



Home Office

Government response to the Home Office Consultation on proposed changes to the Poisons Act (1972), Poisons List (1982), Poisons Rules (1982) and associated amendments

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Introduction and summary

a. Background

This document is in response to the Home Office's public consultation launched on 21 November 2013 on proposed changes to the Poisons Act (1972), Poisons List (1982), Poisons Rules (1982) and associated amendments. The consultation was part of the retail theme of the Red Tape Challenge which aims to remove unnecessary regulatory burdens on business.

It should be read along-side the Government's response to the consultation on the UK implementation of the European Union regulation on the marketing and use of explosive precursors.

The consultation and impact assessment sought views from affected groups on the proposed policy options, and aimed to strengthen evidence of the impact of each option on the main affected groups.

This report summarises the responses to the consultation and sets out the Government's final policy proposal.

b. Consultation process

The consultation documents sought views on the potential impact of the proposed policy options on home users, suppliers, business users, formulators and pharmacies. The documents gave some detail on how the proposed options might work in practice, and detailed the possible costs and administrative burdens.

The consultation began on 21 November 2013 and closed on 9 January 2014.

Key affected associations, businesses and hobby interest groups involved in the home use, business use, sale, manufacture, distribution and formulation of chemicals that fall within scope of the proposed amendments to the current controls were notified of the consultation. We took care to consult small and medium businesses, large retailers, representative associations and

pharmacies. A substantial amount of research in the form of one-to-one interviews took place prior to the consultation exercise.

A list of the organisations targeted is attached at [Annex B](#).

A combination of closed and open questions were used to assist analysis of the responses. The Home Office would like to thank all interested parties for taking the time to respond to the consultation. We have considered your views very carefully.

c. The Poisons Board

The Home Office would like to acknowledge the specific contribution of the Poisons Board, a statutory advisory body of experts from across Government, academia and industry. The Board's expert scientific advice has been vital in informing our final policy proposals in this area.

d. Profile of respondents

The Home Office received a total of 36 responses. The figures listed below have been rounded up or down to the nearest percentage point.

Respondents were made up of:

- Pharmacies (12%);
- Home users of Part 1 Poisons and/or Part 2 Poisons (25%);
- Business users, wholesalers and distributors, and retailers (21%);
- Professional societies (including representative associations and regulators) and academia (38%); and
- Members of the general public with a less specific interest (3%).

A more detailed breakdown of the responses to selected questions in the consultation survey can be found at [Annex A](#).

e. Decisions resulting from the consultation

The Government has carefully considered the responses to the consultation and the preferred approach is Option 2:

Option 2 is to make a requirement for home users to obtain a licence in advance of a purchase of a poison on the Part 1 List from a registered pharmacy. Both Part 1 and Part 2 poisons would be subject to mandatory suspicious transaction, theft and significant loss reporting for business to business sales, and sales to the general public.

The requirement for a retailer selling Part 2 poisons to pay for an annual licence from their Local Authority will be removed.

Pharmacies will be required to label Part 1 poisons indicating that their 'acquisition, possession or use by the general public is restricted'.

We have taken stock of the many important issues raised during the consultation and will use the details provided by respondents to develop a practical and simple approach to implementation of the regulation.

f. Next steps

The Government's preferred approach is to align the proposed amendments to the Poisons controls with the implementation of the European Union regulation for the marketing and use of explosive pre-cursor chemicals. The transposition dead-line for the European Union regulation is 2 September 2014. To prepare for implementation, the Home Office will:

- Draft the legislation and guidance required to give effect to the policy and make these available to Parliament;
- Prepare on-line guidance and training materials for businesses and work with industry bodies to disseminate the policy;
- Prepare on-line guidance for home users on when and how to apply for a licence;
- Establish a licensing authority and a proportionate applicant suitability decision making process;
- Prepare training and guidance for the Police on enforcement issues such as test purchases to be conducted on a speculative or reported non-compliance basis; and
- Develop a communications plan to raise awareness of the new requirements among affected groups.

Issues raised during consultation

a. Overview

A variety of organisations and individuals responded to the consultation with written and on-line survey submissions. Organisations that responded represented the views of retailers, academic experts, business to business suppliers, pharmacies and home users.

The following is a brief summary of issues raised by organisations.

Retailers

The most widely expressed concern by non-specialist retailers was the subjective nature of suspicious transaction reporting. Concerns were also raised about the potential burden of retraining staff to be aware of the new requirements. Respondents called for clear and simple government advice on what might constitute a suspicious transaction, and the course of action to take if one is identified.

Business to business suppliers

The most widely expressed concern by business to business retailers was the proposal in Option 2 to mark the use of affected products as 'restricted' on the product label. There were concerns about the practicality of this proposal if the substances were purchased from outside the UK.

Home users

The most widely expressed concerns by home users of poisons on the Part 1 Poisons List were (I) the potential cost of obtaining a licence; and (II) it would place a disproportionate burden on a small number of users. Some respondents stated that the cost could prohibit legitimate activities such as hobby use, particularly where only small quantities of the restricted chemicals are used.

b. Issues by type

Economic/administrative issues

Issue	Government response
<p><u>Licensing</u></p> <p>44% of respondents selected Option 2 as their preferred option. The licensing aspect of the proposal received broad support from a cross-section of retailers, businesses, pharmacies and home users. One respondent thought the licensing requirement for home users of Part 1 Poisons would add a level of assurance that the purchaser had a genuine reason to purchase the restricted product.</p> <p>64% of respondents commented that Option 2 would meet the policy objectives of:</p> <ul style="list-style-type: none"> • Ensuring the poisons controls are effective whilst still enabling legitimate sales; • Ensuring that burdens are appropriately placed on those at risk of using the substances to cause harm; and • Minimising burdens by implementing at the same time and in the same way as the EU Marketing and Use of Explosive Precursors regulation. <p>46% of home users would continue to purchase substances on the Part 1 Poisons List if a licence was required but there were concerns about the potential cost.</p>	<p>The Government is of the view that licensing will allow legitimate home users to purchase Part 1 poisons and to continue their activities where there are no suitable alternative chemicals. It minimises the burdens on retailers. It also provides opportunity to check the suitability of the individual and their intended use prior to acquisition, possession and use. Aligning the policy with that of other chemical controls (the explosives precursors regulation) makes it easier for business to understand and comply.</p> <p>Treasury guidelines state that the Government should seek full cost recovery on licensing regimes. The Home Office is committed to implementing an efficient and cost effective system, so we are exploring options of using existing platforms and administration procedures to reduce costs. We are working to ensure that the cost of obtaining a licence for home users is reasonable.</p> <p>Applicants may apply for a multiple-use and substance licence.</p> <p>The Home Office is developing an on-line application and payment service and intends to make clear guidance available for all</p>

