

# **Summary of responses to the consultation on the future of the Advisory Committee on Hazardous Substances**

**Consultation period: 7 July to 14 October 2011**

**February 2012**

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<http://www.defra.gov.uk/consult/2011/07/07achs/>

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## 1. Background and purpose of consultation

1.1 This consultation ([www.defra.gov.uk/consult/2011/07/07/achs/](http://www.defra.gov.uk/consult/2011/07/07/achs/)) was issued on 7 July 2011, with a closing date of 14 October for comments. The primary purpose of the consultation was to invite views on - (i) the proposed abolition of the Advisory Committee on Hazardous Substances (ACHS) as a statutory Non Departmental Public Body, as provided for under the Public Bodies Bill which was before Parliament at the time (and which received Royal Assent on 14 December 2011 to become the Public Bodies Act 2011), following the Government's Arms Length Body Review; and (ii) the Government's preferred option to simultaneously reconstitute this body as a new expert scientific committee.

1.2 As explained in the consultation document the regulatory context for the work of the ACHS had evolved, as had the scientific advisory body landscape in Defra. There were several reasons advanced by the Government for its proposals, in the consultation document, namely:

- Defra was putting its scientific advisory committees on a new footing to strengthen its science and evidence base to support policy. The reform of the ACHS was part of this process which had been guided by advice from the Government Chief Scientific Adviser, and an independent review from an eminent scientist.

- Non-statutory advisory bodies were inherently more flexible and nimble and could be adapted, for example to acquire new terms of reference, new membership, new expertise – aspects which sometimes could become fossilised in legislation, with limited opportunity for parliamentary time to make changes.

- Statutory bodies could be overtaken by legislative developments – particularly where these stem from Europe. For example it was the case that for the regulation of hazardous substances the field is now largely occupied by the EU REACH regime, (obviating the need for domestic regulations). This reform reflected the position that we no longer required the ACHS to discharge statutory obligations with regard to domestic regulations.

- The committee retained an independent and technical advisory function in a sensitive area which Government required, which society valued, and which was best delivered through other arrangements, and for which the status of expert scientific committee best described its role and function.

- The reconstitution of advisory NDPBs as expert scientific committees was about improving transparency and accountability, and enabling Defra to have continued access to independent, authoritative and cost effective advice to support Government policies.

### Options in the consultation

1.3 The three options in the consultation were:

- Option A Do not abolish the ACHS as an advisory statutory NDPB
- Option B Abolish the ACHS and put nothing in its place
- Option C Abolish the ACHS and reconstitute it as an expert scientific committee

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The consultation also sought views on proposed new Terms of Reference, and a name, for the successor body (the Expert Scientific Committee on Hazards and Risks of Chemicals in the Environment).

### Consultation questions

1.4 The consultation invited comments on five specific questions:

#### Question 1

Do you support the Government's preferred option, to abolish the Advisory Committee on Hazardous Substances, and replace it with an expert scientific committee, for the reasons explained?

#### Question 2

If you do not support the Government's preferred option, what is your preferred alternative?

#### Question 3

Do you have any additional points you would wish Ministers to consider before making their final decision?

#### Question 4

Do you have any views on the proposed Terms of Reference for the new committee?

#### Question 5

Do you have any views on the proposed name of the new committee?

## 2. Responses received

2.1 Around 120 interests were invited to comment (in addition to publicising the consultation on the Defra and ACHS websites). 16 responses were received. None of the respondents requested that their comments be treated as confidential. Copies of all the responses received can be seen at, or obtained from, the Defra HQ library at Ergon House. (Telephone 0207 238 6575 – Email [defra.library@defra.gsi.gov.uk](mailto:defra.library@defra.gsi.gov.uk) )

2.2 Of the 16 responses – 8 were provided as individual responses; and 8 were corporate responses from organisations and other bodies. The corporate responses were from:

- Nanotechnology Industries Association
- British Retail Consortium
- Welsh Government
- Royal Society of Chemistry
- Scottish Government
- Scottish Water
- Food Standards Agency
- Committee on Toxicity/Committee on Mutagenicity - of Chemicals in Food, Consumer Products and the Environment.

2.3 Three respondents asked some subsidiary questions in their responses and these were answered by Defra during the consultation period. In the interest of completeness and openness – these questions, and the replies provided are, are annexed to this summary.

