

DEFRA advice to Local Authorities during the Coronavirus pandemic

Version 1: issued 7th May 2020

This advice has been prepared by Defra in relation to sites permitted under the Environmental Permitting Regulations 2016 and regulated by the local authorities (LAs). The purpose of the advice is to assist LAs, who are experiencing Coronavirus related resource challenges, in prioritising their activities and to advise them on how they can more easily comply with regulatory requirements during the Coronavirus pandemic. There are 6 sections to the advice, which have been identified based on questions that Defra has received either from LAs or from operators.

This advice is temporary and only applicable whilst LAs and the industry they regulate are experiencing significant disruption to their normal operations, caused by the Coronavirus pandemic. LAs that are able to continue to provide their normal service level, without additional risk to the health and wellbeing of their personnel, should continue to do so.

DEFRA will continue to review the situation and may update this advice or withdraw it, in response to the changing circumstances. This will be done in writing.

- **Inspection, calibration, monitoring and reporting by the operator:**

Operators should continue to comply with the conditions of their environmental permits during the Coronavirus pandemic response. However, it is appreciated that there may be practical difficulties related to monitoring conditions due to restricted access, or availability of specialised personnel/contractors, during the pandemic response period. Defra understands that it may be necessary for LA officers to accept reasonable adjustment to these permit monitoring requirements, such as postponement or temporary suspension of some monitoring activities. The Environment Agency has issued a series of Regulatory Position Statements to inform industry during the Coronavirus pandemic, they include provisions for monitoring and reporting, and can be found [here](#). LA officers may consider taking a similar approach when exercising their regulatory powers.

- **Inspection of facilities by LA officers:**

LAs have a duty of care to their staff and cannot be expected to place them at greater risk of contracting Coronavirus, where it is not essential to do so. Therefore it is understandable that LAs only carry out inspection work which is immediately essential for protecting the environment and that other site based inspection work be postponed, or alternative measures such as reviewing data and documents provided electronically by the operator. In particular, LAs may want to postpone inspection of low or medium risk facilities, unless there is a specific, immediate risk of environmental harm from that site. For facilities classified as high risk, LAs can use their local knowledge to make a risk-based judgement as to whether a site based inspection is necessary at this time.

- **Temporary change of use of facilities:**

During the Coronavirus pandemic, some Operators may need to make a **temporary** change to the use of a regulated facility. This could mean a reduction or increase in production, or the repurposing of plant to produce goods in short supply during this period. LAs may wish to consider:

- Where such a change poses low risk to the environment and it can be managed within the existing permit conditions, agreement by exchange of letters could be reasonable
- Where the change poses low risk to the environment and there is particular urgency for the change to be made, but doing so would lead to non-compliance with a permit condition; the LA could explore whether there is an alternative way for the operator to achieve compliance. Where this is not possible, the LA may want to consider taking a local enforcement position in relation to that condition.

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- Where the change will, or may, have a significant negative environmental impact, or is a substantial change; the usual permit variation process and risk evaluation would need to be undertaken and a variation to the permit conditions made to control the risks of the operation.

The Environment Agency's LA Unit has said it is available to offer support to LA officers in evaluating environmental risk, if needed.

- **Permitting of new facilities:**

There may be a need for new temporary facilities that require an environmental permit, to support the wider management of the Coronavirus pandemic.

LAs may want to consider giving priority to issuing new permits for activities that are associated with the national Coronavirus pandemic response, or delivery of critical public services; which may mean that new permits for other activities are delayed.

- **Approach to collection of fees and charges:**

The fees and charges for LA activities for the financial year 2020/21 are the same as the charges set for 2019/20.

Some Operators may seek reductions or suspension of their permit fees and charges during the Coronavirus pandemic, due to financial hardship. Whilst it is understandable that companies who are unable to operate, or are operating at reduced output, are looking for ways to minimise their costs; LAs rely upon this funding to continue to provide the services they deliver. The Charging Scheme for LAs only makes one provision for reduction in fees and that is for mothballed plant. This provision only applies if the plant will not operate for more than 12 months. There may be cases where the LA judges that immediate collection of fees would not be in the public interest, such as in cases of exceptional hardship. In such a case the LAs may wish to apply their discretion, to delay collection of charges, or to defer imposing late payment fees.

It may not be practical for LAs to issue invoices or chase payments during this period, so LAs may need to use their discretion in determining when they are able to issue their 2020/21 invoices.

- **Data collation by LAs for UK & international registries:**

All LAs collate emissions and activity data for submission into a number of industrial reporting requirements, such as the PRTR and the EU Registry. These data flows are important to ensure we are compliant with statutory reporting obligations. This data is also important to government in evaluating the effectiveness of regulation and demonstrating compliance with international commitments. Defra therefore needs to continue to maintain these datasets. We understand that there might be challenges to completing the reporting requirements during the Coronavirus pandemic, and we encourage LAs to get in contact with Defra to explain their challenges or expectations for providing data this year (via emailing PRTR@defra.gov.uk).

LAs should note that the reporting deadlines for PRTR and EU Registry from 2020 have changed. The PRTR reporting deadline has been moved from March to (the previous) November and EU Registry will now be in September each year. We will send an update to LAs on the timelines for the provision of data for both reporting obligations.