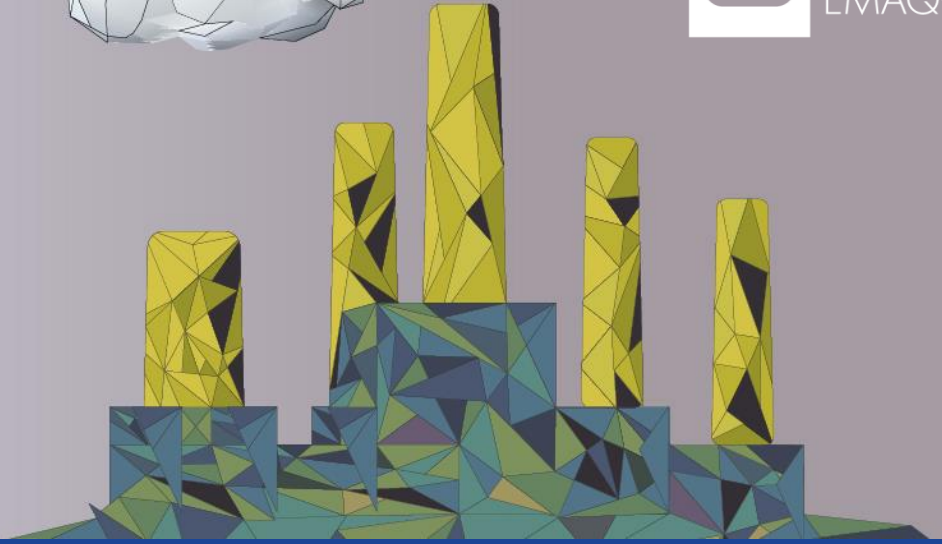


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Essentials of PPC 5

Management and Enforcement

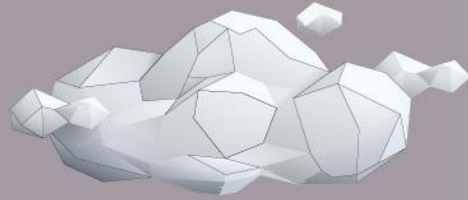


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Chartered
Institute of
Environmental
Health



Institute of
Air Quality
Management



**The Scottish
Government**



Sound science:
Defensible decisions

T.G.
Environmental Consultants



Robert Stewart



Consultant >30 years
Knowledge Leader for Industrial
Regulation
Supported LAs in permitting
Emission monitoring
Emission inventories



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Tim Glews



Formally Environmental
Protection manager for Dudley
MBC, now owner of T.G.
Environmental Consultants, an
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Support to Local Authorities

At Ricardo we have a dedicated team of specialists and look forward to helping you with any of your air quality challenges:

Air quality services :

- ISO 17025 accredited **QA/QC audits** – required by LAQM TG (16)
- **Data management**, data collection, checking, validation, ratification
- **Local site operations**, calibrations/call outs
- **Web reporting** - for example :
[Air quality in England \(airqualityengland.co.uk\)](http://airqualityengland.co.uk)
- **Routine data reporting** – weekly, monthly, quarterly, annual – for example : [AQE Monthly Report \(airqualityengland.co.uk\)](http://airqualityengland.co.uk)
- **Short term monitoring surveys**
(site installation/decommissioning through to reporting)
- Long term station hire
- Advice on station installation, analyser procurement and, best practice
- **Low cost sensor measurements**, network management
- **Diffusion tube surveys**

Other services :

- **Expert Witness** and Expert Advice
- **LA-PPC/IPPC permit support**
- **Odour nuisance** support
- Air Quality **Modelling**
- **Real world vehicle emissions monitoring**
aiding Action Planning
- **Mobile Monitoring**
for point source and concentration contour mapping
- **Air quality forecasting** and public dissemination
(via sms text, email, web, social media etc.)
- LAQM TG (16) Annual Status Reporting (ASR), Detailed Assessment
- CAZ/LEZ consultancy

For further information please get in touch with David Madle



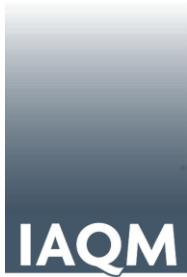
07968707279



david.madle@ricardo.com



IAQM – Institute of Air Quality Management



Institute of
Air Quality
Management

The mission of the IAQM is to be the authoritative voice for air quality by maintaining, enhancing and promoting the highest standards of working practices in the field and for the professional development of those who undertake this work.

IAQM would like to invite all EMAQ+ delegates working in Air Quality to join them, for more information and details of their membership.



Please visit the IAQM website - <https://iaqm.co.uk>



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Programme of the day

Session 0: Welcome and Introduction

Session 1: Managing the Pollution Prevention & Control Function

Session 2: Development Control and the Pollution Prevention
and Control Interface

Session 3: Inspection Techniques

Session 4: Tools of Enforcement

Session 5: Formal Proceedings

Session 6: Enforcement Case Study



EMAQ - Essentials of PPC (5)

- Today's course is concerned with “ Essentials of PPC – Management and Enforcement”.
- It forms part of a series of the IAQM accredited courses offered by EMAQ on “ The Essentials of PPC”.
- Therefore, before outlining the scope of today's course, it is useful to start by offering a short summary of the aims and scope of this series of courses from EMAQ.



EMAQ - Essentials of PPC (5)

- The course builds on and strengthens core EMAQ materials & the professional experience of Ricardo and partner consultancies.
- It is expected that there will be a partnership between an individual and your sponsoring authority or organisation.
- There are 5 “standalone” seminars that, together, comprise a complete ‘Essentials of PPC’ Training Course:
 - **Introduction to Environmental Permitting**
 - **Industrial Process Emissions and Control**
 - **Monitoring and Compliance**
 - **Regulation and Permitting**
 - **Management and Enforcement**



EMAQ - Essentials of PPC (5)

- Curriculum is based on Defra's Industrial Pollution Liaison Committee recommendations
 - **Updated to reflect changes in legislation, guidance and Better Regulation.**
- Combines knowledge with practical experience of environmental permitting to:
 - **Provide evidence of an individual's ability to implement LA-IPPC and LAPPC requirements;**
 - **Build the individual's confidence to operate effectively.**



EMAQ - Essentials of PPC (5)

KEY ELEMENTS

1. **Register and identify a “supervisor”.**
2. **Attend the seminars.**
3. **Demonstrate an understanding of the seminar material – via an on-line knowledge check,**
(A PPC credit will then be issued in addition to the CPD certificate that all those attending will receive.)
4. **Agree a development programme with a supervisor (or mentor) which, by the end of the five seminar programme, will show evidence of having satisfactorily undertaken the following practical operations of PPC:**
 - determining permits;
 - setting permitting conditions;
 - undertaking inspections;
 - auditing data.(supervisor to verify attainment)



EMAQ - Essentials of PPC (5)

- **A Certificate in Pollution Prevention and Control will then be issued to those who have:**
 - Registered;
 - Gained all 5 credits;
 - Paid the fee to take the on-line 'proficiency test';
 - Successfully sat the 'proficiency test' designed to show a co-ordinated knowledge of all the aspects of PPC programme;
 - Who's Supervisor has:
 - verified the bona fides of the candidate and that the test was undertaken under the required conditions
 - confirmed that the candidate has had experience of the practical elements of PPC listed in their development plan



Essentials of PPC (5) – Mechanics

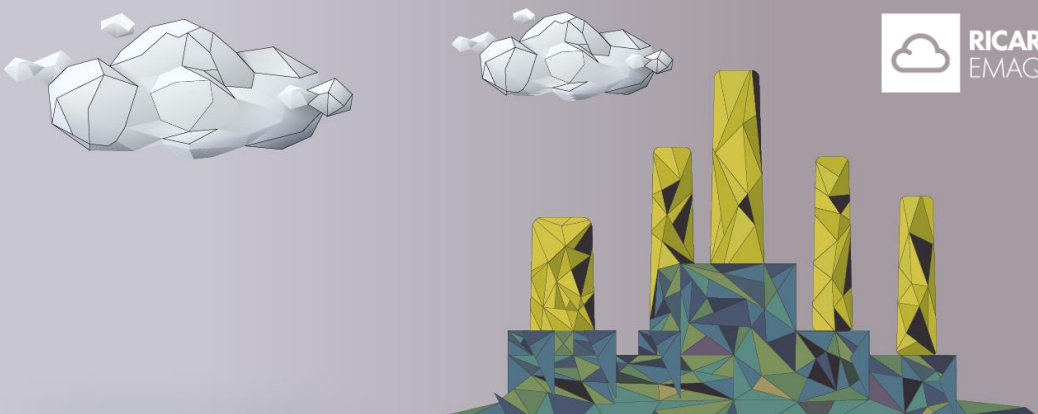
- **Internet based knowledge checks and proficiency test**
- **Attend seminars/view webinars**
- **PPC credit** obtained via on-line ‘knowledge check’ 20 multi-choice questions which are to be completed in one unbroken 2 hour period, pass by getting 75% correct.
 - Delegates notified of test window after seminar; 3 opportunities to pass within a 4 week period.
- **Final PPC Proficiency Test** 20 multi-choice questions, drawn from the entire syllabus
 - Delegates notified of test window after completing all five seminars
 - 20 test questions which they must do within an unbroken two hour period
 - Supervisor will be asked first to verify the candidate’s identity and practical experience following the test
 - Successful candidates must correctly answer 75% of the questions.
 - Candidates will have 2 opportunities within a 4 week period.




Note on Scope of Today's Course

- Some of the seminars in the “ The Essentials of PPC” series of courses cover a very wide subject area.
- This is particularly the case with those concerned with technical matters, such as today's seminar.
- Consequently then, to fit the time frame of 1 day, only overviews can be covered. (If you have general questions, please email EMAQ after the session, or if you have a particular concern please email EMAQ or the trainer to arrange a time to speak directly).
- More detailed technical seminars are available as part of the normal EMAQ training offerings.