2.4 A list of the 16 respondents to this consultation is also annexed to this summary.

### **3. Analysis of responses**

#### **Overview**

3.1 There was a clear majority of respondents who supported the Government's preferred option to abolish the ACHS and reconstitute it as an expert scientific committee. A small number of respondents commented on the proposed Terms of Reference mainly to flag up the risk of duplication with other relevant committees, and to query the reference to nanomaterials. There were a limited number of comments on the proposed name of the new committee.

#### **By question**

##### **Question 1**

Do you support the Government's preferred option, to abolish the Advisory Committee on Hazardous Substances, and replace it with an expert scientific committee, for the reasons explained?

3.2 Thirteen of the sixteen respondents gave a view on the options in the consultation, and eleven of them favoured option C, which is the Government's preferred option. One of the eleven respondents who supported option C could also support option A. Three respondents did not offer a view on the options, though one of them wished scientific advice to continue to be available.

##### **Question 2**

If you do not support the Government's preferred option, what is your preferred alternative?

3.3 For the two other respondents (out of the thirteen) who gave a different view on the options in the consultation, one favoured option B, seemingly on the grounds that this would save money, and that everything would be overridden by Europe.

3.4 The other respondent favoured option A, but with clearer and extended responsibilities for the committee. They were concerned that the abolition of the committee would enable Ministers and officials to take decisions without having to seek independent and impartial scientific advice (and this could reduce public trust). They also considered that the best scientific advice needed to be mobilised to deal with the complexity of chemicals management, not least as they felt in-house Government expertise in this area had declined.

##### **Question 3**

Do you have any additional points you would wish Ministers to consider before making their final decision?

3.5 One respondent noted that outright abolition of the ACHS would leave a considerable knowledge gap. Another expressed the wish that there would not be a gap or change of plan between the stages of abolition and reconstitution of the committee.

## Question 4

Do you have any views on the proposed Terms of Reference for the new committee?

3.6 Two respondents welcomed the fact that these Terms of Reference would enable the successor body to provide advice to Ministers in the Devolved Administrations.

3.7 Two respondents made common points about avoiding the risk of overlap, duplication or confusion between the proposed Terms of Reference for the new committee and the existing Terms of Reference for the Committees on Toxicity (COT), on Mutagenicity (COM), on Carcinogenicity (COC) - of Chemicals in Food, Consumer Products and the Environment. Two respondents advocated a closer working relationship between the new committee and COT/COM/COC. One respondent also queried whether the new committee would have the required expertise to fulfil its broad remit.

3.8 Two respondents argued against the specific reference to nanomaterials in the proposed Terms of Reference, on the grounds that there was no need to single these out, and that nanomaterials should instead be treated like any other area of chemicals.

3.9 One respondent (who favoured outright abolition of the ACHS) considered it unnecessary to have Terms of Reference on the grounds that everything would be overridden by Europe.

3.10 One respondent argued that the four bullet points in the proposed Terms of Reference relating to the relationship between the committee and the Defra Minister responsible for it, were more about, and for, Defra than for the committee itself, and therefore could be covered elsewhere.

## Question 5

Do you have any views on the proposed name of the new committee?

3.11 One respondent preferred a shorter name, another suggested an alternative name (Advisory Committee on the Management of Hazardous Substances), whilst two others preferred the matter of the name to be addressed after the Terms of Reference had been settled.

3.12 One respondent (who favoured outright abolition of the ACHS) considered it unnecessary to have a name for the new committee on the grounds that everything would be overridden by Europe.

## 4. Government response

4.1 The Government welcomes the fact that there was a clear and overwhelming majority of views in support of its preferred option. The Government therefore intends to proceed with this option, and in particular to lay an Order to exercise the power in the Public Bodies Act 2011, to abolish the ACHS as one of the bodies listed in Schedule 1 of that Act. This will enable the successor body to the ACHS to be up and running as soon as the Order comes into force.

4.2 The Government reaffirms that the successor body (to the ACHS) will continue to provide expert, impartial and independent advice to Ministers and others. Moreover, the advent of a

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complex and science-driven EU regime for chemicals provides the successor body with a broader and more strategic role to provide advice to support UK policy on that regime.

