

DEFRA advice to Local Authorities during the Coronavirus pandemic

Version 2: issued 23rd July 2020

This is version 2 of advice that has been prepared by Defra in relation to sites permitted under the Environmental Permitting Regulations 2016 and regulated by the local authorities (LAs). This advice supersedes version 1 of the advice issued by DEFRA on 7th May 2020. Please now refer to this document only.

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.

As lockdown restrictions are progressively relaxed, it will be possible to reinstate suspended monitoring activities. If it has been 15mths or more since the last monitoring was undertaken, monitoring should be undertaken as soon as possible, in other cases operators can revert to their 2020 programme to avoid a peak in demand on monitoring contractors.

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

LAs have a duty of care to their staff and cannot be expected to place them at increased 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.

It is recommended that LAs adopt a 3 tier approach to reinstating inspections

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1. Where it has been assessed that there is a low risk to officers; inspections can restart, otherwise, undertake virtual or desk based inspections using online meeting facilities and electronic submission of evidence by operators.
2. If a virtual inspection is not possible, postpone the inspection if the facility poses no significant and immediate environmental risk.
3. If a virtual inspection is not possible and the facility is considered to pose a significant and immediate environmental risk, a site based inspection may be undertaken if a site specific risk assessment has been undertaken and the identified risk control measures are in place.

- **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 decision on enforcing compliance with that condition.
- 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.

Where a temporary change (i.e. one agreed by exchange of letters or through the adoption of a local enforcement position) has been in place for more than 3 months, LA officers may want to review the ongoing necessity for the change with the operator. Where the change is likely to remain longer term, the operator can be encouraged to apply to a permanent variation to their permit.

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Permitting of new facilities: We do not anticipate that there will be further need for new permitted facilities, to support the wider management of the coronavirus pandemic, so specific advice on this topic is no longer required, if you have any queries relating to this please contact DEFRA.

- **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 not to impose 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:**

It is expected that LAs will collate regarding the facilities that they regulate that is required by UK and international registries. Defra emailed separate advice, on what is required for the EU registry and E-PRTR on 18/06/20. If you have any queries relating to this please contact DEFRA.