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Essentials of PPC 5


Session 1: Managing the Pollution Prevention & Control Function




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1





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Management & Enforcement

Content

- Partner Organisations.
- Managing Operator & Public Expectations.
- Audits & Reviews.
- Performance Management.
- Budget Control.
- Partners & Consultants.
- Good / Best Practice.
- Customer Satisfaction.



2

Management & Enforcement



Partner Organisations

Department of the Environment, Food & Rural Affairs “Defra”

- Manage the LAPPC regime.
- Liaise with other Government Departments.
- Ensure the regime achieves wider policy objectives.
- Produce Regulations & Issuing Guidance, e.g. General Guidance Manual.
- Meetings; IPLC / Part A forum, Contact with regional Pollution Groups; MJAC.
- Annual statistical return.
- Issuing the annual Fees & Charges Order.
- Providing training & advice.
- E-PRTR (European Pollutant Release & Transfer Register) & UK-PRTR



3

Management & Enforcement



Partner Organisations

The Environment Agency

- Memorandum of understanding “working better together”.
- Protocol on “Arrangements to implement the requirements of the IPPC Directive”.
- **LAU – Guidance Notes & Enquiries desk / UK BAT review group**
- Other IPPC guidance; RPS 50: Burning waste on campfires & bonfires.
- Permit application Consultation / Discharge to water conditions for A(2) activities.
- Incident investigation - **Q: Any Examples?**
- Shared responsibilities – Waste Operators A(1) & Part B, crushing & screening activities, oil storage facilities.
- Direction orders - **Q: Any Examples?**



4

Management & Enforcement



Our areas

North

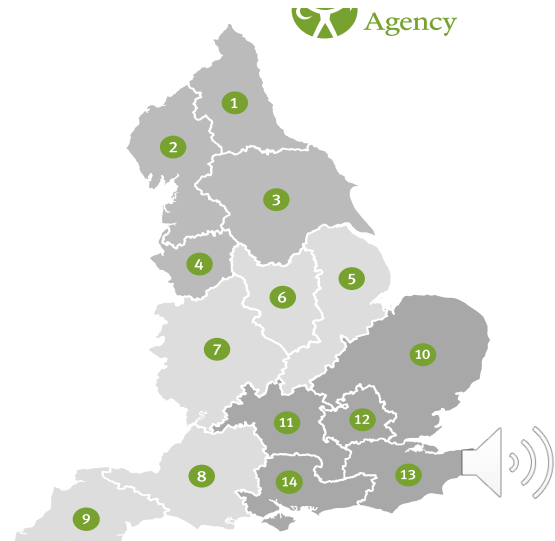
- 1 North East (NEA)
- 2 Cumbria and Lancashire (CLA)
- 3 Yorkshire (YOR)
- 4 Greater Manchester, Merseyside and Cheshire (GMC)

West and Central

- 5 Lincolnshire and Northamptonshire (LNA)
- 6 East Midlands (EMD)
- 7 West Midlands (WMD)
- 8 Wessex (WSX)
- 9 Devon, Cornwall and the Isles of Scilly (DCS)

South East

- 10 East Anglia (EAN)
- 11 Thames (THM)
- 12 Hertfordshire and North London (HNL)
- 13 Kent, South London and East Sussex (KSL)
- 14 Solent and South Downs (SSD)



5

Management & Enforcement



Partner Organisations

Chartered Institute for Environmental Health (CIEH)

- Professional qualifications & Chartership Status.
- Management Guidance.
- Technical Guidance / Technical Panels (e.g. Environmental Protection Advisory Panel)
- Advice.
- Training.
- Consultation on EP guidance & regulation.
- Lobbying Government.
- Dissemination of information / Journal.
- Local branch meetings & events.



6

Management & Enforcement



Partner Organisations

Pollution Groups – e.g. Midland Joint Advisory Council (MJAC)

- Networking.
- Technical analysis (Technical working groups).
- Consultation responses.
- Production of guidance.
- Training & Development.
- Permit reference Library.
- Problem resolution.
- Arena for presentations & guest speakers.
- Political membership & influence.
- Link to other groups, e.g. Central England E P Group.



7

Management & Enforcement



Partner Organisations

UK Health Security Agency & Office for Health Improvement & Disparities (Public Health England)

- Advice on Health issues.
- Consultants on permit applications.
- Investigation of suspected health effects.
- Incident investigation; e.g. cancer clusters around polluting industry.
- Collaboration with LA when necessary.
- Guidance.
- Research.
- Training.



Q: Examples of partnership working?

8

Management & Enforcement



Managing Operator & Public expectations

Operator Expectations

- Inspections / Risk Rating.
- Advice.
- Support.
- Understanding and considerate.
- Maintain confidentiality.
- “Level playing field”.
- Fair regulation / Enforcement.
- Fees are value for Money.
- Knowledgeable and competent.



9

Management & Enforcement



Managing Operator & Public expectations

Public Expectations

- Protect Health.
- Protect Environment.
- Prevent ‘nuisances’.
- Enforce permit regulations, rigorously!
- Consistent regulatory approach.
- Information and data.
- Interpretation of information
- Communication and consultation.
- Knowledgeable and competent.



10

Management & Enforcement



Managing Operator & Public expectations

Operator 'v' Public

- Finding the correct balance.
- Use the Statutory Guidance.
- Produce a comprehensive permit.
- Act quickly.
- Use available legislation.
- **Effective & regular communication.**
- Information & data made available.
- Be prepared to mediate.
- Be honest & transparent



11

Management & Enforcement



Types of audit / review

- Internal Audit.
- External peer review.
- Benchmarking.
- Defra / Consultant reviews.
- Self inflicted Reviews.

Important that the **review outcomes** form an **action plan** with **targets & deadlines**. A responsible **senior officer** should **ensure compliance** & a **regular review cycle** should be put in place.



12

Management & Enforcement



Performance indicators

Examples of applied performance indicators:

- Permit all operational activities in Borough;
- Application & duly made within time limits;
- Determination & Permit issued within time limits;
- Inspection frequency / type (Defra recommendations);
- Maximise income from fees;
- Number of inspections 'v' number of officers = efficiency: **Benchmark with other Local Authorities.**



13

Management & Enforcement



Performance management, good practice

- Targets in service plan.
- Inspection planning / inspection programme.
- Measure progress towards targets; periodic assessment using “milestones”.
- Review achievements.
- Report & publish achievements.
- Reward good performance / penalise poor performance (performance related pay?).
- Set new targets which stretch the service provision.
- Assign a responsible officer.



14

Management & Enforcement



Setting targets to maximise outcomes

It is essential to monitor progress towards achieving a target:

- Use **Milestones** to regularly review progress;
- Normally a monthly or quarterly interval;
- Enables evasive action if required!

Target	Q 1	Q 2	Q 3	Q 4	Year End	Notes
80% of Medium Risk, full fee permitted activities to be inspected by 31 st March in accordance with the Annual Service Plan target.	77%	78%	89%	87%	83%	Target Achieved
On going Total:	77%	77.5%	81.3%	82.7%	83%	Target Achieved



15

Management & Enforcement



Budget considerations

- Fees & Charges = income.
- Cost of providing the service = expenditure.
- Balance expenditure & income?
- Budget setting procedure.
- Annual budget review.
- Efficient budgetary management.
- Central / Establishment costs; 30%?
- Make friends with an accountant!
- Annual cost accounting for Defra.



16

Management & Enforcement



Partnership Working

- Working with other LA's.
- Shared resources.
- Shared expertise.
- Shared service arrangements.
- On-call arrangements.
- Shared equipment.
- Working with Universities & Labs.
- Working with Emergency Services?



17

Management & Enforcement



Consultants

Brief / Tender

- Specifying the work accurately; in accordance with standing orders & financial regulations; seek advice from 'experts' on tendering (engineers).

Contractual work

- Inspections; Writing Permits; Variations; Training, etc.

Experts

- Give statements / evidence:
- Advice on permitted activity complaint issues;
- Permit condition compliance;
- Authorising Experts for site visits (Authorisation Document powers of entry).

Hire temporary / short-term contract staff

Q: What has your LA used consultants for?



18

Management & Enforcement



Good / Best Practice

GGM, Chapter 32 – “LA Good Practice”.

Management Guides

- CIEH / LBRO - BRDO – RD!
- AQ5(05) Good practice check list, 44 points.
- AQ9(05) Unregulated Installations.
- AQ16(07) Sources of advice.

Management & Environmental Advice

- Local Authority Unit – 020 8474 5507 LAU@environment-agency.gov.uk:
 - Richard Williams; richard.williams@environment-agency.gov.uk;
 - Dave Bass, Fiona Devine, Chiddi Igwebuike, Leanne Kyte & Mike Alexander



19

Management & Enforcement



Customer satisfaction surveys

- Collation.
- Analysis.
- Outcomes.
- Evaluation.
- Presentation.

Use it to

- Inform service improvements.
- Review & update Plans / Policies / Procedures.
- For presentations / training, etc.
- Inform staff reviews.