<p>Respondents were concerned about the burdens that licensing would place on legitimate users.</p>	<p>affected by the regulation. This will include lines for businesses to use when informing customers about the regulatory changes.</p> <p>The Home Office will provide an on-line form where the retailer may choose to enter the licence reference number and other identifying detail of the holder e.g. date of birth to check current validity of the licence against Home Office databases. For efficiency, there will be one database for explosives precursors and poisons licences.</p>
<p><u>Moving above concentration substances on the Part 2 Poisons List to Part 1</u></p> <p>The consultation presented the proposal (Option 3) to move all Part 2 poisons above the current concentration threshold to Part 1 so they may only be sold by a registered pharmacist. A member of the general public wishing to purchase a substance on the Part 1 Poisons List would need to enter their personal details into the register at the point of sale.</p>	<p>Option 3 is not our preferred option. It does not offer the opportunity to assess the suitability of the individual and does not fulfil our Red Tape Challenge Commitment to:</p> <ul style="list-style-type: none"> • Ensure the poisons controls are effective whilst still enabling legitimate sales; or • Ensure that burdens are appropriately placed on those at risk of using the substances to cause harm.

Process/regulatory issues

Issue	Government response
<p><u>Enforcement</u></p> <p>One respondent was concerned that the enforcement measures had not been mentioned in the consultation document.</p>	<p>The Home Office will develop training and guidance for the Police on enforcement issues such as test purchases. Inspections of pharmacists will continue to be conducted by the General Pharmaceutical Council.</p>
<p><u>Labelling</u></p> <p>Business respondents were concerned about the requirement to mark the use of the relevant substances as 'restricted' on the product label. This requirement was viewed as impractical in the modern retailing environment.</p>	<p>The Home Office acknowledges the challenges for businesses if they are required to re-label products that have been purchased outside the UK. The Government will engage further with business to develop effective proposals to address this issue, which only applies to retail to the general public.</p>

<p><u>Suspicious transaction identification</u></p> <p>Suppliers to the general public such as supermarkets and convenience stores felt that the guidance was subjective and required clarification.</p> <p>73% of business respondents felt that suspicious transaction reporting would <u>not</u> deter them from selling affected products. Specialist suppliers and pharmacies broadly accepted that the guidance was easy to understand, but reinforced the views of less specialist retailers that greater detail would be necessary. One respondent stated that the advice was consistent with current business practices.</p> <p>Some respondents requested further guidance on the practical implementation of this requirement.</p> <p>Some respondents representing major retailers were concerned that some of the suspicious transaction indicators might not comply with Discrimination law through unfair targeting of certain customers.</p>	<p>The Home Office has acknowledged the different levels of expertise and specialism along affected product supply chains and the need to tailor advice to the type of company. The Government will engage further with retail representatives to ensure clear, plain English, practical and relevant guidance and training materials are available to affected businesses. We will also consider working with relevant professional and trade associations to develop tailored codes of conduct for their members.</p> <p>The European Commission will issue guidance on implementation of the Marketing and Use of Explosive Precursors regulation. The UK Government also intends to issue its own guidance for retailers, other supply chain operators, licence applicants, enforcement and administration bodies to incorporate the proposed changes to the Poisons controls.</p> <p>An equality impact assessment will need to be conducted. The advice issued in the UK Government guidance will be checked to ensure compliance with discrimination.</p>
<p><u>Suspicious transaction reporting procedures</u></p> <p>Some retailers requested further guidance on how to respond to and report suspicious transactions in a not too burdensome and safe way.</p>	<p>As well as the European Commission guidance, the UK Government will issue clear guidance on the national reporting system. This will include a hotline number and a template indicating the information that would be useful for the authorities.</p>
<p><u>Checking licences</u></p> <p>Some respondents requested an online facility to check validity of licences.</p> <p>The need for clear and easy guidance from the Government was a commonly raised issue.</p>	<p>The Home Office will provide an on-line form where the retailer may choose to enter the licence reference number and other identifying detail of the holder e.g. date of birth to check current validity of the licence against Home Office databases.</p> <p>The UK Government will issue clear guidance on the national reporting system. This will include a hotline number and a template</p>

	<p>indicating the information that would be useful for the authorities.</p> <p>The impact assessment considered the costs of registering licensed transactions on a daily basis. The Home Office now thinks that a more proportionate approach would be for the retailers to record details of the transaction on the back of the licence and report any suspicious activity relating to sales.</p>
<p><u>Internet Sales</u></p> <p>Some respondents raised concerns regarding the applicability of the new controls to internet sales.</p>	<p>The provision of an on-line licence verification system will assist in the safeguarding internet sales.</p>
<p><u>The Poisons Register</u></p> <p>Some business to business retailers were concerned about the proposal to remove the requirement to complete a poisons register.</p>	<p>The Home Office is fully committed to the Government's Red Tape Challenge which aims to simplify regulation and reduce its overall burden on the day to day operation of business.</p> <p>We have made a commitment under the Red Tape Challenge that in addition to tightening up controls on genuinely dangerous substances, we will reduce the burdens on retailers while maintaining effective controls.</p> <p>However, due to concerns raised by pharmacists, wholesalers and regulators during consultation, the current requirement for registered pharmacies to record transactions of Schedule 1 substances in a Poisons register will be retained.</p>

Implementation/training issues

Issue	Government response
<p><u>Training</u></p> <p>Retailers were concerned about the potential burdens that retraining staff to be aware of the new requirements would place on their business.</p>	<p>The Home Office plans to support training of staff. Local Police security advisers will invite representatives to local meetings to raise awareness about the regulation. Information materials will be provided.</p> <p>The Home Office is also collaborating with some colleagues from other European governments to develop an on-line training</p>

