

INFORMATION ON THE RESPONSE MADE ON 23 SEP 11 BY THE MINISTRY OF DEFENCE CIVIL SERVICE UNIONS. THIS INFORMATION IS A COLLATION AND SUMMARY OF THE COMMENTS RECEIVED FROM THE TRADE UNIONS. THOSE COMMENTS IN BOLD RELATE TO SPECIFIC STATEMENTS OR QUESTIONS THAT HAVE BEEN RAISED BY THE TRADE UNIONS.

1. Thank you for your proposals and the opportunity to comment on the formation of the DSEA sent through to MCSU under cover of your letter reference DBR-09-10-02 DA-15-11 dated 10 Aug 11 together with an update on Annex E received on 18 Aug 11 and confirmation that DFRMO was out of scope plus a copy of the EDIA received on 13 Sep 11.
2. It is stated that this change has been equality and diversity impact assessed in accordance with Departmental policy. As a result a Part 1 screening only has been completed, identifying no direct discrimination or adverse impact identified/policy is a reflection of statutory requirements with clearance having been sought from a Legal Adviser and a review date in 2014 identified. For a change to be impact assessed in accordance with the Department's policy, it has to have involved staff who are covered by the protected characteristics. There is no evidence of their involvement. ***The TUs have asked for details of the evidence on which the Legal Adviser based his/her clearance in respect of the decisions there were no impacts identified when the EDIA for this proposal was carried out.***
3. Please be advised that the DPF have opted to respond to you directly and MOD will need to take action to reply separately.
4. The MOD Industrial/Non-industrial Trade Unions (TUs) wish to register their disappointment and frustration at not being involved as a major stakeholder in the process despite assurances being received that they would be. The TUs firmly believe this contravenes the requirement of both the Safety Committee Regulations and the consultation with Employee Regulations.
5. The background provided in the consultative document relies on drawing information from the Haddon-Cave report. The TUs firmly believe the MOD has cherry picked parts of the report and despite the clear direction, which can be drawn from the report, has paid lip service to crucial parts of the report's recommendations. The TUs reserve their right to engage with external regulators and interested parties on the formation of the DSEA.
6. This response from MCSU consists of the Non Industrial Trade Unions' comments under 2 distinct areas of business of Process/policy/procedures and of Technical/Functional aspects of the proposal.

PROCESS/POLICY/PROCEDURES

7. Departmental PRG's, The 1977 Safety Committee and Safety Representatives Regulations and the 1992 Consultation with Employee Regulation identify TUs as stakeholders with a requirement on employers to engage. ***Why were the TUs excluded from the stakeholder engagement?***

8. The consultative document features a statement of intent with no evidence to substantiate the decisions. ***Please provide the business case and investment appraisal for the proposal.***
9. The consultative document identifies a post mapping exercise has been undertaken for all posts included in the scope. ***Please provide full details of scope and confirm all personnel have received written notification of the post mapping exercise.***
10. The consultative document identifies a new 2* post will head up the proposed organisation. ***Please supply a copy of the job description for the post.***
11. The consultative document identifies a new 2* post will head up the organisation. Indications are the advert for this proposal has already been placed with the potential an individual may have already been appointed. ***Why has this clear breach of process been allowed as the consultative period is still running?***
12. The proposed changes impact on more people than will transfer owing to line management responsibilities being altered and administrative workloads reduced or increased. ***The TUs have asked for details on how this will be addressed.***
13. ***The TUs have asked for a guarantee that no jobs will be lost as the posts transfer over and for full transparency of the before, during and after.***
14. JSP 755 Annex A clearly states the civilian military grade equivalencies. There are areas within the family trees annexed to the consultative documents where there are disparities in the chains of command /line management (annex C/D/D1/D2 refers). For example, Annex C has 2 C1's working to CDR, Annex D has 2 B2's working for an OF5 also 2 band D's working to Capt, Annex D1 has B2 (merit) B1 this is not recognised and Annex D2 has 2 C1's working to Lt Col. ***The TUs do not accept the annexes and ask for them to be withdrawn.***
15. The Consultative Document states there will be no implications for staff in this proposal. ***What future direction/plans are known for the authority?***

TECHNICAL/FUNCTIONAL ASPECTS OF THE PROPOSAL

16. The Haddon-Cave was quite rightly not complimentary to the Department. The report identified an urgent requirement to change the way the Department undertook and discharged its responsibility for safety. The Department enacted parts of the report with a knee-jerk reaction of the formation of the Military Aviation Authority. The review initiated which has eventually resulted in the proposed DSEA has been long awaited but in the opinion of the TUs has done little to embrace the recommendation of the Haddon-Cave report and in some areas has the potential to be at best sub-optimal and in some areas detrimental to future safety within the Department .
17. If there are plans in the future to merge the DSEA with the Military Aviation Authority, probably at Abbey Wood, TUs concern with this is that merging a safety authority would

remove the true independence of the DSEA. It may make sense, in the future, to have the same senior civil servant Director but the independence, as outlined by Charles Haddon-Cave QC, is absolutely paramount in ensuring the safety of MoD activities and those affected by them, now and in the future.

18. The proposed formation of the DSEA includes the current holders of safety policy within the Department. One of Haddon-Cave observations and the indicated purpose of the formation of the DSEA was to provide clear management delineation between policy formation, implementation and regulation. ***Why are the policy holders (current SSD&C) included in the DSEA?***

19. The aim of the proposal is to form a Departmental Authority. ***Why is the Military Aviation Authority not included in this proposed new authority?***

20. The aim of the proposal is to form a Departmental Authority. ***Why is DEFRA not included in this proposed new authority? How does the Department (DSEA) propose to provide assurance from Fire when this remains within and under command of the Front Line Command of Land Forces (LF)? DEFRA which is part of LF are responsible for the delivery of all matters regarding Fire Policy and the standards being set. They are an Enforcing Authority as specified in the Regulatory Reform (Fire) Order 2005 and currently the Chief Fire Officer (CFO) receives a delegation directly from Second PUS.***

21. The TUs are aware of the S of S Policy Statement which encompasses Fire under the broad heading of Safety and the delegations to the Head of the DSEA through 2nd PUS which are derived from it. ***Where does this leave the delegation to the CFO and how will DSEA receive or get its assurance that Fire has been independently audited?*** Haddon-Cave QC was clear that Delivery and Assurance should be separated. ***However, it would appear that Fire is not separated or are there processes being worked upon to do so?***

22. The aim of the proposal is to form a departmental Authority. ***Why is the full Maritime area not included in this proposed new authority?***

23. The aim of the proposal is to form a Departmental Authority. There is no reference to DIO. There is activity within the DIO which constitutes regulation. ***Why are these parts of the DIO not included in the proposed new authority?***

24. The consultative document is totally lacking on the operation of the proposed authority. The Functional Safety Boards are not referenced in the document. ***If there is a proposal to disestablish the Boards, what is going to replace them?***

25. The consultative document is totally lacking on the operation of the proposed authority. ***The Occupational Health and Safety Board is not referenced in the document. If there is a proposal to disband the board, this should be included in the consultative document. There is also no reference to the Occupational Health and Safety Committee. Again, the future for this committee should be included in this consultative document.***

26. The TUs firmly believe that all of the above information and answers must be answered before the consultative period could be considered as being over. The TUs feel these fundamental questions need to be answered before the consultative process continues and therefore are not in a position currently to support the formation of the proposed authority