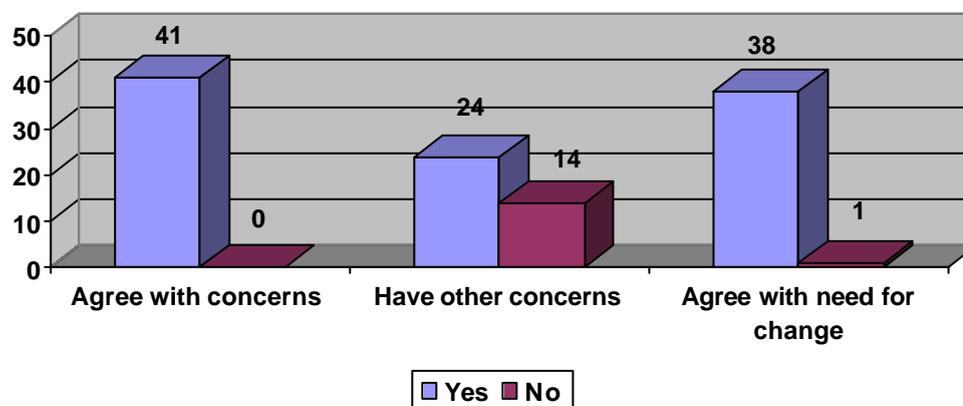
Question 1

a) Do you agree with these concerns about the current system? 41 respondents replied to this question, all agreed with the concerns.

b) Do you have any other concerns about the current system? Of the 38 responses to this question, two thirds listed other concerns. Common themes were:

- Limits – lack of understanding;
- SME's – their lack of understanding of the system and inability to measure exposure;
- Enforcement – difficulties in enforcing exposure limits;
- Data sheets – the information they contain and lack of availability to safety reps.

c) Do you agree with the need for change? 39 respondents replied to this question, 38 agreed with the need for change.



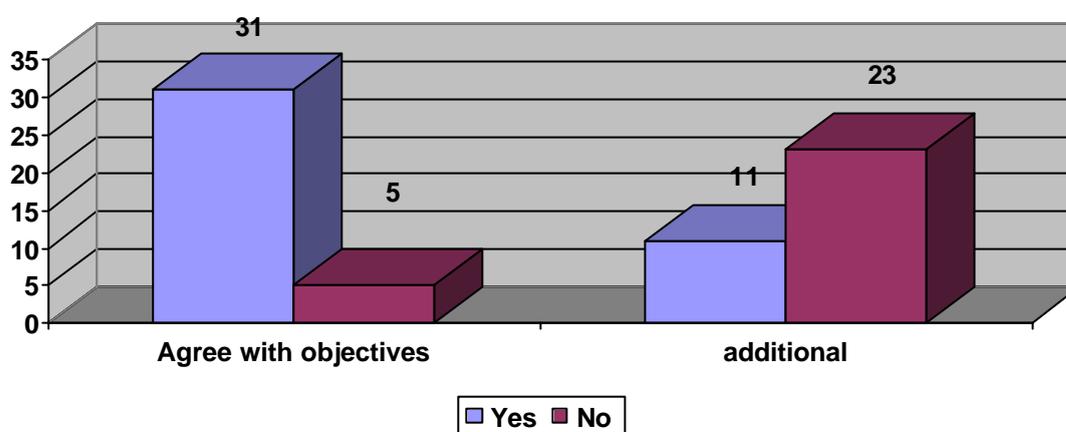
Question 2

a) Do you agree with the key objectives for a new approach?

36 replied to this question with 31 agreeing with the key objectives for a new approach. (See paras 68-75, page 21-22 of the DD).

b) Do you think additional objectives are needed? 11 of the 34 replying felt that additional objectives were needed. Suggestions for additional objectives included:

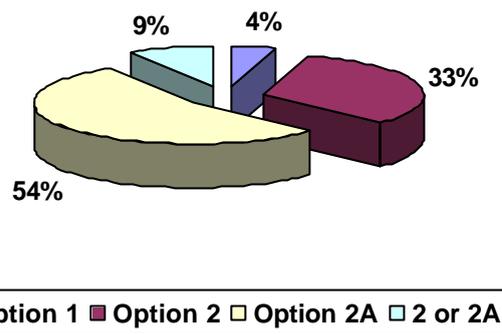
- compatibility with EU MS;
- prevention of occupational ill health;
- novel communication routes with SMEs;
- introduction of an accreditation/licensing system.



Question 3 – Which of the three options for a new approach do you prefer?

