

Health and Safety Executive SMT Paper		SMT/08/65	
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HEALTH AND SAFETY EXECUTIVE

Senior Management Team

Progress on creating a single chemical regulation function

Advisors: CREATE Project Team

Cleared by Steve Dennis 25 September 2008

Issue

1. The CREATE project aims to develop a single chemical regulatory function under the existing (and known future) regulations. The project is looking at potential synergies between the teams currently dealing with the regulation of pesticides, detergents, biocides and chemicals.

Timing

2. Routine.

Recommendation

3. The SMT is invited to note the progress of the CREATE project and the next steps towards a recommendation to the HSE Board in the new calendar year.

Background

4. See the attached progress report provided to the CREATE Project Board.

Health and Safety Executive			
CREATE Project Board			
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HEALTH AND SAFETY EXECUTIVE

CREATE Project Board

Progress on creating a single chemical regulation function

A Paper by the Project Team

Purpose of the paper

1. To report progress on the CREATE project; to create a single chemical regulatory function, to outline key findings, to consider options for the creation of a single entity and to seek Project Board direction for the next steps.

Background

2. The Project Team was created to take forward the CREATE project. The Project remit is to identify the best way to create an integrated chemical regulation function under the existing (and known future) regulations. The project will look at synergies between the teams currently dealing with the regulation of pesticides, detergents, biocides and chemicals to produce an even stronger, more effective and competitive entity with a flexible use of expertise.
3. PSD is currently structured and resourced in a manner commensurate with its previous agency status, in delivering its responsibilities for regulating pesticides. The delivery of HSE's regulatory responsibilities for biocides and industrial chemicals is centred on the Chemical Assessment Schemes Unit (CASU) in Corporate Specialist Division (CSD), part of the Science and Technology Group. Most of the resources needed for delivery of such work, including REACH, are located in CASU, but there are important contributions from other parts of HSE, in line with the general way in which HSE has been structured (from elsewhere in CSD, Policy Group, Economic Analysis Unit, etc). In addition, it must be remembered that environmental science resource for industrial chemicals regulatory schemes (REACH, Classification & Labelling etc) is delivered by the Environment Agency.
4. The scope and limitations of policy development and business models were recognised and it was agreed that policy development would be included. The initial phase proposes to look at building on the synergies of the existing teams and the consideration of options for the new entity. The second phase proposes the early development of a single business plan based on business projections for 2009/10 which seeks to develop and define the arrangements for governance, finance etc.

Approach

5. The project has looked to bring together through a series of workshops groupings of appropriate colleagues within CASU, PSD and other interested parts of HSE to consider opportunities for integrating the delivery of pesticides, biocides, detergents and chemical regulation.
6. A total of four facilitated workshops were held in Bootle and York involving relevant staff covering approvals and evaluation, policy development, monitoring and

enforcement and options for organisational structure. The context for each workshop was set in landscape documents covering each activity. The workshops were held in early/mid September and had a number of common goals, primarily:

- i. To bring together relevant colleagues to meet and learn about each other's work;
- ii. To identify the full scope of activities and related key features, similarities and differences of current operational coverage and delivery;
- iii. To identify where a common approach can be used and what action can be taken now to begin the process of sharing and integrating work;
- iv. To identify issues which require further consideration.

7. A communication has been sent to all staff in CASU and PSD outlining the project and its purpose. Further communications are planned once the outcome of this initial phase of work has been determined.

Key findings

8. Across the various regulatory schemes there is a great deal of commonality about the work that is currently undertaken in terms of the core activities of approvals and evaluation, policy development and monitoring and enforcement as well as the related skills sets required and modes of operation. The resources currently engaged in the delivery of the EU regulatory schemes on pesticides, detergents, biocides and chemicals can be summarised as follows:

	<i>PSD (178 ftes)</i>	<i>CASU (60ftes)</i>	<i>Other parts of HSE (7ftes)</i>
<i>Regulatory scientists/ specialists and administrative staff</i>	111	60 <i>(including operational decision- making)</i>	10
<i>Policy (Operational Policy and support for Strategic Policy – see para 15)</i>	67	<i>no distinct “policy” resource</i>	<i>approx 2</i>

9. If all of this work (excepting at this stage the Environment Agency input not included in the figures above) was brought into a single new entity this would bring together existing resources equivalent to approximately 250 full time equivalents. The majority of these resources are contained within the two main delivery units CASU and PSD although the equivalent of about 12 ftes is located in other HSE groups (i.e. Policy Group and Chief Scientific Adviser's Group). These relate primarily to the delivery of occupational hygiene, policy development and economic analysis. The total financial activity is in the order of £18 million including overhead costs.

10. The Project Team considers the optimal solution to be all HSE resources currently located outside of PSD and CASU should be brought within the proposed single entity as this would strengthen its ability to deliver its core business effectively. The team acknowledge the need to ensure this solution could be delivered in a cost efficient manner and those issues such as specialist career development; chemicals policy; the need to maintain interaction with other parts of HSE to ensure harmonisation of

approach; and the provision of regulatory science support to other parts of HSE would need to be addressed.