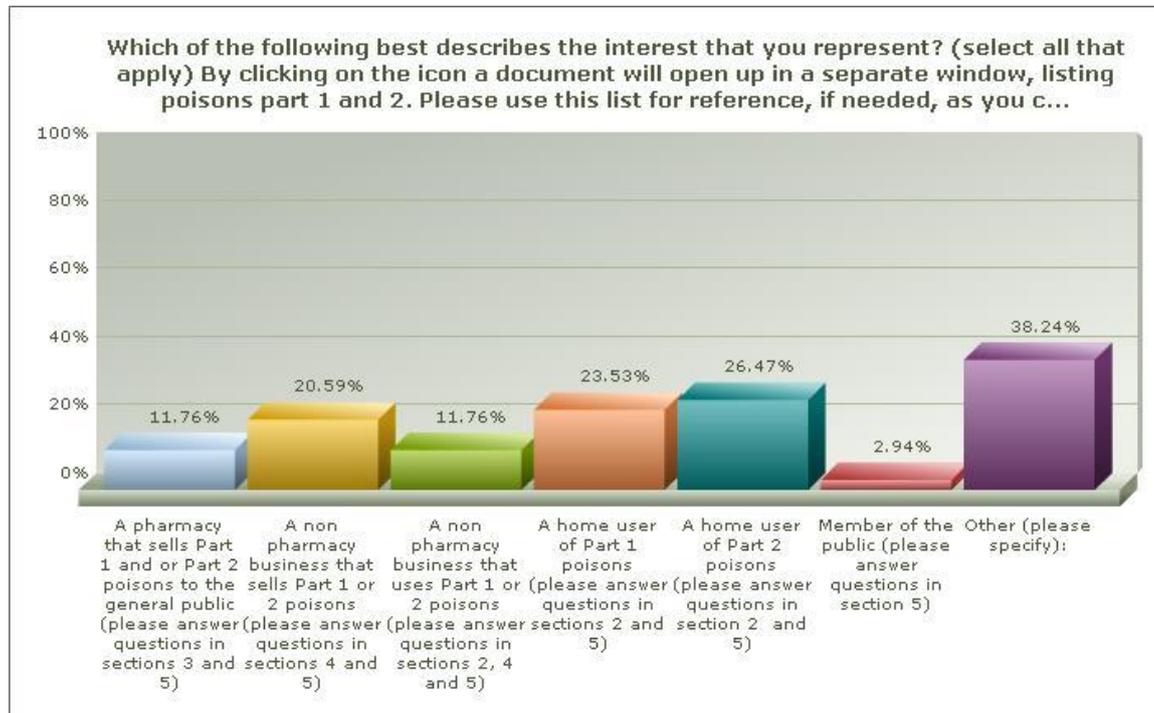
	tool for retailers.
<p><u>Familiarisation time</u></p> <p>The times suggested in the impact assessment were considered to be about right by respondents representing specialist supply organisations and pharmacies. Major retailers thought the time needed had been underestimated and would depend on the role of the staff member, the type of business and the number of products affected.</p>	The final stage impact assessment will be updated to reflect the information received through the consultation.
<p><u>Identifying affected products</u></p> <p>Some respondents from major retailers requested more clarity on which products pose a threat. Some retail respondents expressed concern about the scale of affected products, the burden of identifying these products and frequent changes in product formulations. Specialist suppliers and pharmacists thought the estimated time was about right.</p>	The Home Office will work with trade representatives to assist them to identify the products in scope of the regulation.

Other issues

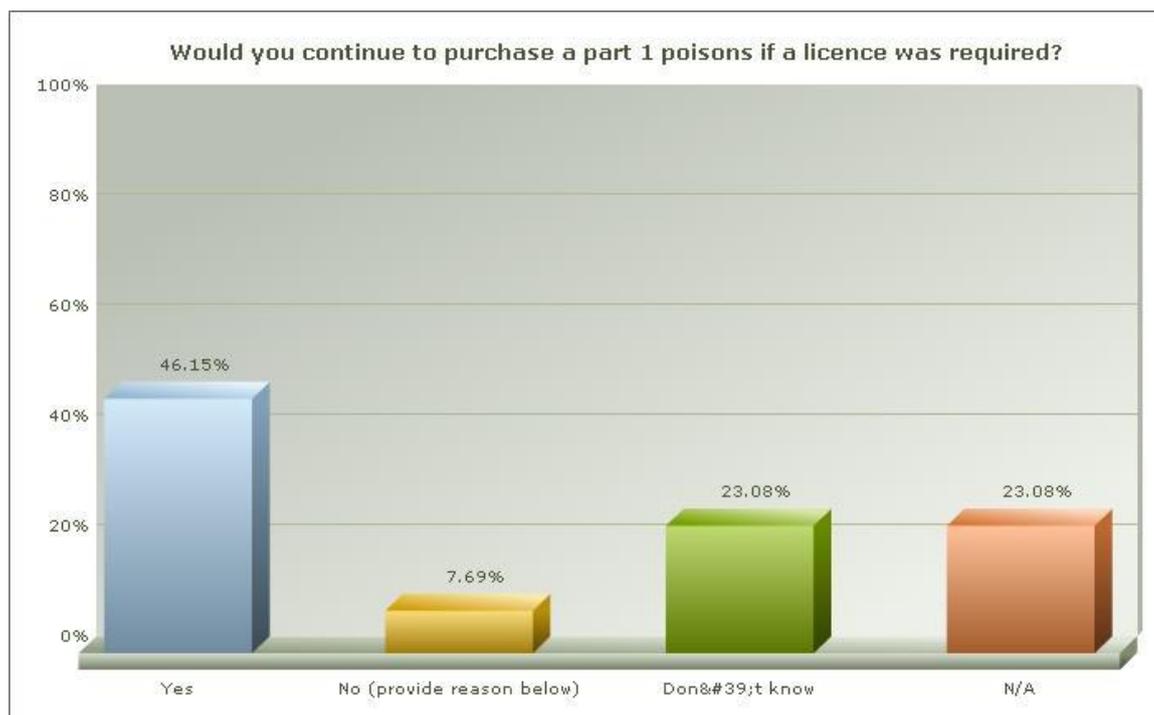
Issue	Government response
<p><u>Business to business sales</u></p> <p>Some respondents expressed concern that business to business sales were outside the scope of the regulation.</p>	<p>Business to business sales are within scope of suspicious transaction reporting requirements. The European Commission will also review the scope of the regulation in 2017, particularly with regard to whether business to business sales should be included.</p> <p>The Home Office continues to work in partnership with industry representatives and trade association to improve supply chain security for substances of concern. Self-regulatory schemes are supported and plans to work with trade representatives on new codes of conduct are in place.</p>