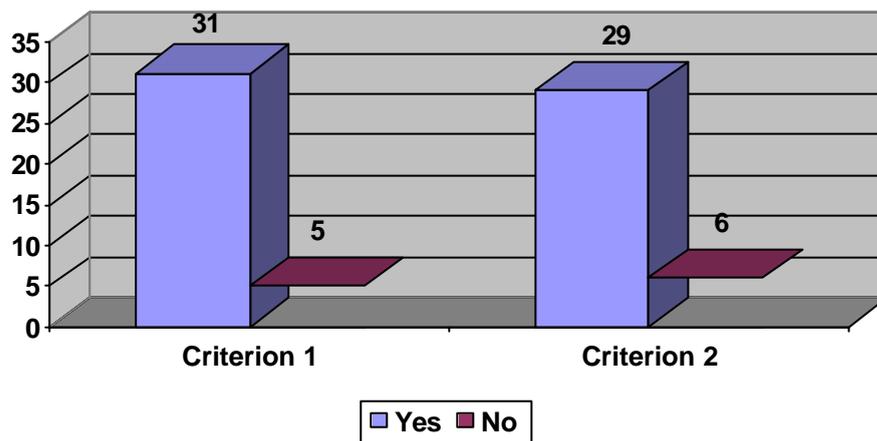
Just 2 of the 46 who replied preferred Option 1 (maintain the present system with minor modifications to the indicative criteria). 4 didn't specify between Options 2 and 2A, with 15 preferring Option 2 (good practice supported by a single limit). The majority (25) supported Option 2A (good practice supported by a system which flags carcinogens). Support for Options 2 and 2A came from:

Sector	Option 2	Option 2A
Industry	2 respondents	6 respondents
Trade Unions	5 respondents	1 respondents
Associations; Federations; Institutes; and Societies	4 respondents	5 respondents
Health Sector	-----	1 respondent
Govt. Depts	-----	1 respondents
H&S Consultants	-----	3 respondents
Education	1 respondent	-----
Individuals	3 respondents	8 respondents (some of these may be H&S consultants, it is not clear from their replies)

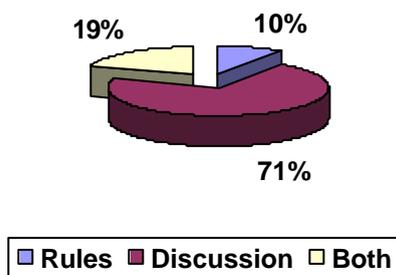


Question 4

a) Do you agree with the proposed criteria for setting limits under options 2 and 2A? 36 replied to this question regarding Criterion 1, with 31 agreeing. 35 replied about Criterion 2 with 29 agreeing. (See paras 98-108, page 27-29 of the DD).



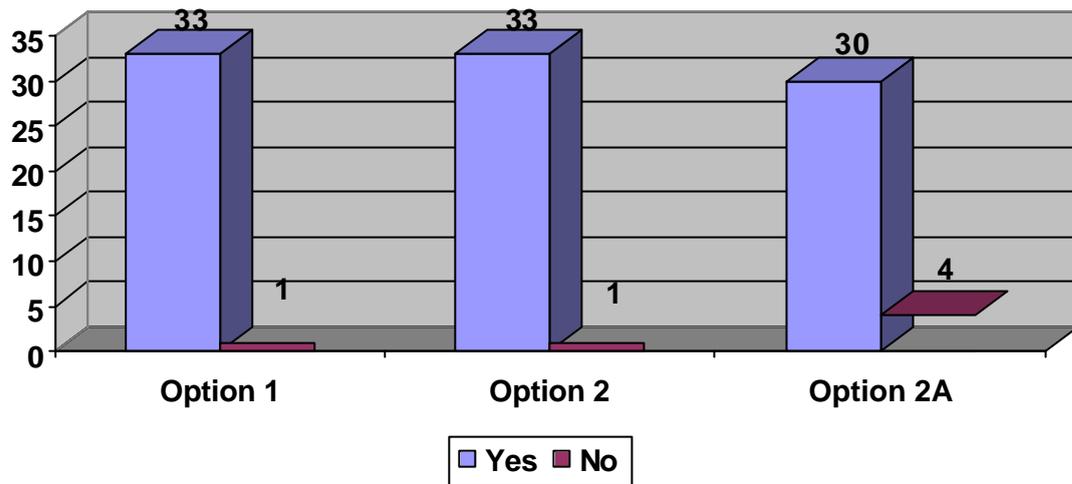
b) Considering the issues in paragraphs 101-102, how do you think the limit should be arrived at? 26 replied to this question. 22 thought the limit should be arrived at by discussion. 3 would prefer a system of rules. 6 thought it should be a combination of both.



Question 5 – Is the assessment of the options against the 7 criteria in Table 1 a balanced reflection of the potential of the options

34 replied to this question with regard to Option 1, with 33 agreeing it is a balanced reflection. Option 2 had the same response.