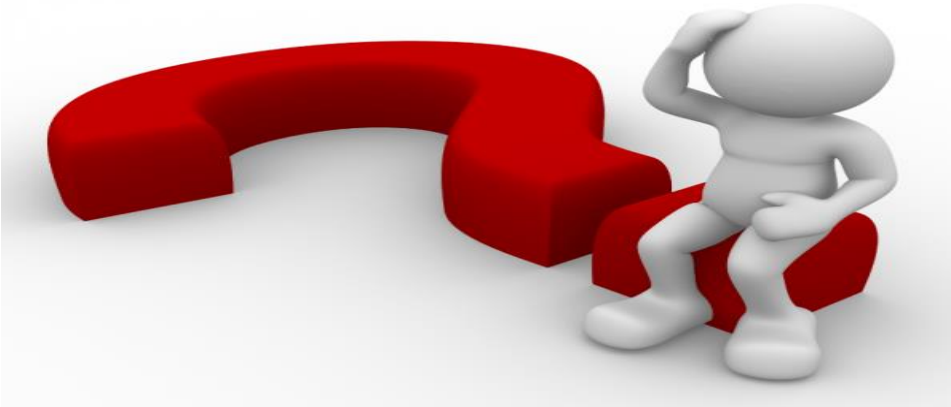
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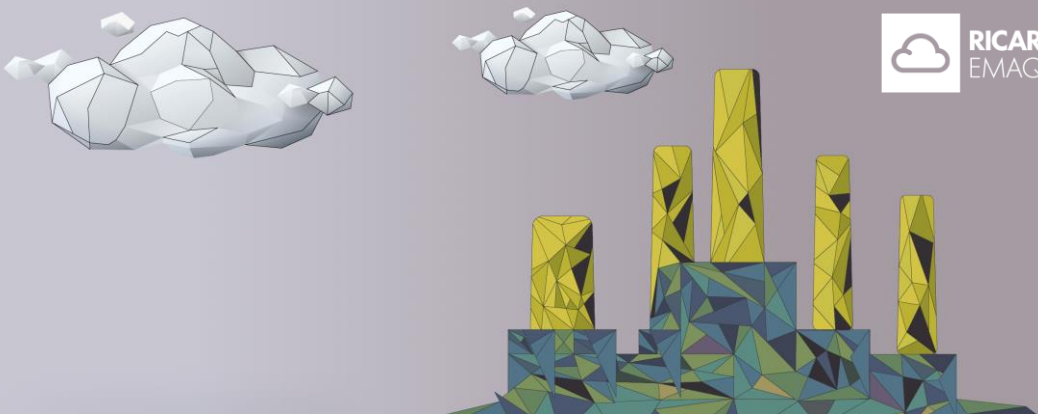
Management & Enforcement




Any Questions? Please email emaq@ricardo.com to receive a response.

Thank You








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Essentials of PPC 5

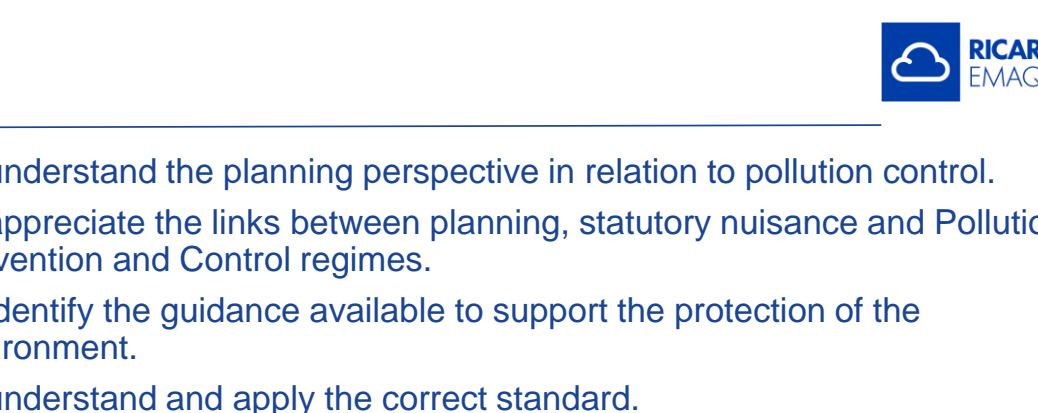
Session 2: Development Control and the Pollution Prevention and Control Interface




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1




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Aims

- To understand the planning perspective in relation to pollution control.
- To appreciate the links between planning, statutory nuisance and Pollution Prevention and Control regimes.
- To identify the guidance available to support the protection of the environment.
- To understand and apply the correct standard.



2

The Background



Legislation:

- Town & Country Planning Act 1990;
 - Controls land use,
 - Controls new development.
- Environmental Protection Act 1990;
 - Nuisance / PTH,
 - Contaminated land.
- Environment Act 1995 (and 2021);
 - Air quality controls.
- Pollution Prevention and Control Act 1999;
 - Industrial pollution control.

Guidance

National Planning Policy
Local Planning Policy

Noise Policy Guidance
Odour Guidance, etc.

Policy Guidance PG16
Technical Guidance TG16

General Guidance Manual
Chapter 5



3

The Background



- **All three regimes have standards which are applied.**

1. Planning Regime
 - **Amenity**
2. Pollution Prevention and Control Regime
 - **Best Available Techniques**
3. Environmental Protection Act 1990
 - **Best Practicable Means**

All three regimes are similar but distinctly different!
Enquiry decisions / Guidance / Case law precedent



4

PLANNING AND AMENITY STANDARD



5

National Planning Policy Framework (2021)

- **Ministry of Housing Communities & Local Government (now Dept for levelling up, housing and communities).**
- **Revised as part of the red tape challenge, reviewed in 2018, updated 2019 & 2021.**
- **Promotes development by simplifying requirements.**
- **Replaced detailed & specific guidance with general principles in NPPF.**
- **Some ancillary guidance retained; waste, minerals and flood risk. Also new guidance developed.**


Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework

Collection

Planning practice guidance

The National Planning Policy Framework and relevant planning practice guidance.

From: Department for Levelling Up, Housing and Communities -> Ministry of Housing, Communities & Local Government
Published 29 November 2018
Last updated 24 June 2021 - See all updates

In response to the spread of Coronavirus (COVID-19), MHCLG has published [special guidance](#). We will be adding to this as guidance is updated, so please check the page regularly. Best practice advice and links are also available from the [Planning Advisory Service website](#).

The [National Planning Policy Framework](#) was published on 27 March 2012 and revised in 2018, 2019 and most recently 20 July 2021. It sets out the government's planning policies for England and how these are expected to be applied.

Download the [full policy document](#).

Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised [National Planning Policy Framework](#), the policies in the [previous version of the framework published in 2012](#) will continue to apply, as will any previous guidance which has been superseded since the new framework was published in July 2018. If you'd like an email alert when changes are made to planning guidance please [subscribe](#).

Planning practice guidance categories

We have revised and updated planning practice guidance to make it accessible.



6

National Planning Policy Framework (2021)



2021 Revision - Overview

- Retains the same principles as the previous version; “Sustainable development” and “land use” as primary considerations.
- Prioritises planning permission for residential development.
- Retains noise provisions & some significant new detail, e.g. recognises the importance of the provision of overnight lorry parking for new commercial / industrial development.
- Increased importance & updates provisions for AQ: Clean Air Zones are included in the text.
- Supports wind turbine, new energy technology & bio-diversity.
- Supports the UK Governments 25 year Environmental Plan.



7

National Planning Policy Framework (2021)



NPPF: Para 2.

- Planning law requires that applications for planning permission be determined **in accordance with the development plan**, unless material considerations indicate otherwise. **The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.** **Planning policies and decisions must reflect relevant international obligations and statutory requirements.**



8

National Planning Policy Framework (2021)



Local Development plans (LDP)

- Includes Local and Neighbourhood plans that have been brought into force and any spatial development strategies produced by combined authorities or elected mayors.
- Local Development Scheme (LDS).
- Development Plan Documents (DPD).
- Area Action Plans (AAPs).
- Supplementary Planning Documents (SPD).
- Neighbourhood plans.

The screenshot shows the Dudley Council website. The main heading is 'Dudley Local Plan'. Below it, there is a sub-heading 'Draft Black Country Plan 2039 (Regulation 18) Additional Walsall - only Consultation - 11 July to 5 September 2022 (ENDED)'. There is also a section for 'Supplementary planning documents (SPD)' with a list of documents including 'Altonville SPD', 'Blackbrook Valley Area Local Development Order', 'Cannock Valley Local Development Order', etc.



9

National Planning Policy Framework (2021)



Local Development Plans

- Increasing level of detail as plans become focused on more local areas or subjects.
- Specific Policies required.
- In the absence of specific DPD's/AAPS's/SPD's, the LA may have saved policies from the Previous local plan or alternative (Unitary Development Plan).
- Look to **Planning practice guidance** for further assistance.

The screenshot shows two documents. On the left is a red document titled 'Local Development Scheme 2022 - 2025 June 2022'. On the right is a screenshot of the 'Telford & Wrekin Local Plan 2011-2031' website, showing the 'Development plan' section. A large blue arrow labeled 'Greater Detail' points downwards from the top of the screenshot towards the bottom.



10

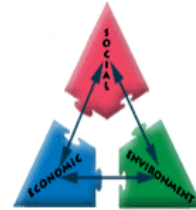
National Planning Policy Framework (2021)



Para 8. Sustainable Development

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- **an economic objective** – helps to build a strong, responsive and competitive economy... including the provision of infrastructure; [extract];
- **a social objective** – supporting strong, vibrant and healthy communities..., health, social and cultural well-being; and [extract];
- **an environmental objective** – contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.



Services	Equity	Biodiversity
Household Needs	Participation	Natural Resources
Industrial Growth	Empowerment	Carrying Capacity
Agricultural Growth	Social Mobility	Ecosystem Integrity
Efficient Use of Labor	Cultural Preservation	Clean Air and Water



11

National Planning Policy Framework (2021)



Para 9. Sustainable Development:

- These **objectives should be delivered through the preparation and implementation of plans and the application of the policies** in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so **should take local circumstances into account, to reflect the character, needs and opportunities of each area.**
- Wide remit but no specific detail provided by the NPPF, yet!