Annex A – Summary of responses

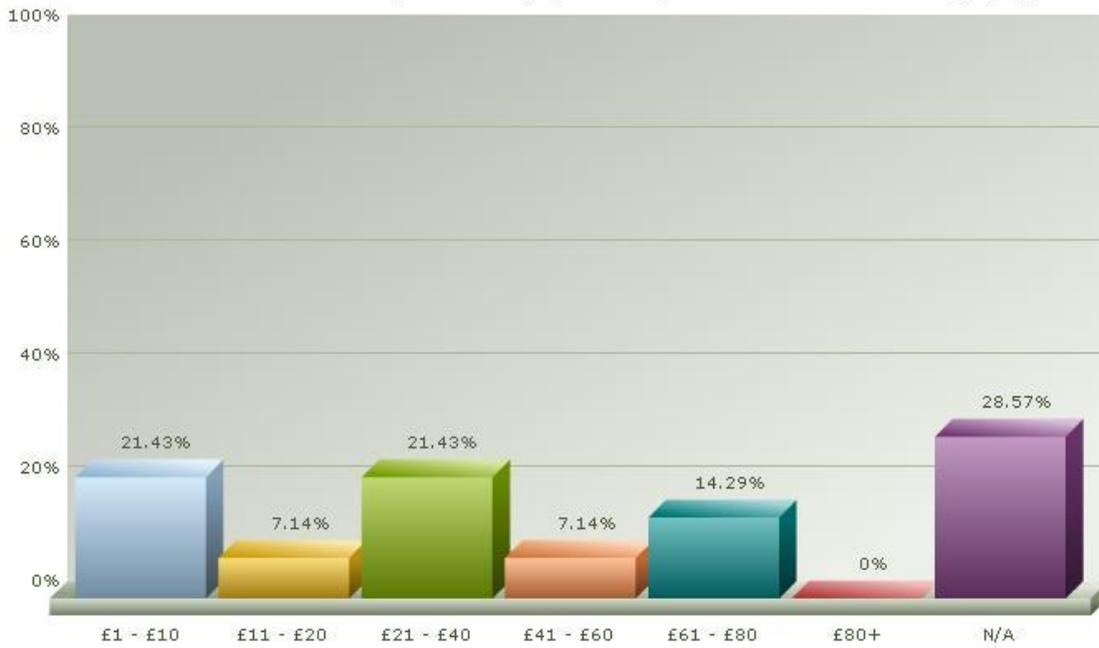
Section 1 – Your Details



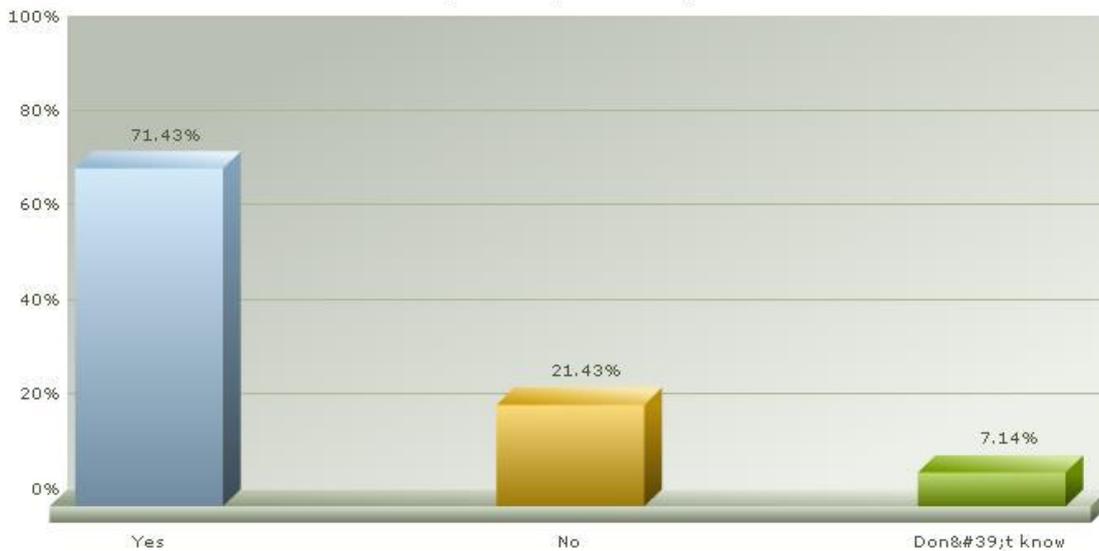
Section 2: Questions for home users of Part 1 and/or Part 2 poisons only