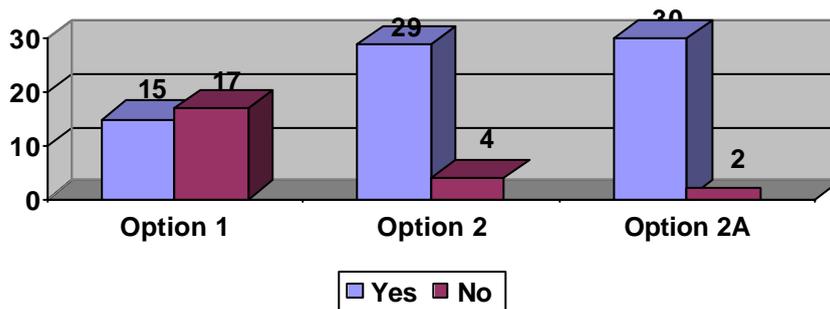
34 also replied regarding Option 2A but this time 30 agreed. The concerns of those that disagreed included: substances not identified as carcinogens possibly being felt to be less of a hazard and so treated less seriously; and extraction/ ventilation controls not being adequately maintained. (See Table 1, page 31 of the DD).



Question 6 - Will the options contribute to revitalising health and safety as set out in Table 2?

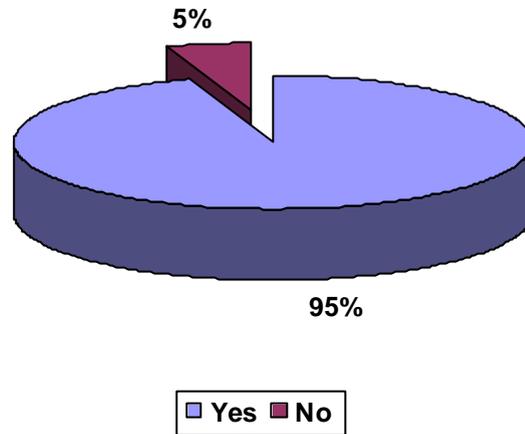
32 replied regarding Option 1, with 15 saying yes and 17 saying no. However, it is clear from the comments that the wording of this question caused confusion as the 17 respondents who said no, meant no contribution to Revitalising rather than disagreeing with the information as set out in the table, which stated the option would not result in a contribution to Revitalising.

33 replied regarding Option 2, with 29 feeling that the options would contribute to Revitalising. 32 replied about Option 2A, and this time 30 thought there would be a contribution to Revitalising. (See Table 2, page 32 of the DD).



Question 7 - Do you support the approach of sourcing good practice advice using COSHH Essentials guidance sheets as the default complemented by substance or process specific sheets as necessary?

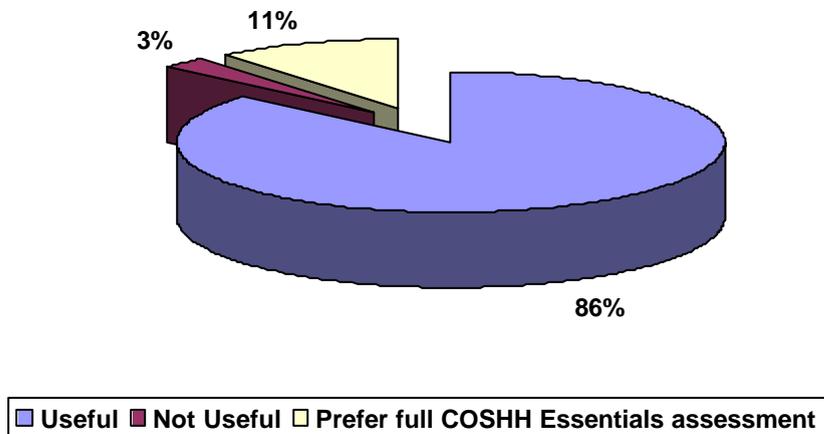
36 of the 38 who replied to this question supported the approach.



Question 8 – The proposed approach to integrating COSHH Essentials into the OEL framework is:

- a) Useful
- b) not useful
- c) Would prefer users to be directed to a full COSHH Essentials assessment

Some 37 replied to this question, 32 of whom considered that it would be useful. 1 felt it would not be useful and 4 would prefer users to be directed to a full COSHH Essentials assessment.



