



Environmental Protection UK

44 Grand Parade

Brighton

BN2 1RL

30th July 2010

By email to h.price@cieh.org

Consultation on CIEH's draft Competence Framework for Local Authority Contaminated Land Regulators: A Response from Environmental Protection UK

We write in response to your consultation on the draft competence framework for local authority contaminated land regulators. Environmental Protection UK has considered the consultation documents and welcomes the opportunity to comment on the proposals.

1. About Environmental Protection UK

Environmental Protection UK brings together organisations from across the public, private and voluntary sectors to promote a balanced and innovative approach to understanding and solving environmental problems, through policy development and education. We are a registered charity with 110 years' experience of environmental campaigning, public information provision, producing educational resources and policy formulation. Within land quality our goal is to promote policies and practices that encourage the use and reuse of land in a way that protects human health and the environment.

Environmental Protection UK's land quality policy committee has been involved in the development of this response, in particular those working in a regulatory capacity. This committee brings together policy makers, regulators and practitioners from local authorities, consultants, developers, academics, industry and interested NGOs, as well as members from Environmental Protection UK's regional divisions. As such it is able to draw on a wide range of expertise and views from representatives of the entire land quality community.

2. General Comments in Response to the Consultation

There is a need to raise standards and increase consistency in the management of land contamination. This is recognised within our five year land quality strategy and we strongly believe initiatives such as the Competence Framework for Local Authority Contaminated Land Regulators have the potential to assist with this aim. However we are disappointed that this framework does not align in any way with the framework developed for the private sector, or for the Environment Agency. We believe this represents a significant missed opportunity to foster understanding and cooperation between the sectors and to support career development and staff retention.

Furthermore, a number of local authorities employ private sector staff to assist with certain duties. Local authorities are aware of the importance of only carrying out work that they are

competent to do and so often buy in assistance for areas where they are not. In light of this, it would seem both pragmatic and beneficial for all practitioners to use the same framework so the required competencies can readily be identified. We note that two similar frameworks are also currently under consultation by the CIEH, one for practitioners in food and one for housing. Both of these are apparently designed to cover all sectors - private, regulatory and third sector - with additional competencies identified for those in enforcement. It appears that this framework differs from the format of the others and we fail to understand why this is considered necessary. The CIEH's participation in the SiLC Professional and Technical Panel, which has steered the development of this framework, could have provided opportunity to ensure closer alignment. We urge all relevant bodies to work together in these initiatives to the benefit of the sector as a whole.

It is currently unclear whether the overarching framework that was proposed by the draft National Brownfield Skills Strategy will be developed. This would have attempted to bring together these two initiatives but with funding as it is, it seems unlikely to go ahead. We note from studying the two frameworks that the actual detailed competencies overlap greatly in content and differ primarily in layout. We maintain that it is both possible and desirable to develop an overarching framework or to align these two frameworks. Different focuses will exist depending on the role in question, just as they will between different local authorities or consultancies. Failure to integrate or align these frameworks will not only hinder uptake but will reduce the value of the framework to the individual and to the sector as a whole.

3. Answers to the Consultation Questions

Part 1: Non-regulatory competencies (pps 7-18)

1. Do the "Core behavioural competencies" (pps 7-15) adequately describe the behaviours service-users ought to expect in this context (ie contaminated land regulation)? Are any behaviours missing or are any which are listed unnecessary?

The 'core behavioural competencies' appear to cover most of the core behavioural competencies that would be expected of a contaminated land officer and indeed appear key to any professional role. It is understood that these mirror the core behavioural competencies set out under other CIEH competency frameworks, such as those for 'Practitioners in Food; Inspection, Safety and Standards' and 'Practitioners in Housing Practice'.

As the behaviours described are common to all professionals, it seems unnecessary to list them here. Part 1 of the document is arguably superfluous as everything it includes should be integral to a standard job specification and expected professional conduct. Some contributors thought it inappropriate to list these in a document which deals specifically with land quality. It is therefore our view that these core behaviour competencies would be of better use if they were removed from the specific frameworks developed by CIEH and set out in a separate, stand alone framework. This would provide guidance to environmental health departments on what the CIEH considers professional conduct, avoid patronising practitioners and help reduce the length and perceived complexity of the specific frameworks, allowing users to focus their attention on those competencies that are unique to their role

2. Are the "Core behavioural competencies" easy to understand? Are the accompanying descriptions ("When we do this well... / When we do this badly...") helpful?