12

National Planning Policy Framework (2021)



Para 20.

- Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:
 - a) Housing, b) Infrastructure for transport, etc, c) Community facilities;
 - d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and **planning measures to address climate change mitigation and adaptation.**



13

National Planning Policy Framework (2021)



Para 174. Conserving and enhancing the natural environment:

- a) protecting and enhancing valued landscapes;
- b) recognising the intrinsic character and beauty of the countryside;
- c) maintaining the character of the undeveloped coast;
- d) minimising impacts on and providing net gains for biodiversity;
- e) **preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and**
- f) remediating and mitigating despoiled, degraded, derelict, **contaminated and unstable land**, where appropriate.



14

National Planning Policy Framework (2021)



Para 185. Planning policies and decisions should;

Ensure that new development is appropriate for its location taking into account the **likely effects (including cumulative effects) of pollution on health**, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from **noise from new development** – and **avoid noise giving rise to significant adverse impacts on health and the quality of life**;
- b) **identify and protect tranquil areas** which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) **limit the impact of light pollution** from artificial light on local amenity, intrinsically dark landscapes and nature conservation.



15

National Planning Policy Framework (2021)



Para 186.

- Planning policies and decisions should sustain and contribute towards compliance with **relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMA) and Clean Air Zones (CAZ), and the cumulative impacts** from individual sites in local areas. **Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that new development in AQMA's and CAZ is consistent with the local air quality action plan.**



16

National Planning Policy Framework (2021)



Para 187.

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). **Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.** Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the **applicant** (or **'agent of change'**) **should be required to provide suitable mitigation before the development has been completed.**



17

National Planning Policy Framework (2021)



Para 188.

- The focus of planning policies and decisions should be on whether proposed development is an **acceptable use of land, rather than the control of processes or emissions** (where these are subject to separate pollution control regimes). **Planning decisions should assume that these regimes will operate effectively.** Equally, where a planning decision has been made on a particular development, the **planning issues should not be revisited through the permitting regimes operated by pollution control authorities.**



18

PERMITTING STANDARD



19

BAT

- The legal BAT definition can be found at:
 - Schedule 7 & Schedule 8 Environmental Permitting (England and Wales) Regulations 2016 (as amended).
- Explanation of applicability of BAT can be found in General Guidance Manual – Chapter 12.
- Specific BAT standards by **Part B activity** can be found in the PG notes: <https://www.gov.uk/government/collections/local-air-pollution-prevention-and-control-lappc-process-guidance-notes>.
- BAT for **Part A2 activities** is derived from the BREF notes (**Bat REF**erence notes) EU produced guidance and **BAT Conclusions**: legalised evaluations of BAT found in BREF's. They determine the reference points used to set permit conditions of permitted activities. Post Brexit there will be a process to define UK BAT Conclusions.

BAT is more formally prescribed than either BPM or Amenity



20

Non-BAT requirements (England only)

- For EPR Schedule 14 Solvent Emission Activities (SEA) and EPR Schedule 13 Small Waste Incineration Plant (SWIP) note that BAT is not applied in England.
- An SEA is an activity which is regulated only for the solvent operations.
- Minimum requirements apply as set out in the Industrial Emission Directive (Chapter IV for SWIPs and Chapter V for SEA).
- Solvent requirements are set out in PG Notes but no guidance currently for EPR Schedule 13/IED Chapter IV SWIP.



21

STATUTORY NUISANCE STANDARD



22

BPM



Best Practicable Means (BPM):

- May be the basis of an appeal against an abatement notice;
- May be the provision for a defence against proceedings for contravention of an abatement notice or order s.80(7) and s.82(10). Note that there is no mention of Best Practicable Means being a defence in actions under Section 81(5) (High Court) and therefore it appears likely that this defence is not available;
- BPM "The Polluters Charter" because under some circumstances it allows polluting to continue:
 - Having regard to the current state of technical knowledge;
 - Takes account of local conditions and circumstances [*note: changes in character of an area through planning permission & subsequent regeneration will also effect Stat nuisance*];
 - Considers the financial implications;
 - Takes account of the means to be employed include the design, installation, maintenance and manner and periods of operation and plant and machinery, and the design, construction and maintenance of buildings and structures.



23

Summary

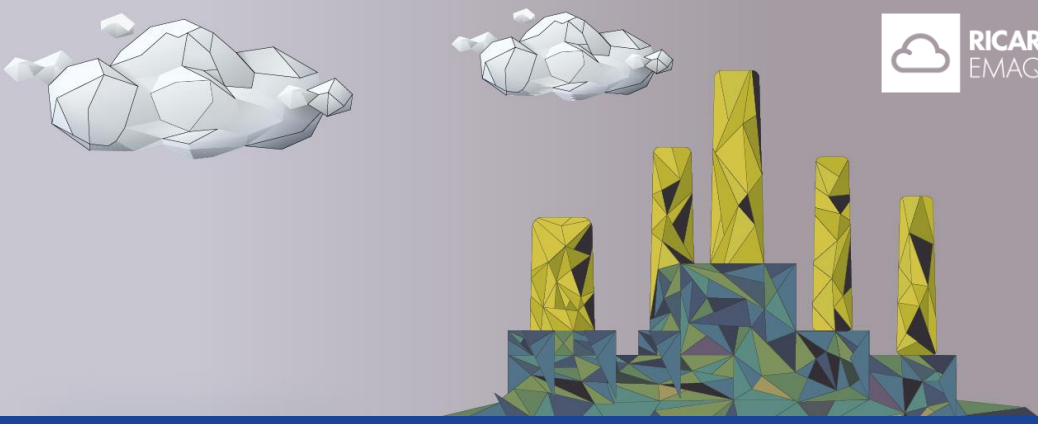



- The planning process provides opportunities to effect environmental improvement.
- NPPF specifically precludes Planning Authorities from placing environmental restrictions on activities that are **proactively regulated** by other means / agencies; for example Activities regulated by EPR.
- NPPF provides some overriding (very general) principles for development. There are no specific numerical standards. **NPPF expects local authorities to provide appropriate local planning policy controls** which should reference the planning Practice Guidance.
- However, whatever the circumstances, don't forget that the presumption is in favour of granting planning permission.

An Integrated Approach between agencies is absolutely vital to implement the appropriate control methodologies under the appropriate statute.




24





Essentials of PPC 5


Session 3: Inspection Techniques



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1



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Content

- Inspections:
 - To identify what permitted activity needs an inspection and when;
 - To clarify what an inspection comprises;
 - To understand the range of inspections available;
 - To appreciate the tools available for the inspector (using a risk based inspection example);
 - Alternatives to inspection?
- Risk rating.
- Fees and charges.
- Powers of inspectors; **The Environment Act 1990.**



2

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Inspections



3

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Why Inspect?

- Required by EPR 2016: Regulation 34(2);
- (1) The Regulator must periodically review environmental permits.
- (2) **The Regulator must make appropriate periodic inspections of regulated facilities.**

So there is a legal duty to inspect & Defra guidance suggests inspection frequency based on risk

Supported by Industrial Emissions Directive

- Member States should provide for a system of environmental inspections. Member States should ensure that sufficient staff are available with the skills and qualifications needed to carry out those inspections effectively.
- See also Article 23 (gives more specific details!)



4

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Inspections are for **demonstrating compliance with permit conditions** and **assuring** the operator, regulator, Government, EU and the public that necessary **standards are being met**.

- **Inspections can take many forms:**

- Permit compliance inspection: Full inspection or a Check inspection as designated by Defra Guidance;
- Inspection in connection with an application;
- Inspection to determine risk rating;
- Inspection in relation to complaint;
- Inspection for monitoring/sampling;
- Inspection for evidence gathering purposes.

- The actual mechanics of the inspection will be determined by the purpose/intent of the inspection.



5

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Pre-inspection

- Review working file, including permit, emissions monitoring reports, file notes, previous inspections, notices, OPRA risk-score and other relevant information.
- Review current guidance note specifically looking for changes since the last issue or review of the permit.
- Any complaints & resolutions since the last inspection (may affect the risk rating).
- Prepare operator risk appraisal (OPRA) risk assessment form.
- Have available copies of all documentation (permit, last inspection compliance letter, application, etc.) as necessary.
- Have available and ready all the relevant PPE.
- Have available any equipment needed, laptop, camera, noise meters etc. as required, ensure they are charged / spare batteries.



6

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Physical inspection

- See what you need to see:
 - The inspection is there to allow you to satisfy yourself that the permit is being complied with in practice by the permit operator;
 - Abide by onsite H&S requirements. Don't put yourself at risk, but do arrange to visit when plant can be made inoperative if you need to access hazardous areas;
 - Photographs/records/notes are essential.
- Speak to who you need to speak to:
 - Pre-arranged inspections should allow access to the right people on site;
 - Unannounced visits may undertaken where non-compliance is suspected, but be prepared to show patience or even refused entry as the "Operator" may not be immediately available.



7

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Paperwork audit inspection

- Observations; visual & olfactory.
- Maintenance.
- Training.
- Cleaning logs.
- (Continuous) monitoring records.
- Waste and raw material records; e.g. solvents:
 - Ask for copies of information to take away if necessary;
 - Remember some or all information could be held electronically;
 - **Link all paperwork and written procedures to practices & processes observed during the physical inspection.**



8

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Reporting back, verbally & in writing

- It is good practice to ensure that operator has feedback from the inspection, ideally you should...
 - Advise on elements that are good, particularly best practice;
 - Clearly identify non compliances;
 - Provide a schedule stating what date the non compliances should be addressed by;
 - Make clear any further requests for more information not available during the inspection.
- Advise verbally as you inspect, summarise at end of inspection, follow up with a written report within 14 days.
- Put any relevant material on the public register:
 - Inspection reports;
 - Monitoring data;
 - Etc. (as per Part 5 of EPA 2016).