Question 9

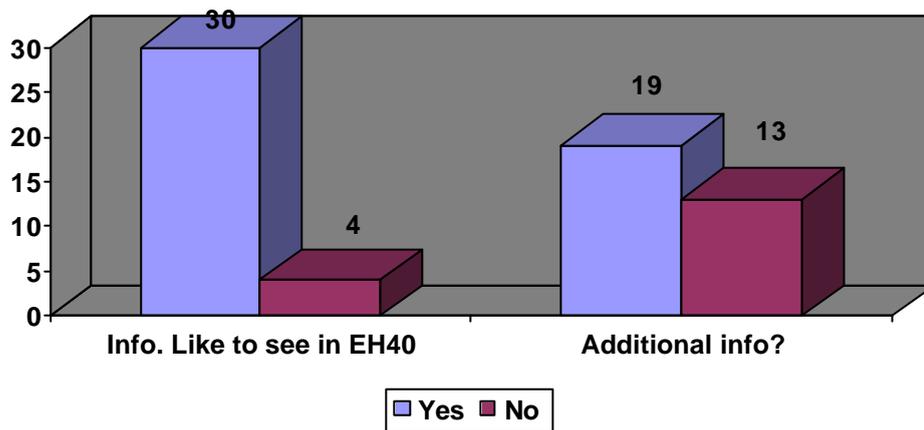
a) Does Table 4 give the information you would like to see in EH40?

34 replied to this question with 30 confirming that Table 4 did give the appropriate information. (See Table 4, page 37 of the DD).

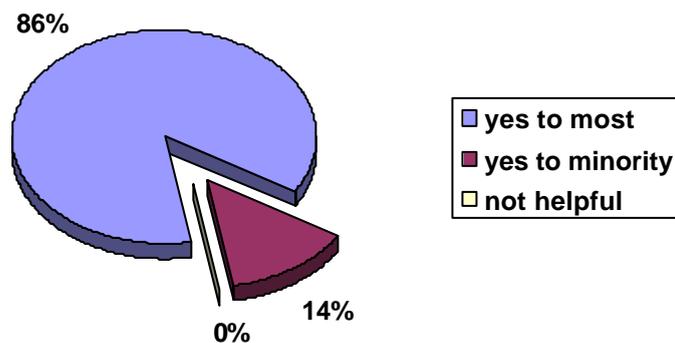
b) Is there any additional information you would like to be included?

Of the 32 replying to this question, 19 would like additional information such as:

- synonyms of substances;
- hazard groups for all substances listed;
- R phrases;
- notations currently in EH40 e.g. SK, SEN etc;
- BMGVs;
- all data currently in EH40;
- Physchem properties.



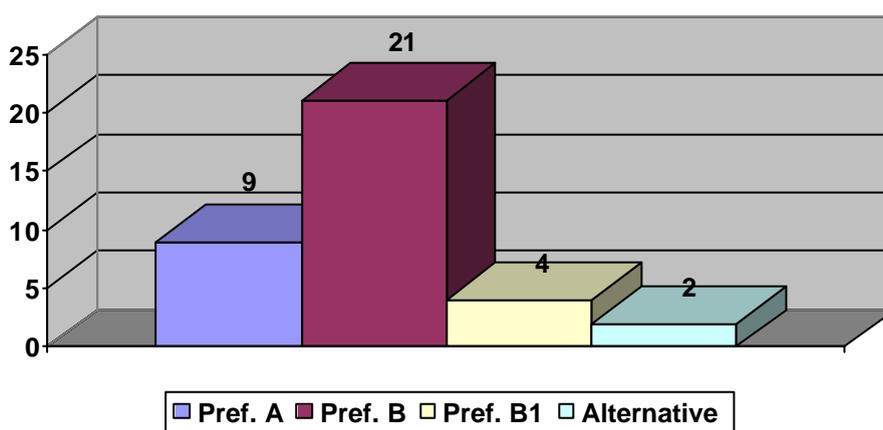
Question 10 – Would an electronic package which linked together OELs, COSHH Essentials, EH64 and key COSHH Guidance be helpful to duty holders? 37 replied to this question, with all of them feeling an electronic package would be helpful. 32 saying it would be helpful to most duty holders and 5 that it would be helpful to a minority.



Question 11 – Please rank your preference (Table 5) for dealing with existing OELs, with 1 being your favourite option.

21 ranked Preference B first. 9; 4; and 2 respondents ranking Preferences A; B1 and an alternative option not discussed in the discussion document first, respectively. (See Table 5, page 41 of the DD).