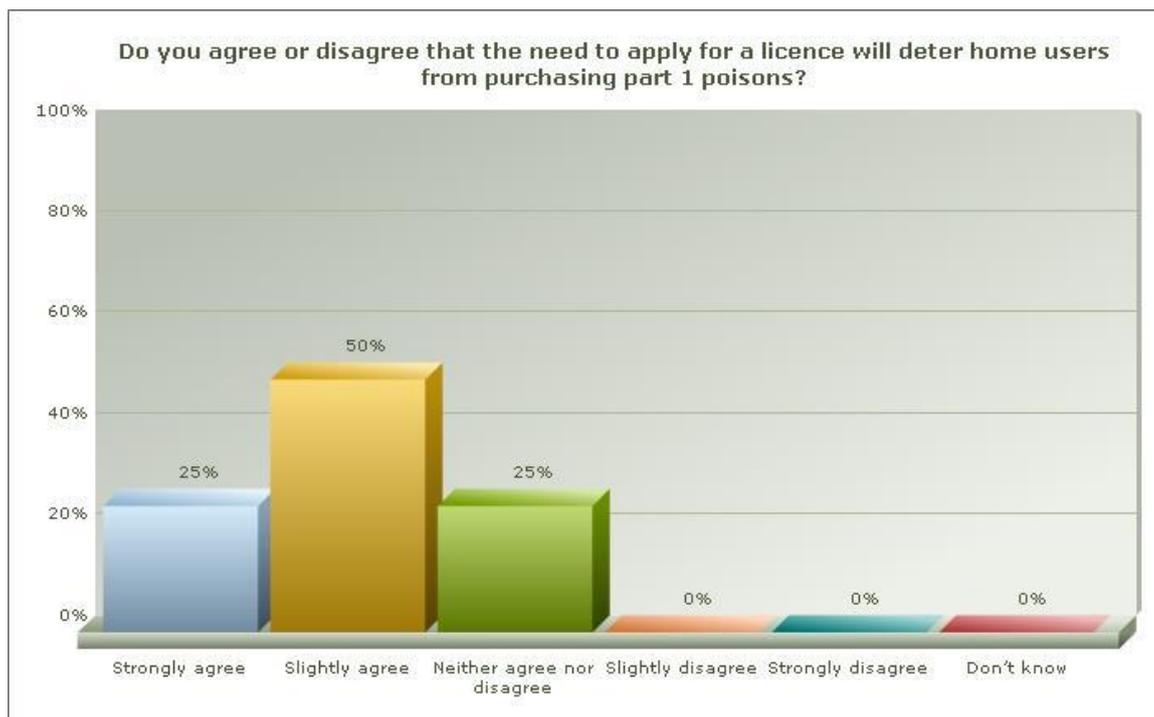
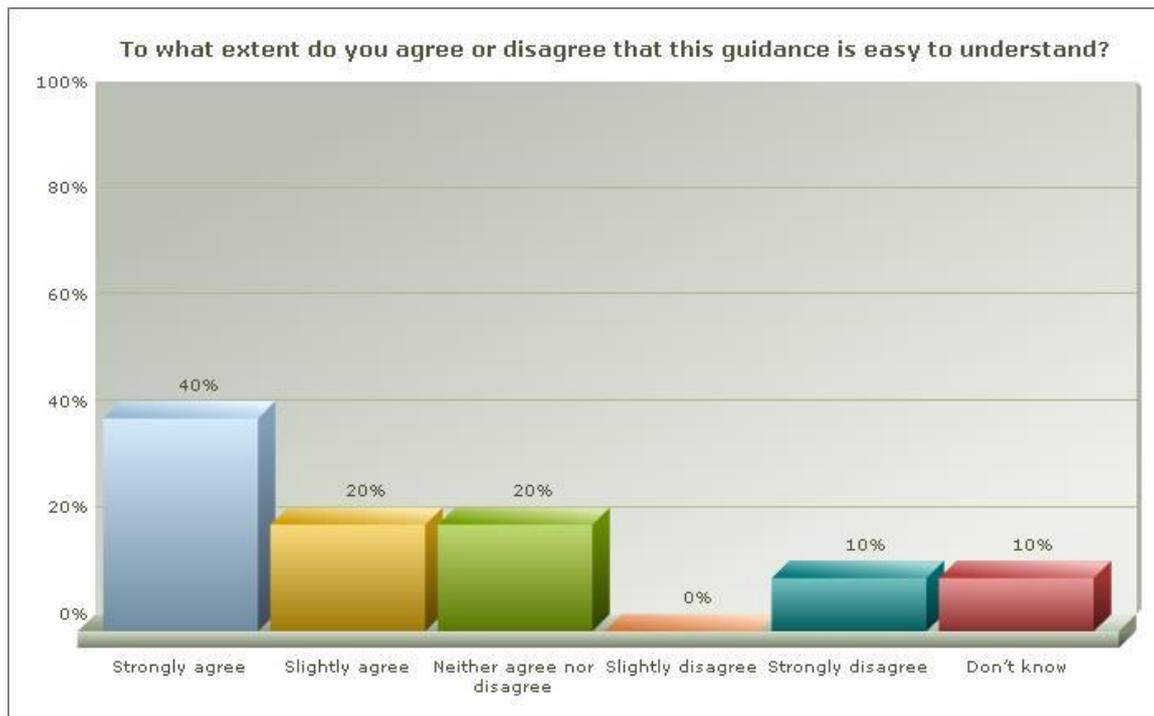
What is the maximum you would pay before you are deterred from applying?



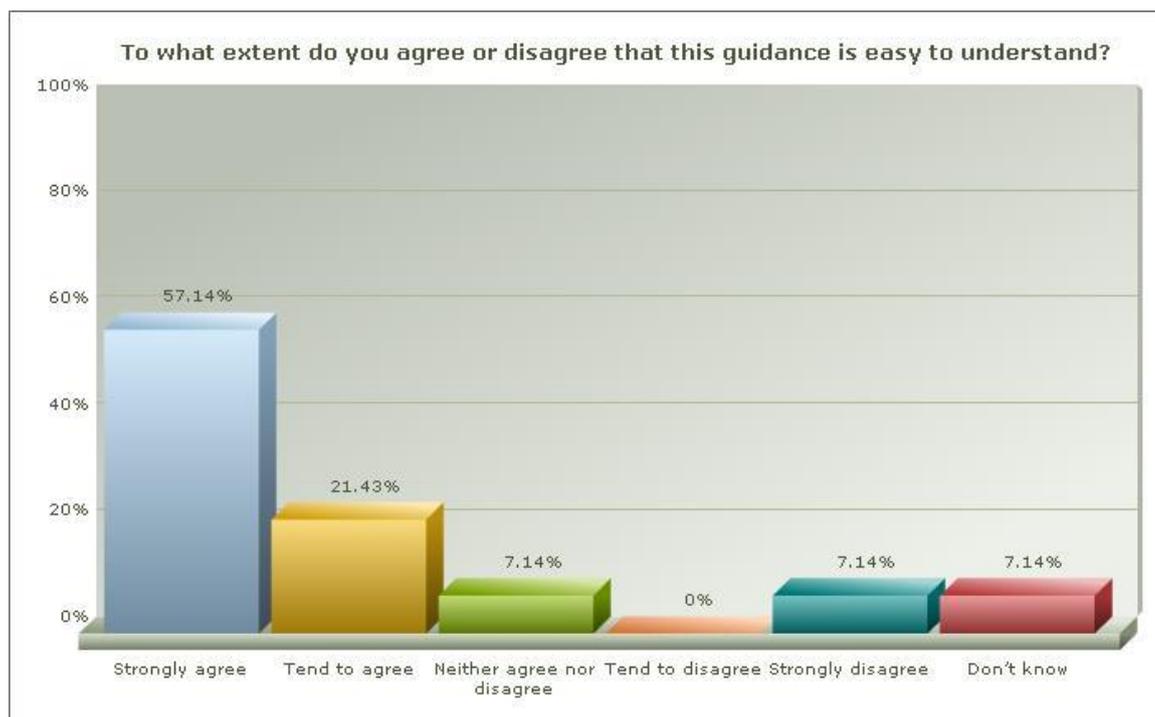
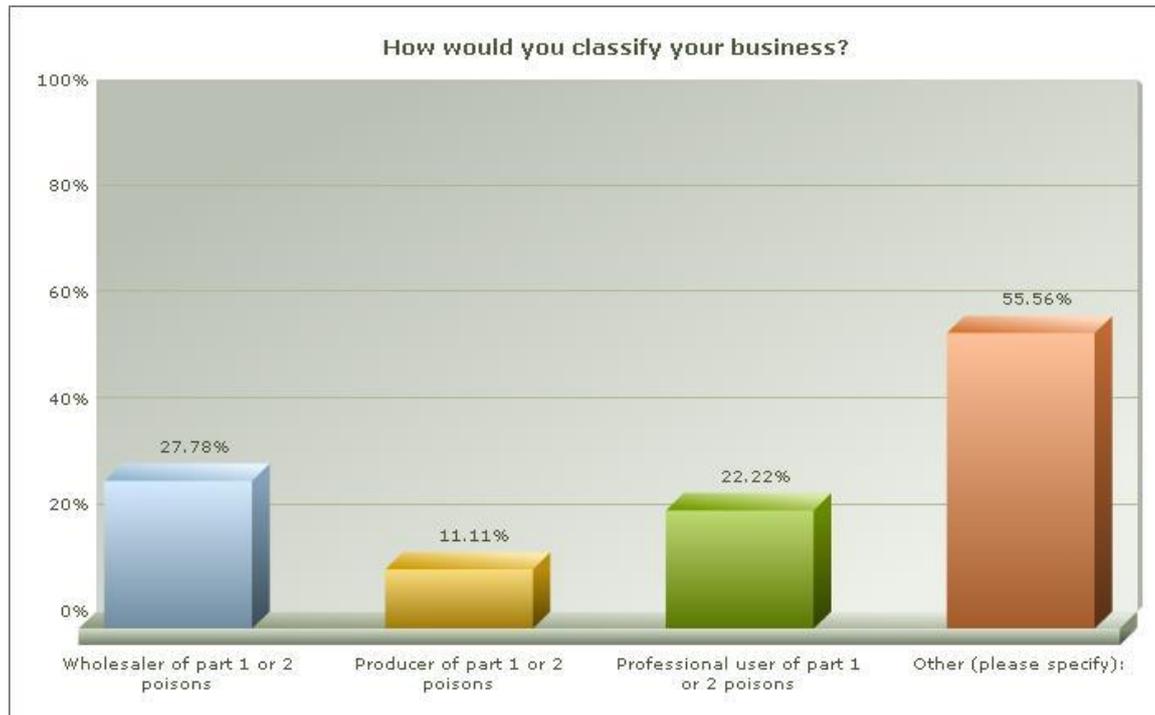
Do you also purchase Annex 1 or 2 chemicals from the marketing and use of explosives pre-cursors regulation? (Please see the consultation on the UK implementation of the European Union regulation on the marketing and use of explosives precursors). ...