9

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RISK RATING

Operator Risk Appraisal (OPRA)



10

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OPRA risk rating

- Operator risk appraisal
- Measures the potential for pollution against operators observed performance
- Divided into 7 sections for full fee, Part B activities:
 - *Component 1: Inherent Environmental Impact Potential of Activity;*
 - *Component 2: Progress with upgrading;*
 - *Component 3: Sensitivity and Proximity of Receptors;*
 - *Component 4: Other Targets (air quality);*
 - *Component 5: Compliance Assessment;*
 - *Component 6: Assessment of Monitoring, Maintenance and Records;*
 - *Component 7: Assessment of Management, Training and Responsibility.*



<http://www.defra.gov.uk/industrial-emissions/files/LAPPC-Risk-Method-July-2013-revision-Final.pdf>

11

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Part B; Local Air Pollution Prevention and Control

- **LAPPC Risk Method, March 2009, Updated July 2013**
- Part 1 covers all standard Part B activities
- Part 2 covers reduced fee activities & mobile plant
- Beware! this guidance uses the terms “authorisation”, “process” and “BATNEEC”
- **Part A(2); LA-IPPC Risk Method April 2005, Updated July 2013**
- Applies to LA-IPPC Part A(2) and SWIP Schedule 13 EPR 2016 (As amended)
- This guidance uses the terms “Permit”, “installation” and “BAT”



12

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Note: Ensure use updated doc; July 2013

Table A1.8: Overall Maximum Scores		
Assessment Component	Minimum Score	Maximum Score
Environmental Impact Appraisal		
1. Inherent Environmental Impact Potential of Process	10	30
2. Progress with Upgrading	-10	10
3. Sensitivity and Proximity of Receptors	0	20
4. Other Targets	0	10
Operator Performance Appraisal		
5. Compliance Assessment	0	55 (80*)
6. Monitoring, Maintenance and Records	-5	45
7. Management, Training and Responsibility	-5	20
Total	-10	195 (220*)

13

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Table A1.1: Scoring for Component 1 - Inherent Environmental Impact Potential

Risk Rating	Score Awarded
(A) Category 1	10
(B) Category 2	20
(C) Category 3	30



14

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Table A1.2: Scoring for Component 2 - Progress with Upgrading

Status of Upgrading	Score
(A) Upgrading not complete but PG Note deadline has yet to be reached	5
(B) Upgrading not yet complete and PG Note deadline has passed	10
(C) Upgrading complete and meets BATNEEC Requirements	0
(D) Emissions control exceeds BATNEEC Requirements	-10

In addition for Part A(2) permitted activities;

(E) Improvement programme not submitted within 6 months of the issue of the permit or such a longer period as may be achieved in the relevant individual period **5**



15

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Table A1.3: Scoring for Component 3 - Sensitivity and Proximity of Receptors

Proximity to Emission Source	Sensitivity of Receptors		
	(x) High	(y) Medium	(z) Low
(A) < 100m*	20	12	5
(B) 100 - 250m*	12	10	3
(C) 250 - 500m*	5	3	1
(D) >500m*	0	0	0

* All distances should be multiplied by a factor of 2 for mineral and cement & lime processes and by a factor of 4 for combustion, incineration (not cremation), iron & steel and non-ferrous metal processes.

Note: Distances should be measured from the process itself, rather than the site boundary



16

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Table A1.4: Scoring for Component 4 - Other Targets

	Score
(A) Other air pollution problems in the local area to which process is a potential contributor	10
(B) No such air pollution problems	0



17

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Table A1.5: Scoring for Component 5 - Compliance Assessment

Scale of Non-Compliance	Score
(A) Incident leading to justified complaint but no breach of any specific authorisation condition or of the general/residual BATNEEC condition	0
(B) Incident leading to a justified complaint*	10 per incident
(C) Breach of authorisation not leading to formal action	10 per incident
(D) Incident leading to formal caution, Enforcement Notice or prosecution	15 per incident
(E) Incident leading to a Prohibition Notice or Suspension Notice	20 per incident
Total	(Max 55)
Where Facility has been on Reduced Charges due to Mothballing or Reduced Operating Levels	



18

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Table 1.5: Scoring for Component 5 – Compliance Assessment Scale of Non- Compliance Continued.....

(F) Failure to notify the regulator of restart or increase in level of operation to above the threshold requiring a permit at the installation in accordance with acceptance letter	25
Total (Applies only where condition F has been breached)	(Max 80)
* <i>Unjustified complaints may be e.g. those considered by the inspector to be unreasonable or which cannot be clearly linked to an incident at the process.</i>	



19

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Table A1.6: Scoring for Component 6 - Assessment of Monitoring, Maintenance and Records

Criterion	Score		
	Yes	No	N/A
(A) All monitoring undertaken to the degree required in the authorisation?*	0	10	0
(B) Monitoring requirements reduced because results over time show consistent compliance?	-5	0	0
(C) Process operation modified where any problems indicated by monitoring?	0	10	0
(D) Fully documented and adhered to maintenance programme, in line with authorisation?	0	10	0
(E) Full documented records as required in authorisation available on-site?	0	5	0
(F) All relevant documents forwarded to the authority by date required?	0	10	0
Total Score	(-5 to 45)		

* *These aspects relate to the operator's performance within the twelve months immediately preceding the assessment or review of the assessment. Failure to monitor to the degree required or to forward documents on time more than twelve months ago should be excluded.*



20

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Table A1.7: Scoring for Component 7 - Assessment of Management, Training and Responsibility

Criterion	Score		
	Yes	No	N/A
(A) Documented procedures in place for implementing all aspects of the authorisation?	0	5	0
(B) Specific responsibilities assigned to individual staff for these procedures?	0	5	0
(C) Completion of individual responsibilities checked and recorded by the company?	0	5	0
(D) Documented training records for all staff with air pollution control responsibilities?	0	5	0
(E) Trained staff on site throughout periods where potentially air-polluting activities take place?	0	5	0
(F) Is an 'appropriate' environmental management system in place?	-5	0	0
Total	(-5 to 25)		
<p><i>Note: In relation to the last criterion, when the relevant PG Note has been updated to include guidance on 'appropriate' management systems, processes should be scored zero if such a system is in place and five if such a system is not in place. [DEFRA and WAG envisage that guidance on appropriate management systems be stable in all of the next generation PG Notes (these will have effect by the end of 12 months from the date of publication of the relevant PG Note).]</i></p>			

21

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< 40 Low Risk
 40 to 80 Medium Risk
 >80 High Risk

- Inspection frequency will depend on the OPRA risk rating
- DEFRA recommends the following for full fee Part B activities;
 - High OPRA rating = 2 Full per year & 1 Check
 - Medium OPRA rating = 1 Full & 1 Check per year
 - Low OPRA rating = 1 Full per year



22

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- The 09/10 Fees and Charges produced a new risk based charging scheme for reduced fee activities, included in the 2013 version of the LAPPC Risk Method guidance. It is largely similar to the full LA-OPRA: BUT:
- No sector specific criteria
- In table B1.2 each reduced fee sector has specific guidance issued to describe how the criterion should be scored.
- <30 Low Risk
- 30 to 55 Medium Risk
- >55 High Risk



23

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Full Fee activities:

- Low Risk 9 – 15 hrs/yr
- Medium Risk 18 – 30 hrs/yr
- High Risk 27 – 45 hrs/yr

Determination of regulatory effort from scores

<i>Small waste oil burners, dry cleaners and petrol stations with PVRI</i>		
Overall Score	Category	Regulatory Effort
		Hours per year
Less than 30	Low	1.5
30 to 55	Medium	3.1
Over 55	High	4.6

<i>PVR/II petrol stations</i>		
Overall Score	Category	Regulatory Effort
		Hours per year
Less than 30	Low	2.2
30 to 55	Medium	4.4
Over 55	High	6.6

<i>Vehicle refinishers and all other reduced fee activities using simplified permits not listed above</i>		
Overall Score	Category	Regulatory Effort
		Hours per year
Less than 30	Low	4.4
30 to 55	Medium	7.1
Over 55	High	10.7

<i>Standard Mobile plant not using simplified permits (First and second permit only²)</i>		
Overall Score	Category	Regulatory Effort
		Hours per permit per year
Less than 30	Low	12.5
30 to 55	Medium	20
Over 55	High	30



24

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Mobile plant uses the 'standard' reduced fee risk template but has specific amendments to customise it. For example, it specifically requires an adverse score if operators do not inform regulators of plant movement to a new location.



25

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Prepare for the inspection

- Physical inspection.
- Paperwork audit.
- OPRA risk assessment.
- Appointment / PPE / Reference documents, etc.

Report to the operator

- Verbally during & summarise at end of inspection.
- Confirm in writing (within 14 days is considered good practice).

Record on database and update the Public Register

Consider if it is necessary to vary the permit?



26

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External contractors / consultants

Many authorities are increasing making use of external expertise. This is not necessarily a bad thing BUT; need to ensure that the work carried out meets a number of criteria:

- Appropriately qualified;
- Specific experience;
- Undertaken in accordance with Local Authorities procurement specification i.e. best practice;
- Meets statutory guidance;
- Value for Money!



27

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Pro's

- Can be cost effective.
- Can cover short term staffing issues, longer term may offer greater resilience.
- Responsive to needs.
- Provide appropriate expertise (particularly if not got in-house).
- Flexible contract & terms of employment.

Con's

- Officers loose 'touch' with industry.
- Loss of expertise internally.
- Enforcement still stays with the authority.
- Still need to ensure public registers and admin of activity is adequately addressed.
- Quality control issues/consistency.
- Subject to scrutiny by members.