The descriptions are considered helpful and on the whole the competencies are easy to understand. However, they are considered too detailed in parts and the appropriateness and need for this level of detail has been questioned, for example "know when to seek the views of employees' elected trade union representatives".

Self assessment of these types of skills is not considered to be an appropriate method of assessing competency. Subjective assessment of one's ability to understand and appreciate the views of others, for example, could produce questionable results. These are the type of competencies which would benefit from assessment by a manager and perhaps also an equal peer to determine how core behavioural competencies are perceived by different people.

Whilst the explanations of 'when we do this well' and 'when we do this badly' are clear, they are highly subjective and would benefit from a more prescribed set of competency criteria in order to facilitate objective assessment.

3. Does the "Information Technology Competence" (p 16) adequately describe the skills and knowledge needed to perform this function? Is anything important missing or is anything which is listed unnecessary? Is it easy to understand or is more detail needed?

These competencies are considered too basic for inclusion in this framework. An ability to use word-processing applications, for example, captures such basic requirements that it leads us to question why other competencies, such as a professional telephone manner, are not also included somewhere in the framework. Instead, the focus should be on issues directly pertinent to land quality which could include, for example, application of IT to land quality issues. Items such as 'basic understanding of how information networks are used in their workplace' would perhaps be more appropriate for an in-house officer appraisal scheme where the competence specific to the systems in use could be detailed. We believe that only the last 2 bullet points should be included and the last one should be modified to make it specific to land quality e.g. "...legal issues associated with using IT when dealing with land quality."

An understanding of GIS should be included and consideration needs to be given to awareness of specific contaminated land IT programmes such as those that could be used to derive site specific remediation targets. If the 'Core List' is to remain a general one, specific IT skills for contaminated land regulators need to be included in Part 2 of the document instead.

The requirements vary across local authorities and therefore flexibility within the competency framework is considered key to enable widespread usage. The self-assessment tool allows the user to stipulate that the competence is not applicable to their role; it would seem preferable therefore to include all the potential technical competencies that could be required.

4. Does the "Organisational Competence" (p 17) adequately describe the skills and knowledge needed to perform this function? Is anything important missing or is anything which is listed unnecessary? Is it easy to understand or is more detail needed?

We believe these skills are for an individual and their employing organisation to establish, and are not required in this framework.

5. Does the "Literacy and Numeracy Competence" (p 18) adequately describe the skills needed to perform this function? Is anything important missing or is anything which is listed unnecessary? Is it easy to understand or is more detail needed?

Rather than referring to these skills as 'Literacy and Numeracy', which users could find patronising, they could be termed 'Technical Report Writing and Interpretation'. More emphasis should be placed on stakeholder communication as this is a critical element of the regulatory role and is key to successful delivery of the job and management of any site. We ask that consideration be given to including this as a stand alone section in the competency framework.

6. The non-regulatory competencies apply to other competence frameworks besides this one (e.g. to frameworks for food safety or housing enforcement); is it helpful to repeat them each time (i.e. so each framework is "self-contained") or should they be contained in another, separate document?

We believe these should be kept in another overarching document that provides a framework for core competencies. This would address some of the issues raised in answer to the previous questions.

As many people in the role of a contaminated land officer are not qualified Environmental Health Practitioners, these core competencies should be clearly indicated from the technical frameworks and readily accessible so a practitioner or their employer may chose to utilise them for their professional development, should they feel they would be beneficial.

Part 2: Professional/Regulatory Competencies (pps 19-29)

Part 2A: Problem Solving from First Principles (p 19)

7. Do the skills and knowledge described in "Part 2A: Problem Solving from First Principles" adequately describe the skills and knowledge needed to perform this function? Is anything important missing or are any which are listed unnecessary?

The content does appear to adequately describe the skills and knowledge needed. However, we have concerns about the use of the term 'to the standard indicated in Part 2B' when the 'standard' itself cannot be defined because it is a subjective judgement by the individual and does not include a method of assessing one's self against a scale of achievement, however broadly that may be defined.