4.3 The Government welcomes comments on the proposed Terms of Reference and name for the new committee, which are a separate matter from the options in the consultation, and the above-mentioned Order. The Government accepts the need to address the points made by respondents before the new committee is up and running. These points will be discussed with the respondents, and with the ACHS Chairman and members, in the coming months. The Government supports closer links between the new committee, and other committees with relevant experience such as COT/COM/COC, and will ensure that the new committee has the required expertise to fulfil its remit.

## **5. The way forward**

5.1 Section 10(2) of the Public Bodies Act 2011 requires Ministers to consult a second time in the event that their proposals change as a result of the first consultation (itself required under Section 10 (1)). In view of the responses to the consultation, and the Government's intention to proceed as planned, there will not be a second consultation.

5.2 Follow-up discussions on the proposed Terms of Reference and the name of the new committee will be held with those respondents who have commented specifically on these aspects, and with the ACHS Chairman and members, with a view to having these aspects settled in time for the first meeting of the successor committee.



## Annex I: Subsidiary questions from respondents in the consultation period and Defra replies provided to them

1. How is a non-Departmental Public Body different from a Scientific Committee?

*ACHS, as a Non-Departmental Public Body, sits outside Departmental structures. It has a scientific remit, of course, but was established to deliver a specific statutory function. That function is no longer required but there is still a need for officials and Ministers to have access to independent scientific advice on issues relating to hazardous substances. This is the reason why we intend to establish a scientific committee. This committee will not be a statutory body but will allow a more flexible and integrated approach to the use of scientific evidence to support policy.*

2. What does that mean to the process of policy information?

*Our intention is to provide for oversight of expert scientific committees by the Defra Chief Scientific Adviser, and greater co-ordination of scientific advice across the Department. This will improve the process of policy making, the communication of scientific advice, and the quality of the supporting evidence.*

3. What does it mean to (the length of) the decision making process?

*The proposed committee will still be able to make decisions on the same timescale as the ACHS. However, the new arrangements for scrutiny and peer review should improve and refine the process for future decision-making. It is certainly not our intention that each and every decision which the committee has to make should become subject to a secondary loop, or that members' expertise should be questioned.*

4. What does it mean regarding the appointment of its members?

*Members will continue to be appointed for their expertise and the relevance to the committee's remit. It is envisaged that the process will have a lighter touch, for example with senior officials being able to make appointments on behalf of Ministers. But appointments will continue to be on merit, and Ministers will be kept in the loop.*

5. How will the new committee interface with the European Chemicals Agency (ECHA) and their committees in relation to the fact that the Agency is heavily involved with REACH regulations and if it would need to report to them on their decisions/recommendations? Would the new committee's work duplicate any of ECHA's work?

*The ACHS does not currently have a direct interface with ECHA although it does consider a range of REACH-related matters regularly. The key relationships which we are developing for the ACHS, and would continue to work on with the successor body, are between the committee and the REACH teams in Defra, and in the Health and Safety Executive's Chemicals Regulation Directorate which represents the UK REACH Competent Authority. Although the committee can, if it wishes, make its decisions and recommendations known to ECHA – we would expect the official interests mentioned to provide that conduit to ECHA. We would not wish the committee to duplicate ECHA work.*

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6. How much money would be saved by abolishing the ACHS and not replacing it?

*The answer to this question was about £29K per annum, assuming there would be no need to pay for the same advice from elsewhere.*

## Annex II: Respondents to consultation on the future of the Advisory Committee on Hazardous Substances

Dr John Craig (Girac Limited and Associates) (8 July)

Dr Denis Koltsov (Nanotechnology Industries Association) (11 and 14 July)

Alison Williamson (AgriChem (International) Limited) (12 July)

Hilary Stone (lay member, ACHS) (20 July)

Roy Miller (British Retail Consortium) (26 July)

David Ambler (AIMEA) (3 August)

Dr Roger Bentley (Astley Limited) (15 August)

Martin McVay (Welsh Government) (12 September)

Dr David Taylor (Royal Society of Chemistry) (19 September)

Susan Scott (Scottish Government) (27 September)

Dr Andy Smith (University of Leicester) (6 October)

Dr Chandra Durve (Tailings Disposal) (14 October)

Ruth Willis (LSHTM) (14 October)

Peter Brown (Scottish Water) (14 October)

Dr Patrick Miller (Food Standards Agency) (14 October)

Diane Benford (COT/COC) (17 October)