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Dear Dr Wassell

### **HSC Discussion Document on Occupational Exposure Limits (OEL) framework**

The response of the Royal Society of Chemistry to the questionnaire contained in this Discussion Document is below. It was prepared under the aegis of the Society's Environment, Health and Safety Committee.

The Society's Royal Charter obliges it to serve the public interest by acting in an independent advisory capacity and we are happy for this submission to be put into the public domain.

Yours sincerely

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### **RSC RESPONSE**

Q1 [paras 53-62, p17-19] : *Do you agree with the concerns about the current system ? Do you have other concerns as well ? Do you agree with the need for change ?*

Yes to all. The current criteria for an OES include reasonable practicability. This is not compatible with the concept of a health-based limit. We devote too many scarce resources to setting limits. These resources would be better directed towards the development of control guidance [eg COSHH Essentials]. We need fewer but better OELs.

Q2 [paras 68-75, p21-22] : *Do you agree with the key objectives for a new approach ? Do you think additional objectives are needed ?*

No to both.

Q3 [paras 76-97, p23-26] : *Which of the three options for a new approach do you prefer and why ?*

Option 2. It is simpler to understand and apply.

Q4 [paras 98-108, p27-29] : *Do you agree with the proposed criteria for setting OELs under options 2 and 2A ? and if not why not ?*

No to criterion 1. It still includes the concept of achievability and hence dilutes the basis on health. It would be better to delete the phrase 'or if it is judged that this level would not be reasonably achievable'. Also no to criterion 2. It would be better to delete the last sentence 'wherever possible .. adverse effects on human health'. OELs should be set as targets and enforcement action should reflect achievability.

Q4b: *considering the issues in paras 101-102 how do you think the limit should be arrived at – a system of rules or by discussion ? [if rules please suggest what they should be].*  
Limits should be derived by discussion.

Q5 [Table 1, p31] : *Is the assessment of the options against the 7 criteria in Table 1 a balanced reflection of the potential of options 1, 2 and 2A ?*  
Yes to all.

Q6 [Table 2, p32] : *Will the options [1, 2 and 2A] contribute to revitalising health and safety as set out in Table 2 ?*  
Yes to all.

Q7 [paras 115 – 123, p33-35] : *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 ?*  
Yes.

Q8 [paras 124 – 131, p35-36] : *Is the proposed approach to integrating COSHH Essentials into the OEL framework useful or not useful, or would you prefer users to be directed to a full COSHH Essentials assessment ?*  
The approach is useful.

Q9 [Table 4, p37] : *Does Table 4 give the information you would like to see in EH40 ? Is there additional information you would like included and if so what ?*  
Yes to both. The additional information should be hazard groups for ALL substances with control approaches for all substances listed, including control approach 4 where appropriate [eg benzene in Table 4]. Also we should keep 'process specific guidance' as such [eg 'sterilisation' is a process and not guidance on how to use sterilisation.]

Q10 [paras 133 – 136, p38] : *would an electronic package which linked together OELs, COSHH Essentials, EH64 and key COSHH guidance be helpful to most duty holders or only to a minority, or not be helpful at all ?*  
It would be helpful to most.

Q11 [Table 5, p41] : *Rank your preference for dealing with existing OELs and describe and alternatives if you have any.*  
Order of preference = best is B; then our alternative\*, then B1, then worst is A.  
\*Our alternative would be for all WATCH/ACTS MELs and OESs to be put into the new system after modification to fit new OEL criteria. All IOEVs and BOELVs to be reviewed by WATCH against criteria and added to list [no new data or verification]. No further reviews/derivations of new OELs unless authorised by ACTS.

Q12 [Annex 1] : *HSE would welcome views and quantitative information on the RIA and in particular :*

- *Will there be health or other benefits under option 1 [Annex 1, para 12, 19-21]?*  
No
- *Will there cost savings under option 1 [Annex 1, para 12, 19-21]?*  
Unsure. It could be cost-neutral overall
- *Will there be health benefits under option 2/2A [Annex 1, paras 13-18, 22-23] ?*  
Yes, a simpler system which would be easier to understand and apply, and probably better control of risks.
- *Will there be cost savings under option 2/2A [Annex 1, paras 13-18, 22-23] ?*  
Yes, for example there would be less need to show compliance with MELs.
- *Approximately how many firms/sectors are likely to be affected by changes to the OEL framework [Annex 1, para 24] ?*  
Its difficult to say but para 24 seems reasonable.

- *Are the compliance costs to industry under option 1 realistic [Annex 1, para 25-26]?  
Probably.*
- *Are the assumptions about the compliance costs to industry when following good practice under option 2/2A reasonable [Annex 1, paras 27-30, 35-36]  
Probably.*
- *What percentage of firms currently use the flexibility of being able to exceed and OES? [Annex 1, para 32, p48]. Please comment on any cost implications of the removal of permission for firms to exceed the limits.  
Probably high, over 60%. The cost effects depend on the enforcement action. It needs good guidance for HSE and particularly Local Authority inspectors who MUST use discretion against achievability and reasonable practice.*

Q13 [p42] : *In your view how well does this Discussion Document represent the different policy issues involved ?*

Very well.

Q14 [p42] : *Is there anything you particularly liked about this consultation ?*

Yes, it has clear statements of the key objectives of the exercise, clear explanations of options and well structured questions. We welcome the opportunity to re-consider the existing hotchpotch of EH40 and OELs which are in general badly understood and little used.

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