Where the framework references 'other regulations' it would be helpful to include a definitive list referencing the relevant legislation, which is updated as necessary. Knowledge of which regulations are relevant is the first step. A regulator unaware of the Environmental Damage Regulations for example, may not select the most appropriate intervention option based on

ignorance of the option. To be competent, the practitioner must have the skills and experience to apply the knowledge.

8. Are the skills and knowledge described in "Part 2A: Problem Solving from First Principles" easy to understand or is more detail needed?

These give the impression that they have been adapted from a different context or framework in an attempt to make them fit land quality.

Part 2B: Core regulatory skills and knowledge (pps 21-25)

Skills (p 21)

9. Is the list of required skills complete or is anything obviously missing or included unnecessarily?

Some of the skills go beyond the core role of a contaminated land officer e.g. into design and implementation of a site investigation; however, some local authority officers will be required to do this. As the assessment process allows for these to be discounted as applicable, we believe they should be included.

Before going into the fundamentals of Part 2A, a practitioner needs to understand the basic concepts of contaminated land such as conceptual model formulation; the potential sources of and risks posed by contaminants, pathways and vulnerability of receptors etc. This doesn't appear to be reflected in this framework.

Missing from the list are skills such as:

- Developing internal and external communications networks
- Establishing internal and external communication strategies
- Project management

These are in part implicated by working effectively with partners and stakeholders but should be specifically included as they are important competencies.

The skills identified above, along with the majority of those listed in this section, are common to all land quality practitioners and therefore could usefully be cross referenced to those identified under the SiLC Land Condition Skills Development Framework. The usefulness of two frameworks essentially offering the same thing is highly questionable in itself. The opportunity to align them should not be missed.

The emphasis here appears to have been placed on Part 2A and we are unclear as to why this has been done as there are many other aspects of a job as a contaminated land regulator apart beyond pursuance of duties under Part 2A. A detailed knowledge of the planning regime, for example, is also key to the role. Amendments are needed to redress the current focus on Part 2A.

10. Is the list of skills either too detailed (i.e. too many are listed) or not detailed enough (i.e. there is too much aggregation)?

We understand this has been piloted by local authorities. However, we believe this would benefit from further piloting, in particular within local authorities where the contaminated land functions are not carried out by an Environmental Health Practitioner. This would help to develop it into a more useable format before the document is officially issued. Greater clarity is needed over what this framework does and does not aim to provide. We believe there is a danger of the framework being brought in by Environmental Health Managers, who are not competent in land quality issues and who may not recognise that the details of the requirements of any role will be based on how the local authority in question chooses to organise its specific functions in relation to contaminated land.

We believe the skills would be better separated by purpose e.g. Core, Part IIA, Planning, Environmental Liability, Environmental search responses, strategic issues including climate change etc.

11. Is the list of skills set out logically or might they be organised differently? Are any particular skills in the wrong place?

We believe the framework would benefit from a more logical structure. It would also be helpful if the bullet points were numbered, both for this consultation exercise and for the application of the framework.

Part 2A specific capabilities are mixed in with more general skills e.g. on page 22 “Able to identify potential “special sites”” is found within the section on “Phase 2 and 3/generic and detailed quantitative risk assessment”. It may be more appropriate to group Part 2A specific capabilities, and planning consultation specific capabilities which are in addition to the core list, into a separate section.

12. Are there skills listed which are not underpinned by a necessary knowledge requirement?

The knowledge requirements for the legal aspects are well covered but these do not appear to be fully reflected within the skills section. Ensuring that all practices followed are legally robust and adequately documented should be included.

We do not consider the format separating the skills from the knowledge to be terribly helpful or readily useable. A more appropriate format for all of this information would be as a spreadsheet, as per the original Standing Conference on Land Contamination system. This would allow cross referencing of skills, knowledge and specialist applications/topics.

Knowledge (p 24)

13. Is the list of required knowledge complete or is anything obviously missing or included unnecessarily?

No comment

14. Is the list of required knowledge either too detailed (i.e. too much is listed) or not detailed enough (i.e. there is too much aggregation)?

No comment

15. Is the list of required knowledge set out logically or might it be organised differently? Are any particular items in the wrong place?

No comment

16. Does the list of knowledge adequately reflect the list of skills?

See previous comments

Part 2C: Specialist applications (pps 26-29)

17. Is the inclusion of specialist topics and settings in this part worthwhile or should the framework confine itself to the core skills and knowledge of Part 2B?