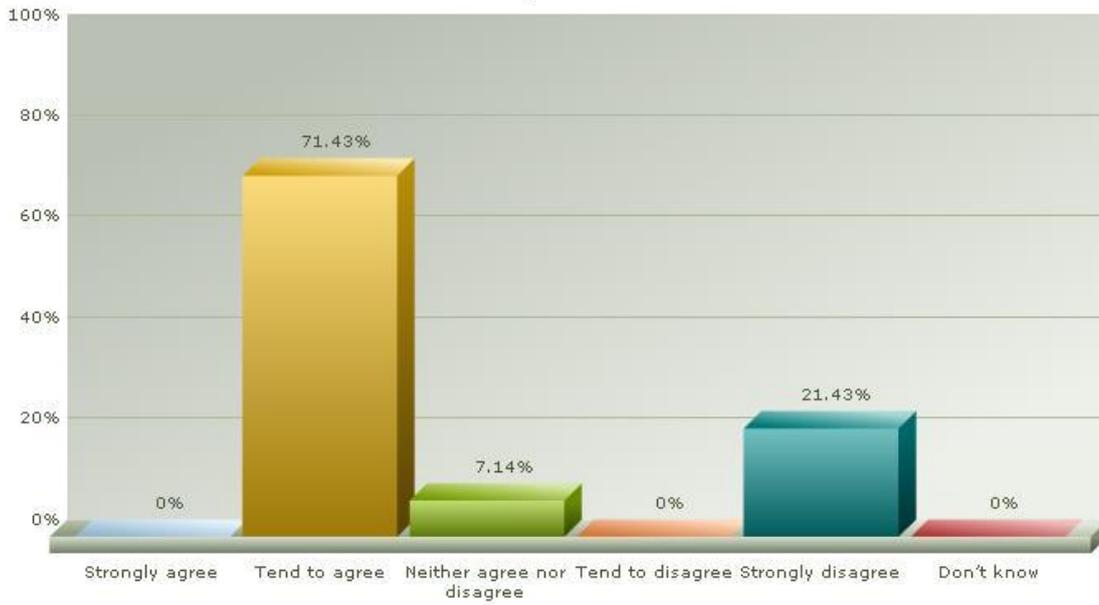
Section 3: Questions for registered pharmacies that sell Part 1 and/or Part 2 poisons to the general public only



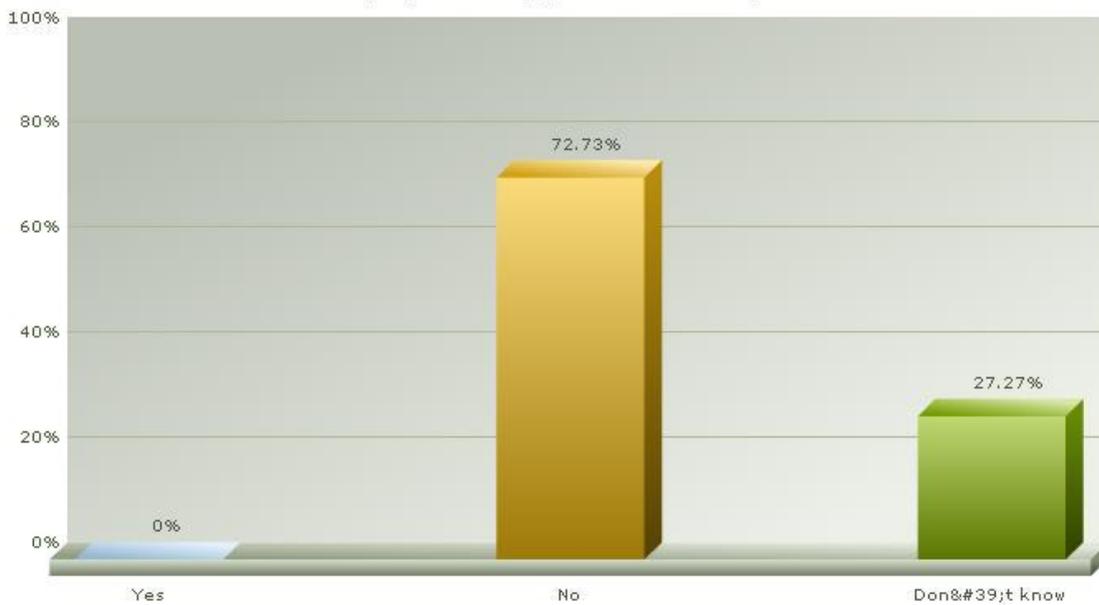
Section 4: Questions for non-Pharmacy businesses only