Sector	Pref. A	Pref. B	Pref. B1	Alternative
Industry	2	5	1	--
Trade Unions	4	1	--	--
Associations; Federations; Institutes; and Societies	--	4	1	1
Health Sector	--	1	--	--
Govt. Departments	--	1	--	--
H&S Consultants	1	2	1	--
Education	--	1	--	--
Individuals (some of these may be H&S consultants, it is not clear from their replies)	2	6	1	1



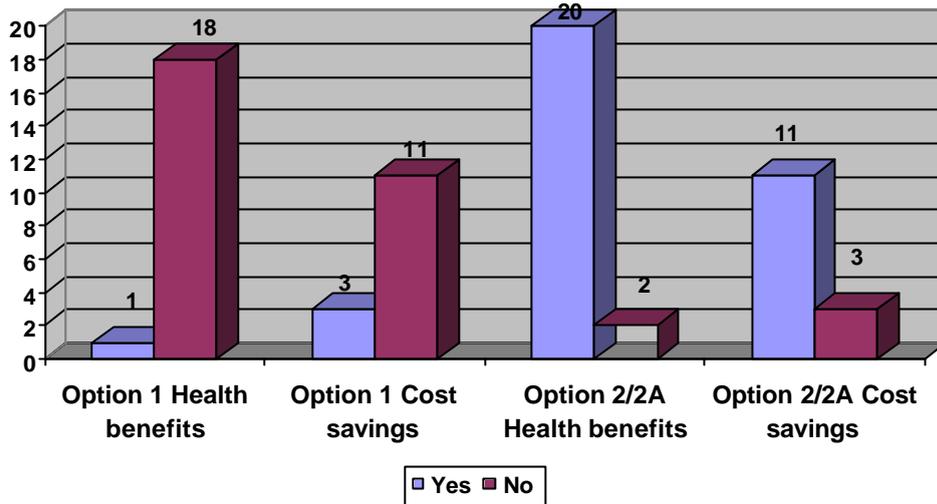
Question 12 – HSE would welcome views and quantitative information on the RIA and on the following points in particular:

a) will there be benefits under Option 1?

18 of the 19 replying to the health benefit part of this question did not envisage any health benefits. 14 replied regarding cost savings with 11 expecting no savings.

b) will there be benefits under Option 2/2A?

22 replied to the health benefit part of this question. 20 felt Option 2/2A could result in benefits. 14 replied to the cost saving part of this question with 11 expecting Option 2/2A to result in savings.

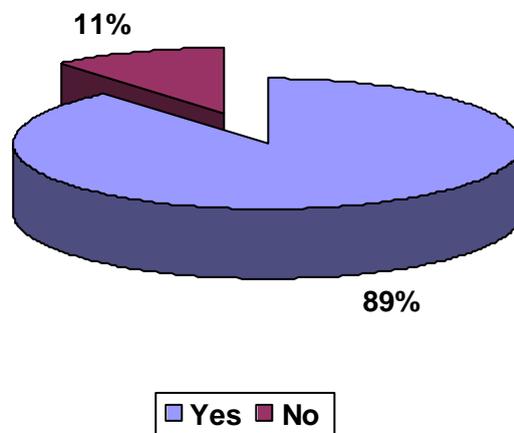


Question 12 c) approximately how many firms/sectors are likely to be affected by changes to the OEL framework? Those that responded to this question said 53 Police Services; all colleges; 4,000 printing (screen process) firms; and 80% of EEF members are likely to be affected.

Question 12 d) are the compliance costs to industry under option 1 realistic?

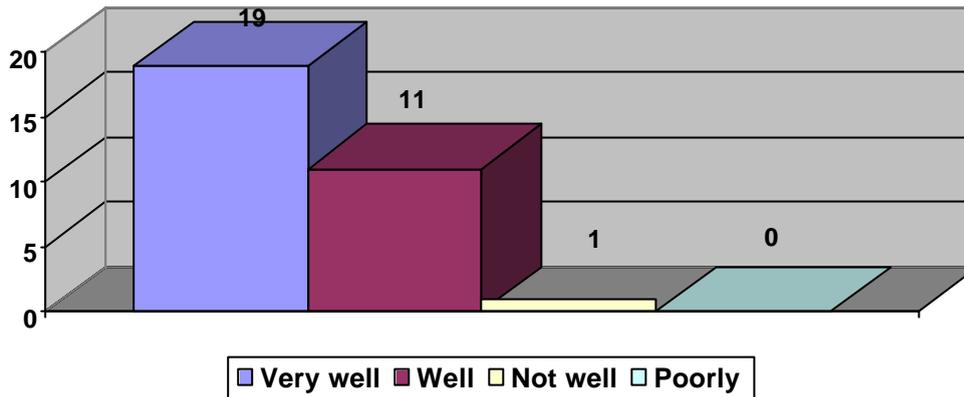
11 replied to this question, with all of them agreeing that the compliance costs were realistic.

Question 12 e) are the assumptions about the compliance costs to industry when following good practice under option 2/2A reasonable? 9 replied to this question. Of these, 8 felt the assumptions were reasonable



Question 12 f) what percentage of firms currently use the flexibility of being able to exceed an OES? 5 replies to this question gave a percentage. Three said 60%; one said 30%; and one said 20%.