We believe there is value in the inclusion of a range of topics and settings, on the understanding that these will need to be kept under review and modified as legislation and the demands on contaminated land officers' change. This section is arguably too limited at present, particularly the setting section which could certainly be expanded further. However, this risks over complicating the framework and therefore we appreciate a line must be drawn.

Topics (p 26)

18. If you think that including some "topics" is worthwhile, are these the right ones? Alternatively, which might you delete? Which, if any, others would you like to see covered

Liability should be included here, both in the context of Part 2A and also the use of the Environmental Damage Regulations.

Presumably this does not address human risks as they are covered in the earlier sections but we believe this would benefit from some clarification. A section on human risks could use numerical references to the earlier sections rather than repeat these aspects of the framework.

We believe a section on toxicology would be helpful. Unexploded ordinance could also be included.

We are unconvinced that it is wise to select some contaminants and not others (e.g. asbestos and heavy metals). It might be preferable to focus on receptors.

19. In the case of any of the topics included now, does the list of skills/knowledge adequately describe the skills and knowledge needed to perform the function? Is anything important missing or is there anything which is listed unnecessary?

See previous comments

20. Are the skills and knowledge listed under any of the topics included now easy to understand? Are any of the lists too detailed or is more detail needed?

The definitions themselves can be further refined by practical piloting of the system. They appear easy to understand but whether they work in practice is best determined by application.

Settings (p 28)

21. If you think that including some "settings" is worthwhile, are these the right ones? Alternatively, which might you delete? Which, if any, others would you like to see covered?

Landfills and petrol stations are obvious and ubiquitous ones to include. Others could be evolved. A useful starting point could be to base these on the DoE industry profiles.

Some local authorities may wish to develop their own 'settings' and identify the required knowledge e.g. Pennine textile areas will require more detailed definitions of textile industries to account for, such as dye works and scouring plant.

22. In the case of any of the settings included now, does the list of skills/knowledge adequately describe the skills and knowledge needed to perform the function? Is anything important missing or is there anything which is listed unnecessary?

The need to understand the importance of restoration of the landfill site as part of the remediation should be included. The focus on this section is on landfill gas but leachate is a major factor, not just as a potential contaminant, but also as part of understanding how the whole landfill bio-system operates and the impacts of this on how the landfill can be managed.

23. Are the skills and knowledge listed under any of the settings included now easy to understand? Are any of the lists too detailed or is more detail needed?

They are easy to understand. Piloting would help identify where they need to be streamlined or augmented.

Generally

24. Do you have any other comments to make about the proposed framework?

1 - Assessment

We would suggest that the self assessment tool needs to be piloted wider and developed further before it goes into general use.

As the assessment process relies on self-assessment, it is highly subjective. Whilst assessment may be done in conjunction with a line manager, knowledge of contaminated land matters within local authorities is often limited and there is no guarantee the manager will be sufficiently versed in this area to assist. We believe that in addition to self-assessment there should be some sort of sign off to agree the level of competency. Introduction paragraph 4 touches on the potential for the CIEH framework to be used as part of an assessment process with a mentor or supervisor. We are keen to see this concept developed within the context outlined above, where the manager of the Contaminated Land Officer/ Environmental Health Practitioner does not have sufficient expertise to provide enough support for professional development. Peer mentors from within regional areas may be able to assist in this assessment process.

We are equally interested in how this might work in a situation where the local authority organises their functions in such a way that different roles cover different parts of the

contaminated land functions and some are perhaps outsourced. Is it envisaged that the Environmental Health Manager would ask for some kind of competency check with a consultant employed to carry out some of these functions e.g. to design the site investigation?

For this self-assessment tool to be used, the practitioner needs to answer each single bullet point of every competency. This is a significant undertaking, with over 200 points to check against. The framework would be better if there were different skills at different levels, so there could be a set of skills you would be expected to obtain at a 'basic level' which could then be built on according to the requirement of the role and/or carer progression. There needs to be a method of demonstrating a level of ability in each of these competencies and further consideration needs to be given as to how this can be measured to enable progress to be demonstrated.

2 – Structure, content and useability

The framework is quite confusing and not that easy to follow, it would benefit from simplification or re-structuring. Numbering of the bullet points would help but a more useful structure such as a spreadsheet is also desirable. It should be a free standing downloadable system which individual local authorities can then customise to local conditions.