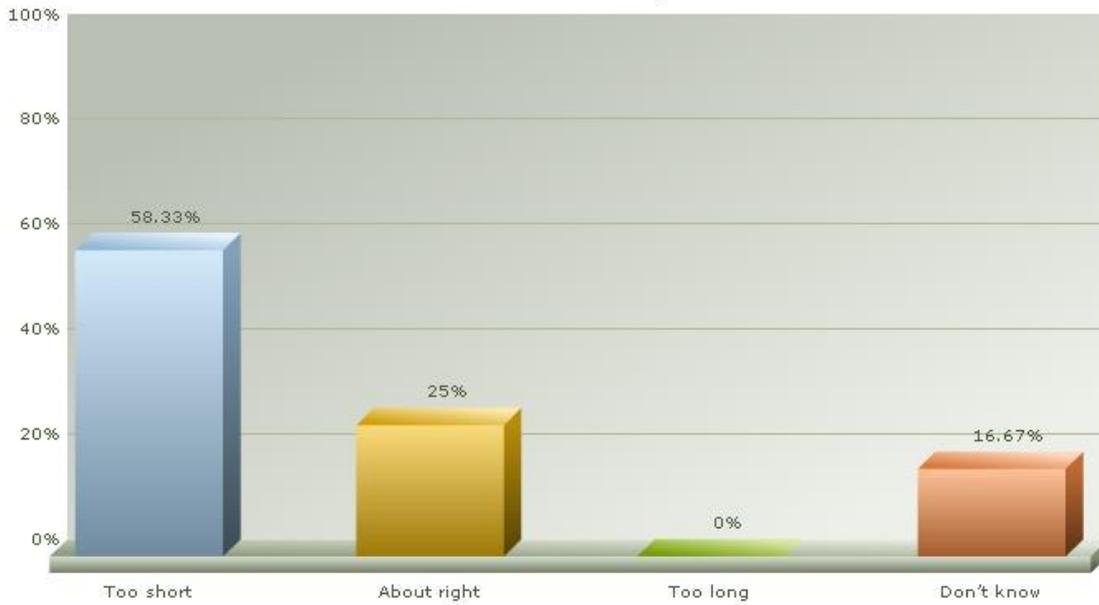
To what extent do you agree or disagree that this guidance is easy to put into practice?



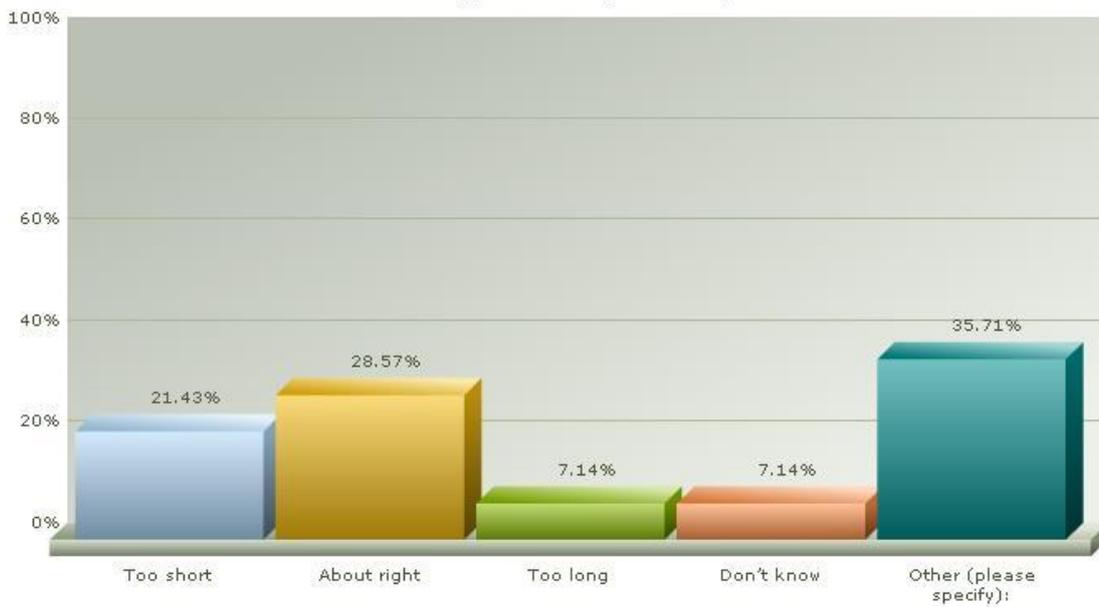
Would the suspicious transaction reporting requirements deter you from selling / using / purchasing part 1 and / or 2 poisons?