Question 13: In your view how well does this Discussion Document represent the different policy issues involved in this matter. 31 replied to this question. 19 were of the opinion that the Discussion Document represented the issues very well. 11 felt they were represented well, and 1 thought they weren't represented well. No one said they were poorly represented.



Question 14

a) Is there anything you particularly liked about this consultation?

23 replied to this question. 22 did have something they particularly liked. The opportunity to reconsider OELs and EH40 was welcomed with a typical comment being “The options are clearly set out, represent a fair expression of extensive earlier consultations, fairly argued and without prejudice”.

b) Is there anything you particularly disliked about this consultation exercise?

14 replied to this question with 6 of these particularly disliking something, 2 of these were about replying electronically (these respondents may not have realised that the DD was downloadable from the HSE website).

Responses to OEL Framework Discussion Document DDE19

Akzo Nobel Decorative Coatings Ltd
Allan, David
Alvin J Woolley Associates
Association of Chief Police Officers in Scotland
BAE Systems
BP Grangemouth
Bradley, Steve
British Coatings Federation
British Energy Generation
British Institute of Occupational Hygienists
British Lubricants Federation - no comment on any part of the DD
British Medical Association
British Nuclear Fuels plc
Bro Morgannig NHS Trust
Bundesanstalt fur Arbeitsschutz and Arbeitsmedizin
Bury College
Carter, Tim
Chalmers, Dick
Chard, Charles - confidential reply
Chemical Industries Association
Doctrine & Bond
Electricity Association
Elementis Chromium
Engineering Construction Industry Association
Engineering Employers' Federation
Eurisol UK Ltd – (Mineral Wool Manufacturers Association)
GMB
Gordon, Susan
Graphical, Paper and Media Union (GPMU)
Green, Jackie
Harry Wilson Associates
HM Customs and Excise
Home Office - no comment on any part of the DD
Inco Europe Limited
Industrial Health Control
Institute of Directors - no comment on any part of the DD
Johnston, Shane
Keeping, Paul
Lattice Group PLC
Lewis & Hickey Safety Management Ltd.
Pesticides Safety Directorate
Prospect
Rising, Trevor
Royal Pharmaceutical Society of Great Britain - no comment on any part of the DD
Royal Society of Chemistry

Sericol Ltd.
Slann, Jeremy
Smith & Nephew Medical Ltd.
Transport and General Workers Union
TUC
UK Cleaning Products Industry Association (UKCPI) - no comment on any part of the DD
Union of Shop Distributive and Allied Workers
Water UK
Welsh Assembly Government - no comment on any part of the DD
Westmoreland, John
Wyatt, David

SCHEDULE 7

Regulation 17(2) and (3)

**GENERAL PRINCIPLES OF GOOD MICROBIOLOGICAL PRACTICE AND
OF GOOD OCCUPATIONAL SAFETY AND HYGIENE**

The general principles of good microbiological practice and of good occupational safety and hygiene are as follows:-

- (a) keeping the workplace and environmental exposure to any genetically modified micro-organism to the lowest reasonably practicable level;
- (b) exercising engineering control measures at source and supplementing these with appropriate personal protective clothing and equipment where necessary;
- (c) testing adequately and maintaining control measures and equipment;
- (d) testing, where necessary, for the presence of viable process organisms outside the primary physical containment;
- (e) providing appropriate training of personnel;
- (f) formulating and implementing local codes of practice for the safety of personnel, as required;
- (g) displaying biohazard signs where appropriate;
- (h) providing washing and decontamination facilities for personnel;
- (i) keeping adequate records;
- (j) prohibiting in the work area eating, drinking, smoking, applying cosmetics or the storing of food for human consumption;
- (k) prohibiting mouth pipetting;
- (l) providing written standard operating procedures where appropriate to ensure safety;
- (m) having effective disinfectants and specified disinfection procedures available in case of spillage of genetically modified micro-organisms;
and
- (n) providing safe storage for contaminated laboratory equipment and materials where appropriate

ANNEX D

1. The Discussion Document on the OEL Framework review outlines various options for transferring existing OELs into a new system. In preparation for whatever option is agreed, staff in the Industrial Chemicals Unit of HSE have carried out a screening exercise and have categorised all substances listed with an OEL in EH40/2002 into different groups (i) Unsafe; (ii) Of concern (iii) Uncertain and (iv) Well-founded, as indicated below. In parallel with this exercise, staff from HSE's Occupational Hygiene Unit classified these chemicals according to their scale of industrial use. Four categories were developed (i) Widely used (ii) Scarcely Used (iii) Usage pattern unknown, and (iv) Banned/not in use. The latter category applies to a number of pesticides.