We are interested in how this framework will fit together with others developed by CIEH. Some contaminated land officers have other technical remits within their local authority which may at some stage be covered by another framework, will these be developed to enable the officer to pick and mix those of relevance and develop their unique individual competency framework? Furthermore, will aspects not covered - such as functions relevant to Waste Licensing or Environmental Damage regulations - be covered elsewhere or eventually brought into this framework?

We are not clear what other 'contemporary frameworks' are referred to in paragraph 5 on page 2. We are concerned that omitting requirements such as corporate awareness and legal procedures within this framework, particularly if they are enshrined in the others produced by CIEH, gives the impression that these issues are not considered relevant to contaminated land. Clearly these are relevant, legal procedures in particular must be sufficiently covered. If the framework is long, we would suggest this is indicative of the task in hand rather than something that can be rectified by leaving out certain areas. Containing 'generic' skills within a separate framework and focusing this framework on the technical issues could help mitigate this.

There is a lot of uncertainty at the minute as to what the regimes actually are. The national planning framework is due to be consolidated and the Part 2A statutory guidance is under review. The skills as far as regulators are concerned should flow from the law and therefore the implications of these changes need to be considered.

Is the framework only for use by those local authorities whose contaminated land work is dealt with by an Environmental Health Practitioner? How is it envisaged that those where these functions are split between posts will operate the framework? Is this aimed at the individual or the authority? Having heard a presentation of this framework at a recent SAGTA meeting, we note that it is designed more to advise on what the local authority should be providing rather than for the benefit of the individual. This role is not sufficiently

explained by the introduction text and in fact arguably conflicts with the 'principal purpose' as set out in paragraph 4 of the introduction, which states that the framework *'is to help identify future training and development needs'*. Paragraph 3 makes clear this is about the totality of competencies required by the local authority and that often this will involve more than one person. We not clear how this would work – would a manger be expected to carve up the framework according to who does what in that particular local authority? We feel all these aspects require further thought and clarification.

It should be noted that non Environmental Health Practitioners may be unwilling to invest time assessing their competence against a framework that is not aligned with systems for their own professional development. A significant number of contaminated land officers are not Environmental Health Practitioners and so this framework risks being of limited use to the sector.

'It is acknowledged similarly that even competent authorities may need to enlist specialist outside help in unusual situations'. We are pleased to see this acknowledged. However, would specialist outside help *only* be required in *unusual* situations? We do not believe this is an accurate reflection of how all local authorities chose to organise their function in respect to contaminated land. The fact that specialist outside help is often enlisted is one of the many reasons why this framework would benefit greatly from alignment with the framework under development for the private sector.

The discussion in the introduction of the need to assess skills and knowledge according to the individual's current role acknowledges that the framework can not by its nature be fully comprehensive. There is an opportunity here to make a link with the skills framework which has been drafted by SiLC, where many of the associated skills and knowledge which a Contaminated Land Officer / Environmental Health Practitioner has to acquire for their specific role can be identified.

3 – Interface with other initiatives

We wish to understand better how these proposals will interface with other schemes such as the SiLC Land Condition Skills Development Framework. Environmental Protection UK believe that there is a need to encourage common ground, not focus on separation. The technical skills of both frameworks should be the same. We can see no reason why these should differ, given that both frameworks acknowledge that individual roles are highly variable and therefore allow for certain skills or competencies to be marked as non applicable to the specific job.

With a considerable number of competencies forming this framework, it is clear that use of the framework will come with a relatively significant time burden. Practitioners engaging in the framework deserve to be supported within their career development and therefore this framework must be developed in conjunction with appropriate training and accreditation schemes. In addition, it should be possible to build on this framework should the practitioner choose to move between the private and public sector, for example to develop their skills in a particular area, again requiring alignment of the frameworks. If the competencies were fully aligned then this would allow for a two-way flow of labour with different occupations appealing for their ability to develop certain skills. Equally, we feel that the lack of mutual understanding between operators and regulators can cause discrepancies and delays in the process of planning and of assessing and remediating contaminated land. These frameworks have the potential to foster cooperation and understanding by acting as a

reassurance of capability between stakeholders and could help alleviate confusion and inconsistency in working practices. We urge all parties not to miss this valuable and important opportunity.