11. No significant barriers were identified which would prevent the formation of a single entity and, if the Project Board is in favour, progress could be made quickly and in a way that would produce minimal disruption. The workshops identified a number of practical opportunities to develop immediate closer shared working although this will require an assessment of the resource capacity available to support such an exchange.
12. It is recognised that a number of matters and issues require further consideration primarily in relation to the way in which services and related resources are brigaded as indicated above. These differences throw up challenges to the way in which each of the current components operate but are not believed to be significant barriers to the creation of the entity and could be resolved/addressed as the entity is put in place.
13. There was a very genuine and positive level of enthusiasm and commitment of all involved and a strong desire to maintain momentum and move forward.

Scope and type of entity

14. Two key issues were identified in order to take forward the formation of the new entity:
 - 14.1. Determination of the scope and type of entity to deliver the most efficient and effective regulation
 - 14.2. Development of a single business plan for 2009/10

Scope of entity

15. There is a general consensus within the Project Team on the overall scope of functions and that these should be included within a single entity under a single management structure. As indicated above there are some relatively minor differences in the way in which services are currently brigaded but these can be addressed by an implementation team. The conclusions drawn from the four workshops suggest that service delivery should be brigaded in the following way:

Approvals and evaluation	All contained wholly within single entity.
Policy development	Support to strategic policy and delivery of operational policy would be contained with the entity. It is recognised that Defra retains overall responsibility for strategic policy for pesticides and REACH. Other aspects of HSE strategic policy relevant to this work would remain within Policy Group.
Monitoring and enforcement	Operational delivery of the responsibilities of the "Competent Authority" functions should be contained within single entity but drawing on other professional expertise as necessary, particularly legal services laboratory analyses, and possibly investigation services. The roles of FOD and HID would remain unchanged.
Support functions	The business intelligence type support functions e.g. financial management and advice, business planning, performance

	<p>management and strategic HR should be located within the entity. Transactional processes and other identified services would be provided by mainstream HSE activities where it serves to improve operational efficiency.</p>
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16. The key strength of this model is that it brings all the regulatory functions together in a single grouping to provide a critical mass of the necessary skills and resources which can be deployed flexibly across all of the regulatory functions. It was also recognised that the three major regulatory schemes (REACH, [incorporating Classification & Labelling] pesticides, biocides) each have an existing or emerging excellent reputation both nationally and across Europe. It will be important that the new entity establishes a single, discrete identity that is seen to combine and build upon the strengths of the existing regulators.

Action: The Project Board is asked to discuss the scope of the single entity and agree the key issues (if any) that need to be resolved.

Type of entity

17. The workshop discussion identified a number of potential delivery models :

18. Option 1

An in-house Agency of HSE. The Agency would have its own Framework Document and be characterised by its relative operational autonomy/ independence.

19. Option 2

A separate Directorate within HSE with its own delegation and characterised by its closer integration to HSE whilst having its own structural independence within HSE.

20. Other options were considered but discounted because they did not lead to the formation of a single entity or were inconsistent with the Hampton Agenda and/or the original business proposition under which PSD became part of HSE. One possibility was PSD sitting as a separate Division alongside CASU, within the same Directorate, the two groups working collaboratively. Similarly, a simple fusion of CASU and PSD would also leave outside of this “entity” other aspects of input into the combined regulatory schemes.

21. Options 1 and 2 are similar in a number of respects and capture many of the characteristics set out above. The Project Team suggest the main differences between the two options may include the external perception of transparency and accountability, branding and identity and management control (resources and priorities).

Action: The Project Board is asked to consider the options and provide a steer on the preferred model to be developed.

Financial implications

22. The cost of the Project Team commitment to the project is estimated to be £167,000. This includes the cost of the full-time Project Team leader for the duration of the project

and the input of the Project Board and Project Team members. These costs are affordable within existing budgets.

23. The overall financial implications for HSE of the new entity will be identified as part of the more detailed financial analysis necessary to inform the key decisions as the project moves to implementation.

Next steps

24. Subject to decisions on the scope and entity, if the Project Board consider it can move to the formation of the entity, it is proposed that the next steps be developed as follows:
- a) Consult with stakeholders;
 - b) Develop detailed implementation plan;
 - c) Development of a single business plan for 2009/10.
25. A commitment was given in the public consultation on the future of PSD to consult with stakeholders on the detailed proposals for the merger of PSD into the wider chemical regulator function.

Decisions and advice sought

26. The Project Board is asked to:
- 26.1. note the work undertaken to date;
 - 26.2. discuss the scope of the entity's activities and identify key issues to be resolved;
 - 26.3. confirm the preferred type of entity;
 - 26.4. agree the outline next steps set out above.

CREATE Project Team