2. In addition to substances with a specified OEL (OES or MEL), consideration will also need to be given to the fate of CHAN substances that do not have a legal limit, and to the hydrocarbon solvents covered by the guidance values and reciprocal calculation approach (see pages 58 and 59 of EH40).

3. The outcome of this exercise revealed a total of 439 substances with an existing OES, and 69 with a MEL. There were 14 substances with CHANs identified. Note that in totalling the OESs, all dusts listed with values for total inhalable and respirable dust have been counted as one OES entry; also, where a substance exists in different isomeric forms (eg cresols, pentyl acetates, xylenes) each isomeric group has been placed in one OES entry.

4. The final analysis of OELs yields the following breakdowns:-

<i>OESs</i>		<i>MELs</i>	
Unsafe	n = 15	Unsafe	n = 1
Of concern	n = 43	Of concern	n = 4
Uncertain	n = 292	Uncertain	n = 8
Well-founded	n = 89	Well-founded	n = 56

The criteria on which this analysis has been based are outlined below.

5. In terms of the scale of industrial use of these substances, the following results emerge:

For the OESs:

OES Category	Widely Used	Scarcely Used	Usage pattern unknown	Banned/not in use
Unsafe	14	1	0	0
Of concern	35	6	1	1
Uncertain	233	22	16	21
Well-founded	83	3	1	2

MEL Category	Widely Used	Scarcely Used	Usage pattern unknown	Banned/not in use
Unsafe	1	0	0	0
Of concern	3	1	0	0
Uncertain	8	0	0	0
Well-founded	52	1	3	0

CHANS	Widely Used	Scarcely Used	Usage pattern unknown	Banned/not in use
14	11	1	2	0

Criteria for categorisation of OES and MEL substances

UNSAFE

6. There is positive evidence that the OEL is set at a level likely to be harmful to health. The evidence has been identified (where possible) from the documentation produced by the Dutch-led committee on TLVs; from ACGIH; from SCOEL; or is based on WATCH conclusions.

OF CONCERN

7. There are good grounds for concern that the current OEL may be inappropriate but no positive evidence that it would cause harm. Concerns may be based on structure-activity relationships, or based on documentation from ACGIH, Dutch-led TLV Committee, WATCH documentation.

UNCERTAIN

8. The OEL is not based on a post-COSHH WATCH/ACTs review, nor is there an IOELV. If it is an OES, the Dutch-led committee may have concluded there is inadequate data to support the corresponding TLV. There is no awareness of positive evidence that the OEL is set at a level that would be harmful to health, but nor is there evidence to indicate that the OEL would be protective. There is no HSE or SCOEL documentation to back up the OEL value. The OEL is likely to have been established pre-1989, and for some MEL substances, it is uncertain whether because of technological advances, a significantly lower value could now be attained. Additional grounds for selecting this category are if this substance is under review by SCOEL, and a proposal for an IOELV is likely to emerge. Adoption of the IOELV could mean a change to the existing OEL in EH40.

WELL-FOUNDED

9. The OEL is based on a post-COSHH WATCH/ACTS review or reflects an adopted IOELV. There is EH64 documentation available outlining the basis for the limit value. There is no awareness of any evidence to indicate that the current OEL value is unsound either from a toxicological perspective, or from what is practicably achievable from an occupational hygiene standpoint.

Substances in this category should be able to go forward directly into the new system with the same OEL value, and without need for further scientific evaluation.

Results of the consultation on impact of proposed options for a new limit framework on existing OESs and MELs.

10. In response to this consultation exercise, 74% **{provisional}** of consultees said that they are in favour of Preference B, whereby:

All MELs derived through the current WATCH/ACTS process (ie well-founded) would go forward directly into the new OEL framework. A small number of long-standing MELs derived from the pre-COSHH era would be reviewed to check the appropriateness of the OEL value, plus any for which there was evidence that the current MEL is unsound in the context of the new system. Only those OESs derived through the current WATCH/ACTS process (ie well-founded) would go forward. The remainder would be discarded.

11. The consequences of pursuing this preference would be that 92 OESs **{NB provisional figures only at this stage}** would automatically be transferred to the new framework. The remaining 68 MEL substances **{provisional}** have been examined by HSE to establish whether the limits represent good practice.

12. However a number of major stakeholders did not support preference B, therefore options for dealing with substances in the unsafe, of concern and uncertain category need to be developed. TD3 have estimated the usage of all substances in EH40, to enable a "scarcely used" category to be developed. It is proposed that this is defined as less than 10 tons used per year or fewer than 100 people exposed. A table giving the number of substances in this category will be circulated later. It is proposed that these limits may be dropped.

