

# H4 Odour

## Environment Agency response to the consultation

In 2009 The Environment Agency consulted on a revised H4 Odour Guidance. During the 12 week consultation we received responses from some 45 organisations and individuals with over 850 individual comments.

We are very grateful for the many constructive responses. Many valuable and helpful points were made and these have been captured with changes to the text in H4. The key ones are described below but respondents will hopefully be able to see the influence that they have had on the document.

Many respondents made similar points and so we have grouped these together in the summary of issues below.

### General points

There was some misunderstanding about who the guidance is for. In particular, some Local Authorities assumed it applied to them, and the water industry was concerned that it was applying odour regulation to sewage plants that are not subject to Environment Agency regulation for odour. The introduction has been altered to make these matters clear. In summary, the guidance only applies to activities regulated by the Environment Agency under a permit that contains an odour condition.

Many comments related to issues that were specific to particular sites or situations, or to issues that, while relevant to the topic of odour, were not issues that could be addressed through amendments to H4. For example, odour issues at particular sites, the training of Environment Agency officers, and issues that concern the contents of Directives, regulations or permit conditions. Other issues, such as the encroachment of new housing developments, have to be dealt with through the planning regime.

Some respondents preferred the previous guidance which had much more technical detail. Others preferred the approach in the consultation document. We have retained the approach in the consultation document and have now provided a bibliography of other technical documents for those who require access to a greater level of detail.

On a few issues we had directly opposing comments – showing that we cannot please all of the people all of the time.

### Modelling

There were concerns that the consultation draft indicated that the Environment Agency did not support the use of modelling to assess the likelihood of odour causing problems. We have clarified our position in the post-consultation version, namely that modelling of odour, when it is done well, can provide valuable evidence on the likely acceptability of proposals. It also has many uncertainties, as do other

methods of assessing odour and, when considering the acceptability of a proposal, we should take all available evidence into account, such as the performance of similar plant elsewhere or monitoring information, and not just rely on one technique.

There were many other very detailed comments around modelling and the use of isopleths. These came from a small number of specialist odour consultants and we will engage with them directly on these issues.

We had called for other sources in the area to be taken into account in the modelling. Concerns were raised as it is most unlikely that an operator would have access to the information from someone else's operation. Other sources may be taken into account as a matter of judgement but we would be unlikely to have numerical data to support modelling. This requirement has been deleted.

The modelling standard (which is unchanged from the previous version) suggests that 10% of the population may be annoyed for 2% of the time. We do not consider it would be appropriate to regulate for average sensitivity (as some suggested) as this would mean that it would be acceptable for half the population to be subject to annoyance.

## Legal/enforcement

Some expressed concerns that we were attempting to “go beyond BAT”. The answer is that we are not. Whether we are talking in terms of BAT or appropriate measures, a site-specific, cost benefit decision has to be taken, and the worse the impact of the odour is, the more that is likely to have to be done in order to control it. If we believe that the odour still constitutes an unacceptable level of pollution despite the application of BAT or appropriate measures we will consider whether it is appropriate to use our regulatory powers to suspend or revoke a permit or refuse an application.

There were comments that we were not explicit enough in defining how much odour is acceptable. Because of the subjective nature of the judgements needed, we believe that it is neither possible nor helpful to seek to be this specific in this type of guidance. However, we have provided some further guidelines in relation to this issue which we trust you will find helpful.

Some respondents queried terms such as “the boundary” and whether we were going to interpret that strictly or as at the “nearest sensitive receptor”. We have clarified that while, in theory, an operator should not be having an impact on anyone else's property beyond their boundary, we will only take action if there are sensitive receptors. Operators should always be aware that the situation beyond their boundary can change e.g. as a result of development.

We have also clarified that, while there are many types of sensitive receptor, we give more weight to those who are significantly affected, for example, residents and businesses such as pubs and hotels, rather than those who are passing through, for example, people using a footpath.

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## Balance

Concerns were raised by both industry and regulators that the document was unbalanced in that it did not adequately recognise that for some activities, residual odour would exist and would have to be accepted by neighbours. We have sought to clarify the position, while still stressing the need for operators to take all appropriate measures/BAT to minimise the impact of odours.

Some operators and other regulators were concerned that we had not adequately covered the issue of orchestrated complaints. Our experience is that orchestrated complaints usually arise because of persistent and troublesome odour problems. However we are fully aware that there can be other, less meritorious motivations, and we have made it clear that any such concerns should be brought to our attention. We will then deal with these on a case by case basis.

## Consistency

A number of respondents pointed out that we had not been consistent in our use of terms. We have been through the document carefully and believe that we have now addressed this.

Some respondents raised concerns about the relationship between this guidance and the other odour guidance documents that are available in England and Wales, in particular the Defra guidance for Local Authorities. The ultimate standards in this guidance and the local authority guidance are very similar, however there will be differences reflecting the various approaches to permitting and permit conditions.

## Odour management plans

A number of respondents asked for template odour management plans for particular sectors. We are producing these and have completely re-written the appendix on OMPs to bring it in line with the application form guidance on the Web site and to take into account concerns raised.

These was concern that the use of the odour management plan may leave operators without a route for appeal. We have clarified that we would only impose measures using a method that allows appeal, such as a permit variation.

## Sector specific issues

Sector specific issues raised were not always applicable to this “cross-sector” guidance. However we included them where they had wider relevance or provided good examples of general points.

We have deleted Appendix 2 on sector specific techniques as it replicated what is in sector guidance.

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## Monitoring

There were a range of detailed comments on monitoring mainly from odour consultants. We will engage with them directly on these issues.

We hope that you will find that the changes we are making go a long way to addressing your concerns. If you have residual concerns please feel free to discuss these with us.

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