28

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FEES AND CHARGES



29

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Scheme for A(2)

The Local Authority Permits for Part A(2) installations & small waste incineration plant (Fees & Charges) (England) Scheme 2017; Date?

Scheme for Part B

The Local Authority Permits for Part B installations and mobile plant & solvent emission activities (Fees & Charges) (England) Scheme 2017; Date?

- Part 1: Title, application & commencement, revocation, interpretation & combined activities.
- Part 2: Applications, late application fees, variation, transfer, surrender & reimbursement of advertising costs.
- Part 3: Financial year, subsistence, timing of payments, reduced subsistence charges, late payment charge.
- Part 4: Refund of fees & subsistence charges.



30

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Fees and charges divide in to a number of categories:

- Application/Variation
- Transfer
- Mothball
- **Subsistence**



Most fees are chargeable per perittable activity.

The link below in the blue box is no longer current, up to date information can be found here:
<https://www.gov.uk/government/collections/environmental-permitting-resources-for-local-authorities>



Subsistence fees are charged dependent on risk rating category High, Medium or Low



<http://www.defra.gov.uk/industrial-emissions/las-regulations/charges-risk/>



31

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2020 / 21

LAAPC (Part B) Charges for 2020/21

e.g. Transfer & surrender:

Type of Process	2020/21 fee
Standard process transfer	£169
Standard process partial transfer	£497
New operator at low risk reduced fee activity (extra one-off subsistence charge – see Art 15(2) of charging scheme)	£78
Surrender: all Part B activities	£0
Reduced fee activities: transfer	£0
Reduced fee activities: partial transfer	£47



32

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2020 / 21

LAAPC (Part B) Charges for 2020/21

e.g. Annual Subsistence Charge;

Activity Description	Charge
Standard Process - Low	£772 (+ £103)
Standard Process - Medium	£1161 (+ £156)
Standard Process - High	£1747 (+ £207)
PVR1 & Dry Cleaners – L/M/H	£78 / £158 / £237
PVR 1 & 2 combined – L/M/H	£113 / £226 / £341
VR`s & other reduced fees	£228 / £365 / £548



33

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POWERS OF INSPECTORS



34

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Powers of Inspectors

Section 108 Environment Act 1995

- (a) to enter at **any reasonable time** (or, in an emergency, **at any time and, if need be, by force**) any premises which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of paragraph (a) above, to take with him -
 - (i) **any other person duly authorised** by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
 - (ii) **any equipment or materials** required for any purpose for which the power of entry is being exercised;
- (c) to make such **examination and investigation as may in any circumstances be necessary**;



35

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Section 108 Environment Act 1995

- (d) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, **shall be left undisturbed** (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (c) above;
- (e) **to take such measurements and photographs and make such recordings** as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) **to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises**;



36

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Section 108 Environment Act 1995

(g) in the case of any **article or substance** found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment or harm to human health, **to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it, unless that is necessary);**

(h) in the case of any such article or substance as is mentioned in paragraph (g) above, to take **possession of it and detain it for so long as is necessary** for all or any of the following purposes, namely -

- (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has power to do under that paragraph;
- (ii) to ensure that it is not tampered with before examination of it is completed;
- (iii) to ensure that it is available for use as evidence in any proceedings for an offence under the pollution control enactments in the case of the enforcing authority under whose authorisation he acts or in any other proceedings relating to a variation notice, enforcement notice or prohibition notice under those enactments;



37

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Section 108 Environment Act 1995

(j) **to require any person whom he has reasonable cause to believe to be able to give any information** relevant to any examination or investigation under paragraph (c) above to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;

(k) **to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records—**

- (i) which are required to be kept under the pollution control enactments for the enforcing authority under whose authorisation he acts, or
- (ii) which it is necessary for him to see for the purposes of an examination or investigation under paragraph (c) above, and to inspect and take copies of, or of any entry in, the records;

(Ka) As amended by the Environment Act 2021: search, seize & remove, require information, to operate equipment (OEP officers)

(l) to require any person to afford him **such facilities and assistance with respect to any matters or things within that person's control** or in relation to which that person has responsibilities as are necessary to enable authorised person to exercise any of the powers conferred on him by this section;



PACE CODE 'B'

38

Management & Enforcement



- Inspections are mandated by the IED and primary UK statute.
- Inspections are designed to audit against the permit, and against the BAT standard.
- If the permit does not reflect BAT it should be updated via a variation.
- The performance of the operator is risk rated.
- The fees and charges are proportionate to the risk but vary between activity types.
- Section 108 Environment Act 1995 gives enforcement officers their powers (The Office for Environmental Protection; Env Act 2021).



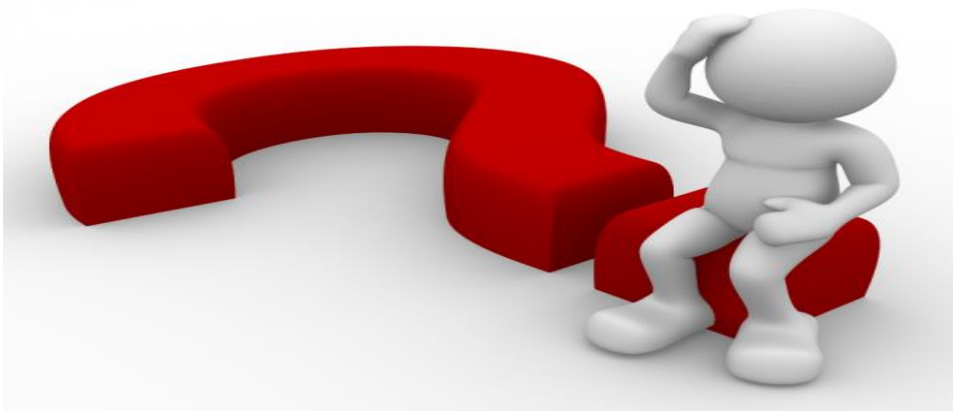
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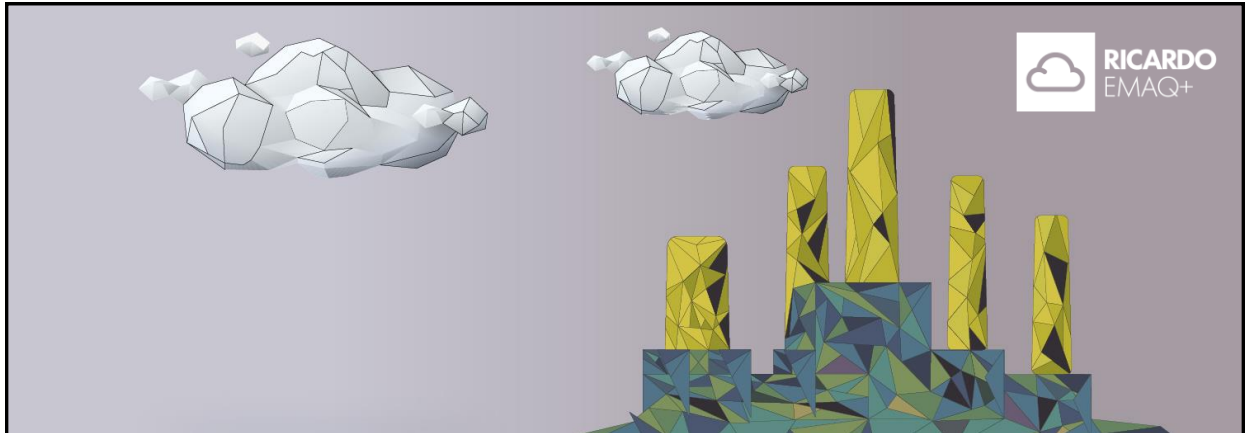



Any Questions? Please email emaq@ricardo.com to receive a response.

Thank You





40



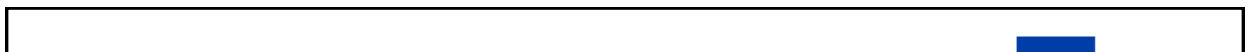
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Essentials of PPC 5

Session 4: Tools of Enforcement


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Management & Enforcement

Content

- Regulators duty & Notices.
- Offences & penalties.
- Statutory defence.
- Enforcement & formal action.



2

Management & Enforcement



Duty of the Regulator

Reg 34 EP 2016; Regulator MUST:

- (1) Periodically review environmental permits;
- (2) Undertake appropriate periodic inspections of regulated facilities;
- (Defra inspection frequencies dependant on permitted activities risk rating).

Schedules 7 & 8 EP 2016; Regulator MUST:

- Exercise relevant functions to protect the environment;
- Ensure permit application complies with **IED** (Directive);
- Ensure permit complies with **IED** (Directive);
- Undertake Public Participation (Consultation) for Part A installations;
- Review permits in change of circumstances;
- Stay informed of developments in BAT;
- Inspections to comply with Article 23 of the IED when inspecting under Regulation 34(2).



3

Management & Enforcement



Notices

Reg 10 EP Regs 2016

- In writing, to the company name.
- By hand, left at (by mail) or electronic means to proper address.
- Posted to secretary / clerk of company / director / partner / person in control/management.
- Registered / principle office. Email address of secretary / clerk / director / partner / person in control / management.
- In any other case last known address / email.
- If registered outside UK, proper address is the principal office in the UK.



4

Management & Enforcement



Enforcement Notices

Reg 36 EP 2016 – Enforcement Notice

- Contravened / contravening / likely to contravene a permit condition, LA **MAY** serve a notice *on the Operator*.

Regulator **MUST** state;

- Regulators view of the contravention;
- Matters constituting the contravention /making a contravention likely;
- Specify steps to remedy the contravention / does not occur;
- Specify time period within which steps are to be taken.