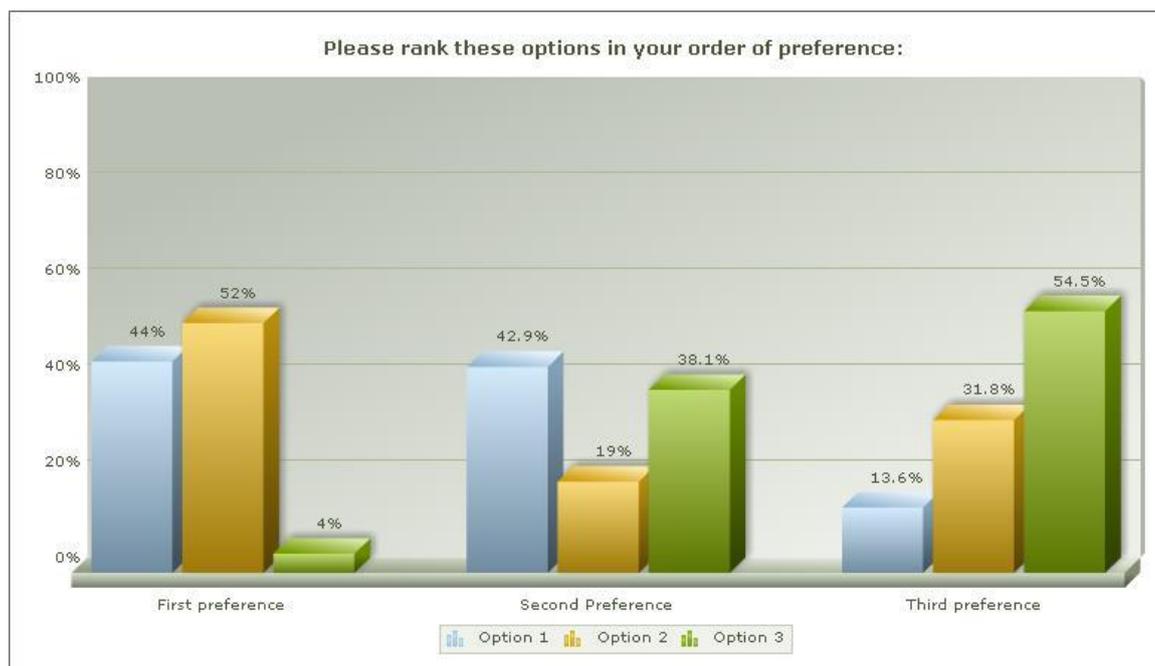
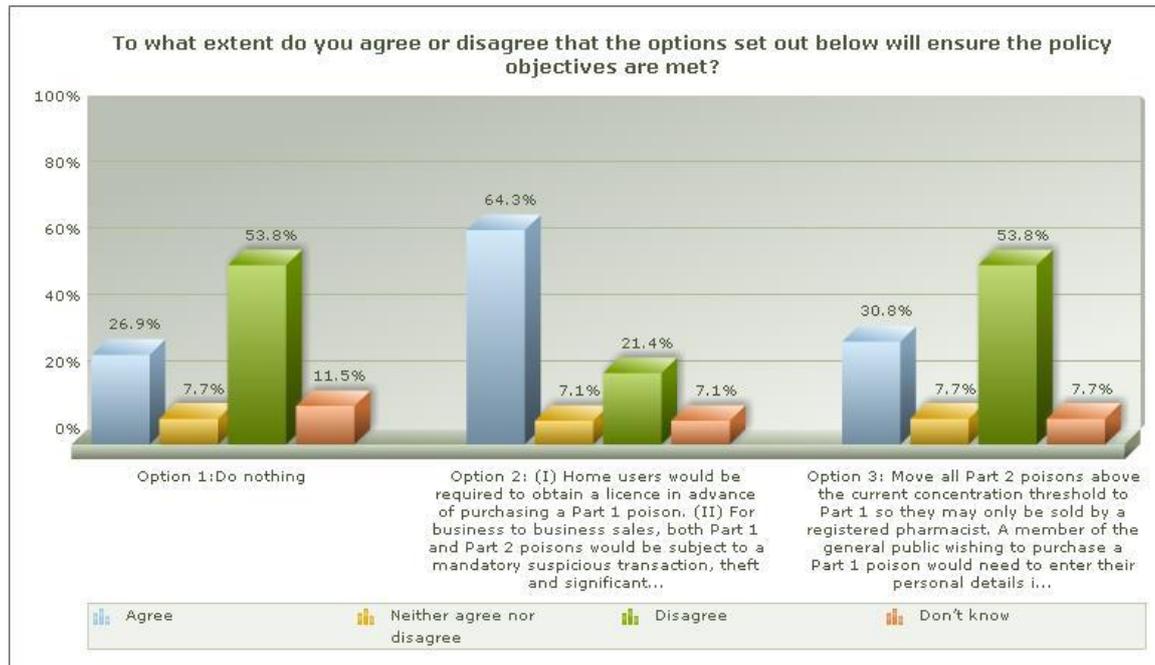
Do you think the estimated time required for affected producer and wholesalers to familiarise themselves with the new requirements of 15 minutes is?



All businesses will need to check which of their products are affected. We estimate that this would take approximately 2 hours per business. Is this?



Section 5: Questions for all Respondents



Annex B – List of Targeted Organisations

Association of Aquarists
Association of British Pharmaceutical Industry
Association of Convenience Stores
Association of First Aiders
Agricultural Industries Confederation
Association of Plumbing and Heating Contractors
British Adhesives and Sealants Association
British Aerosol Manufacturer's Association
British Association for Chemical Specialties
British Association of Beauty Therapy and Cosmetology
British Coatings Federation
British Dental Trade Association
British Firework Association
British Healthcare Traders Association
British Independent Retailers Association
British Plastics Federation
British Pyrotechnic Association
British Radio Car Association
British Retail Consortium
British Rubber and Polyurethane Products Association
British Rubber Manufacturer's Association
British Shooting Sports Council
British Spa and Pool Federation
British Tropical Fish Club
Builders Merchants Federation
Carwash Association
Chemical Business Association
Chemical Industries Association
Cosmetics, Toiletry and Perfume Association
Confederation of British Industries
Confederation of Paper Industries
Explosives Industry Group
Federation of Small Businesses
Garden Centre Association
General Pharmaceutical Council
Guild of Professional Beauty Therapists
Health Food Manufacturer's Association
Institute of Swimming Pool Engineers
Model Power Boat Association
National Association of Drainage Contractors
National Association of Street Clubs
National Hairdressers Federation
National Pharmacy Association
National Street Rod Association
Packaging and Films Association
Painting and Decorating Association
Performance Textiles Association
Pharmacy Voice
Pool and Water Treatment Advisory Group
Ornamental Aquatic Fish Trade Association
RAMPS UK Product Stewardship Organisation
Royal College Physicians Edinburgh

Royal Society of Chemistry
Royal Pharmaceutical Society
Sport and Recreation Alliance
Surface Engineering Association
Swimming Pool and Allied Trades Association
The Company Chemist
The Hairdressing and Beauty Suppliers Association
Tropical Fish Club
UK Cleaning Products Industry
UK Clinical Pharmacy Association
UK Fashion and Textiles Association
UK Pyrotechnics Society
UK Radio Control Council

[Individuals and private company responders are not included in the above list]