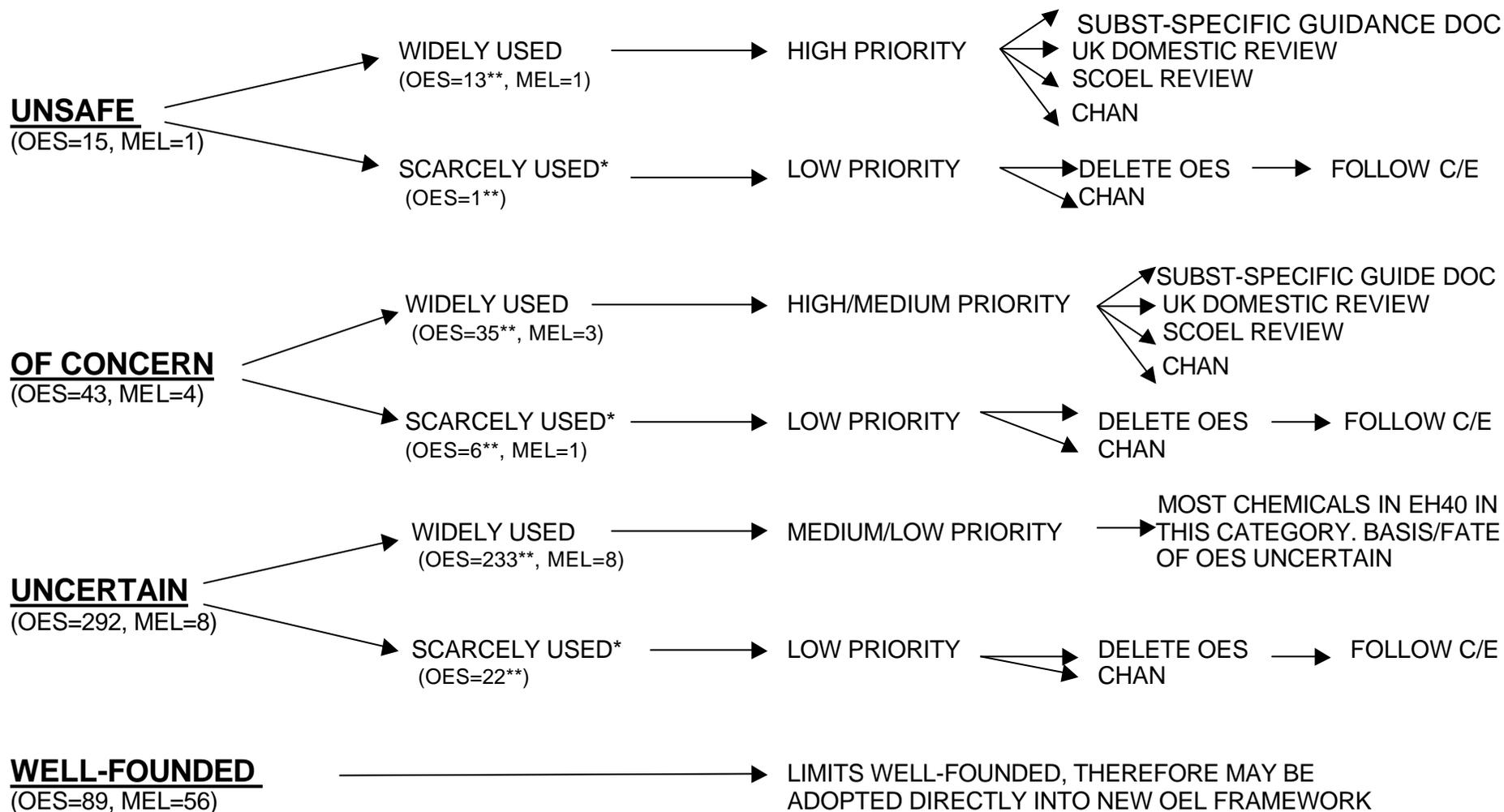
13. There are 4 options for dealing with the remaining substances:

- i. abandoned;
- ii. proposed to SCOEL as priority substances for review;
- iii. exceptionally considered for a "domestic" review; or
- iv. incorporated into the new system, recognising that the data to support the limit may be very limited (this option is not tenable for substances in the unsafe or of concern category).

14. The proposals outlined above are summarised in the attached flowchart.

15. A joint meeting will be arranged in January for the ACTS OEL review Working Group and WATCH to discuss the allocation of substances to the various categories and options for dealing with the substances,

16. In the consultative document it is proposed the substances in each category would be listed along with the proposed option for the substance. Consultees disagreeing with any allocation will be invited to provide evidence to support an alternative allocation.



(* ~ <100 people exposed and less than 10 tonnes per annum)

**Remaining substances usage remains unknown or chemical recently banned – see Annex D & chemical tables for details