5

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Enforcement Notices: continued

Regulator **MAY** state:

- Steps to ensure compliance with conditions;
- Steps to remedy the environmental effects caused by the contravention;
- Includes a definition of “environmental effects”; harm or risk of harm to the environment / the effects of pollution (or flood risk);
- A notice served for an incident or accident which has significantly affected the environment where schedules 7,13 or 14 apply, **MUST**;
 - (a) specify the measures necessary to limit the environmental consequences of the incident or accident, and
 - (b) specify the measures necessary to further prevent further incidents or accidents.



6

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Enforcement Notices: continued

- Regulator can withdraw an Enforcement Notice at any time (by service of a further notice on the Operator).
- Reg 31 (1) (f) allows an appeal against an Enforcement Notice, except if notice is the result of a direction by SOS or WM.
- Enforcement Notice is **NOT** suspended if appealed.



7

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Suspension Notice

Reg 37 EP Regs 2016 – Suspension Notice

- Risk of serious pollution; Regulator **MAY** serve a suspension notice.
- (3) defines “serious pollution” with respect to the service of a suspension notice, as risk of serious harm to the environment (or flood risk).
- No need to contravene a permit condition.
- If the regulator is of the opinion that an operator of a regulated facility involves a risk of “serious pollution” (Sub Para 2), or contravenes a permit condition & such a contravention involves a “risk of pollution” (Sub Para 5), a suspension notice may be served.



8

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Suspension Notice: continued

A suspension notice MUST specify:

- The risk;
- The steps to remove the risk;
- Specify time period steps must be taken by;
 - In addition, under Paragraph (5); *Where there is a permit condition contravention*
 - (iii) In a case where paragraph (5) applies, the matters constituting the contravention mentioned in that paragraph,
 - (iv) In a case where paragraph (5) applies, the steps that must be taken to remedy that contravention.
- State the permit ceases to have effect in accordance with the notice until the suspension notice is withdrawn;
- Any additional steps required of the operator for the continued operation of the installation.



9

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Suspension Notice: continued

- Regulator may withdraw notice at any time by the service of a further notice on the Operator;
- Regulator **SHALL** withdraw notice when complete;
- Reg 31 (1) (f) allows an appeal against a Suspension Notice, except if notice is the result of a direction by SOS or WM;
- Reg 31 (7) (a) confirms that an appeal does not suspend a Suspension Notice.



10

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Suspension Notice: continued

Reg 66 (5) EP Regs 2016 – Suspension (& revocation) Notice

The Regulator may suspend a permit if subsistence fee not paid, Notice **MUST** state:

- The reason for the suspension;
- Sum payable & time deadline for payment;
- State that the permit ceases to have effect in accordance with the notice until the notice is withdrawn;
- Reg 31 (3) states no appeal provision for suspension notice served for 66 (5) reason.

Q: If payment is still not forthcoming what should you do?



11

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Offences

Reg 38, EP Regs 2016

- To operate or knowingly cause / knowingly allow a regulated facility to operate without a permit (Reg 12);
- To contravene a permit condition;
- Fail to comply with an Enforcement Notice, Suspension Notice or Closure Notice (or flood risk);
- Not provide information Reg 61 Notice, False statement / false record / intent to deceive;
- Not make records & keep records, etc.



12

Management & Enforcement



Penalties

Reg 39, EP Regs 2016

Offence under Reg 38(1) (2) or (3) EP Regs 2016:

- Summary Conviction; £50k fine & 12 months imprisonment;
- Conviction on indictment; fine & 5yrs imprisonment;
- Lower penalties for false statement, failure to comply with Reg 61 Notice, false records, intent to deceive offences.

Reg 41, EP Regs 2016; Body Corporate & Individuals may be prosecuted

- (Includes directors, member of committee of management, Chief Executive, manager, company secretary, or similar officer).



13

Management & Enforcement



Defence : Acts done in an Emergency

Reg 40, EP Regs 2016

- Defence for not permitted / permit condition contravention / notice contravention, if “done in an emergency to avoid danger to human health” If:
 - All reasonably practicable steps taken to minimise effects of pollution;

AND

- Details provided to regulator AS SOON AS reasonably practicable after steps taken.
- Also water discharge from mines defence.



14

Management & Enforcement



Other Enforcement Regulations

Reg 42, EP Regs 2016 Enforcement by High Court

Failure to comply with enforcement, suspension, (landfill closure notice)

- The provisions of this regulation are no longer only applicable “where the regulator considers that proceedings would afford an ineffectual remedy”. A regulator may elect for high court for the purpose of securing compliance with an enforcement or suspension notice.



15

Management & Enforcement



Other Enforcement Regulations: continued

Reg 43, EP Regs 2016 Admissibility of evidence

- If not recorded info required by permit condition that fact may be used as evidence in court.

Reg 44, EP Regs 2016 Court order cause of offence to be remedied

- Conviction of offence under Reg 38(1), (2) or (3) as well as a fine / imprisonment, court may order operator to remedy the contravention in a specific time period, by order of the court.



16

Management & Enforcement



Enforcement Policies

- Does your LA have one for LAPC?
- Have you read it & understood it?
- Do you refer to it in communications?
- What does it commit you to?
- Is it reviewed regularly?
- Is it freely available?
- OPSS: Regulators Code: replaced the “Regulators compliance Code” & the “Enforcement Concordat”.
- Regulatory Enforcement & Sanctions Act 2008.
- Primary Authority Principle also needs to be considered.



17

Management & Enforcement



Formal Action

Preparation to take formal action:

- Get authorisation / Permission for actions;
- Show LA to have acted fairly - Enforcement Policy compliance test;
- Review **All** previous correspondence / history;
- Discuss the case with your Legal advisor to “build” the appropriate prosecution file;
- Keep offender & relevant members of the public informed;
- Post / email correspondence to all relevant parties (branch, head office) to show the Local Authority’s intent.



18

Management & Enforcement



Formal Action: continued

Preparation for the Site Inspection

- Ascertain the correct company details.
- Review **ALL** of the permit conditions.
- Other documents to consider ?
- Plan inspection of the activity site:
 - Assess Local Authority officer availability;
 - Confirm Operator availability to meet at the permitted activity site;
 - Plan a route around the activity.
- Interview arrangements made: Interview record sheets / notes `v` taped interview?



19

Management & Enforcement



Formal Action: continued

Preparation for the Site Inspection:

- Officer identification / delegated authority in writing;
- Code B Notices prepared;
- Camera;
- Sample containers & collector tools;
- H&S equipment & PPE as required by the Local Authority site visit risk assessment & the risk assessment / H&S policy of the permitted activity.



20

Management & Enforcement



Formal Action: continued

Undertaking a formal site inspection:

- Officers to synchronise times (& dates!);
- Specialist equipment taken to site by the inspectors;
- All necessary documentation taken to site by the inspectors;
- Experts under contract & authorised under the provisions of section 108 Environment Act;
- Official Caution; *Issued where there are grounds to suspect that an offence has been committed;*
- Facilities to be made available.

Be absolutely thorough!



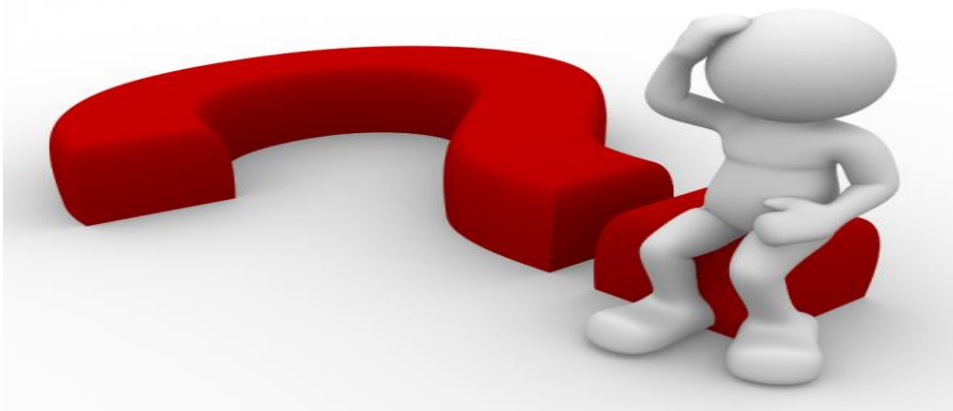
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Management & Enforcement


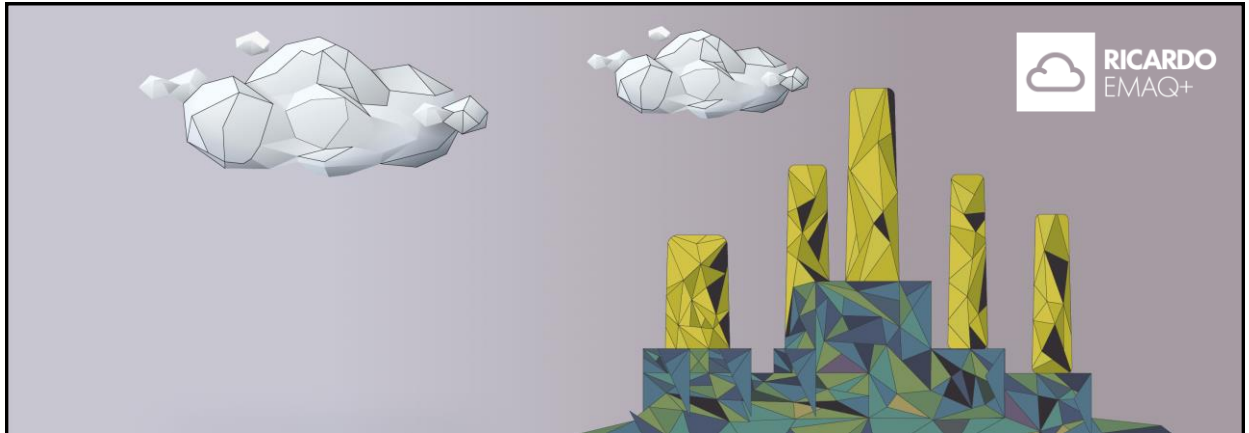


Any Questions? Please email emaq@ricardo.com to receive a response.

Thank You




22




Essentials of PPC 5

Session 5: Formal Proceedings



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1



Aims

- Understand basic criminal & civil law provisions.
- Legal Terminology.
- Witnesses & Evidence / note taking.
- Court Procedure & giving evidence.

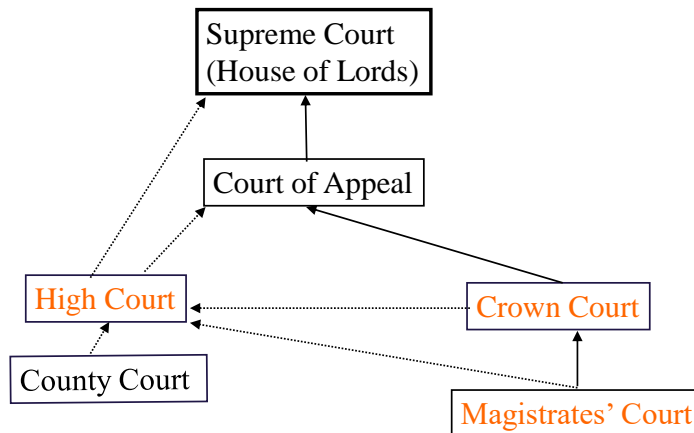


2

Court Structure



Note that recording refers to EU court of justice which no longer applies



3

English Law



Principles of Criminal Law:

- Breach of criminal statute (Act / Regulations);
- Magistrates Court / Crown Court / High Court;
- Court of Appeal / Supreme Court;
- Magistrate & bench or Circuit Judge hear the case at Magistrates court;
- Establish “**beyond reasonable doubt**” to find guilty;
- Guilty verdict = punishment, fines and / or custodial sentence;
- Prosecution have to disclose all evidence to the defence in advance of the hearing.



4

English Law



Principles of Civil Law:

- Breach of civil rights (liable);
- County Court / High Court / Court of Appeal / Supreme Court;
- Judge (& sometimes jury) hear the case at County Court;
- Verdict decided on **“balance of probability”**;
- Guilty verdict = damages confirmed, compensation, specific performance requirement, e.g. not to undertake a specific act;
- Complete prior-disclosure of evidence prior to hearing for both sides;



5

Criminal Law



Criminal Law

“Street” crime

Murder
GBH
Theft
Robbery

Harsh penalties
Significant public awareness
Enforced by the police

Regulatory crime

H&S law
Environmental Law
Company Law
Employment Law

Lighter penalties
Lack of public awareness
Enforced by agencies, HSE, EA, LA's



6

Terms For Legal Officers



- **Barrister** – Lawyer instructed by solicitor.
- **Advocate** – Lawyer when speaking on behalf of their client (Not a witness).
- **Counsel** – General term for a barrister.
- **Defendant** – Person being prosecuted.
- **Lawyer** – Can mean a barrister or solicitor.
- **Kings Counsel** – Senior solicitor or barrister (Silk).
(Only barristers wear wigs in court!)

Note that recording refers to Queens Counsel which are now Kings Counsel



7

Witnesses



Only 2 types:

- **Witness of fact** (states what saw / heard);
- **Expert Witness** (Can give an opinion).

Witness of fact provides a concise statement of what they personally witnessed.

Expert witness provide information on the specialist context of the case which a non-expert wouldn't know (i.e. Judge & jury). Can therefore express *opinion (BUT with care!)*.



8

Best Practice Notes / Evidence (1)



- Recorded in writing, contemporaneously (at or shortly after time of event).
- Written in the first person;
"I" or "me", **NOT** "we" or "our".
- Number pages, permanent, chronologically arranged.
- Date, Time, Place, People.
- Key times for incidents/events, non-verbals.
- No **E L B O W**, assumptions, comment or opinions.
- Reference exhibits sequentially, sign & date.



9

Best Practice Notes / Evidence (2)



- State time notes began & ended.
- Clear text, no abbreviations, avoid approximations, no arrows or dashes.
- Always proof read & correct **immediately**, show corrections & initial.
- Never alter (improve!) the originals.
- Keep original notes / documents safe, file properly & securely (Appeals / civil claims).
- Provenance list of all exhibits & docs.



10

Evidence / statements



- Statement of fact only includes evidence you have seen or heard **first hand**:
 - Evidence heard “second hand” is hearsay & not admissible as evidence, e.g. the machine operator stated that “*the management tell us to ignore the monitoring alarm when its activated to save time*” Obtain a personal statement from the machine operator to this effect.
- Can include in your statement what a person who is “*Party to proceedings*” said e.g.
 - I was inspecting the process when a monitoring alarm sounded, I asked the machine operator what action he should take when the alarm sounds, he stated that “*the management tell us to ignore the monitoring alarm when its activated to save time*”;
 - Officer to report in his statement that the alarm was ignored as witnessed;
 - **When stating the source of information in your statement you may elaborate on the effect it had on you & your actions in response to the information e.g. caused an emotion....**



11

Court Appearance - General



- Intimidating:
 - Unfamiliar surroundings;
 - Unfamiliar proceedings;
 - Summoned there to be challenged;

“The **Proof** not the **Truth**” Discuss.....

- Our role is to assist the court with evidence to illustrate the case
- Lost case = the barrister failed to do his/her job properly & failed to advise the client adequately

It is not personal, or a vendetta, it is about providing evidence for the court to decide



12

Procedure in Magistrates Court



- Called to the box.
- Oath or affirmation.

Practice Oath / affirmation exercise

- Examination in chief.
- Cross- examination.

Cross Examination Example

- Re-examination.
- Recalled if necessary.

(While under oath don't speak to anyone other than your barrister / legal team!).



13

Documents Made Available For A Witness



- Contemporaneous notes.
- Statement copy *may* be allowed.
- Court Bundle of agreed docs for reference purposes.
- Exhibits referred to in your statement.
- Reports of experts.



14

Giving Evidence in the Box



- Use qualifications & experience.
- Listen carefully.
- Just answer the question, no more!
- Try to understand why question asked.
- Selective truth `V` the whole truth? It's a matter of principle!
- Seek assistance from the magistrate/judge.
- Use all documents & exhibits available.



15

Giving Evidence in the Box (2)



- Stay within area of expertise.
- Speak loud & clear.
- Speak at reasonable pace.
- Make best use of pauses.
- Appropriate posture & gestures.
- Appropriately dressed.
- Speak to the Magistrate / judge & jury.
- No inappropriate outbursts!



16

Giving Evidence in the Box (3)



- Controlled defence:
 - If in doubt adhere to core pieces of evidence only;
 - Select most appropriate answer from your core pieces of evidence for each question posed;
 - Don't speculate on assertions made;
 - Don't be drawn into yes/no statements;
 - Qualify yes/no with one of the core pieces of evidence;
 - Can be a risky strategy, Why?



17

Barrister's Best Advice (1)



- Let the barrister do the thinking, you stick to the evidence / facts known to you.
- Rehearse the Q&A with your barrister.
- Give yourself time - take a break, drink, etc;
- Don't get sucked into the barristers game, don't:
 - Argue or dispute facts;
 - Be led away from the facts of the case;
 - Take the blame personally.

The barrister will try to discredit you & your evidence at almost any cost!



18

Barrister's Best Advice (2)



- Be courteous and apologetic if necessary.
“ Sorry Sir, I apologise for being unable to provide a fuller answer to this question, it is beyond my experience”
- Admit fault if you make a mistake.
- Just speak for yourself, I, me, NOT us, we.
- Be careful of hearsay evidence.

“Aim to leave the box with the credibility & integrity you entered with”
– Preparation is key!



19

Summary

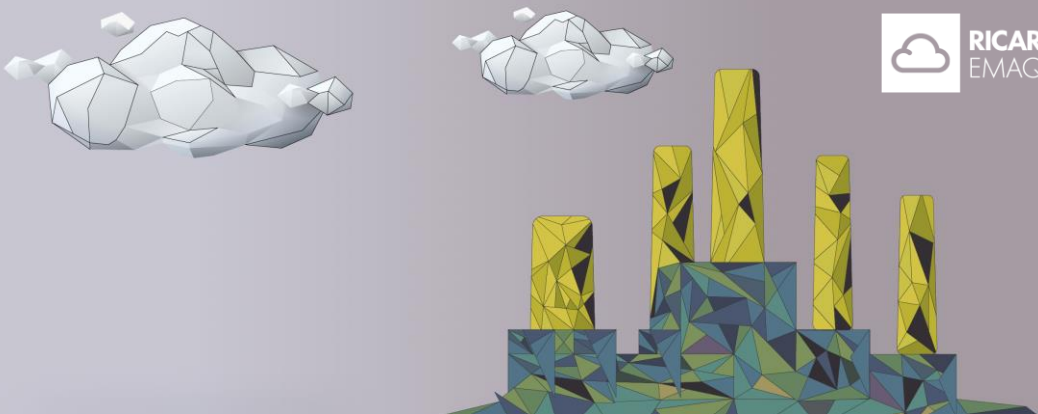



- Court is a stressful place, so be careful to:
 - Prepare properly;
 - Not blame yourself for things you miss;
 - Ensure you have said everything you want to say (check with barrister before re-examination);
 - Carefully follow your barrister's questions, but still just answer the question... don't try to second guess what he wants!
 - Enjoy the process. Remember this isn't you against them, it is you supporting the court.

Don't Forget; **WE ARE THE GOOD GUYS!**




20



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EMAQ+

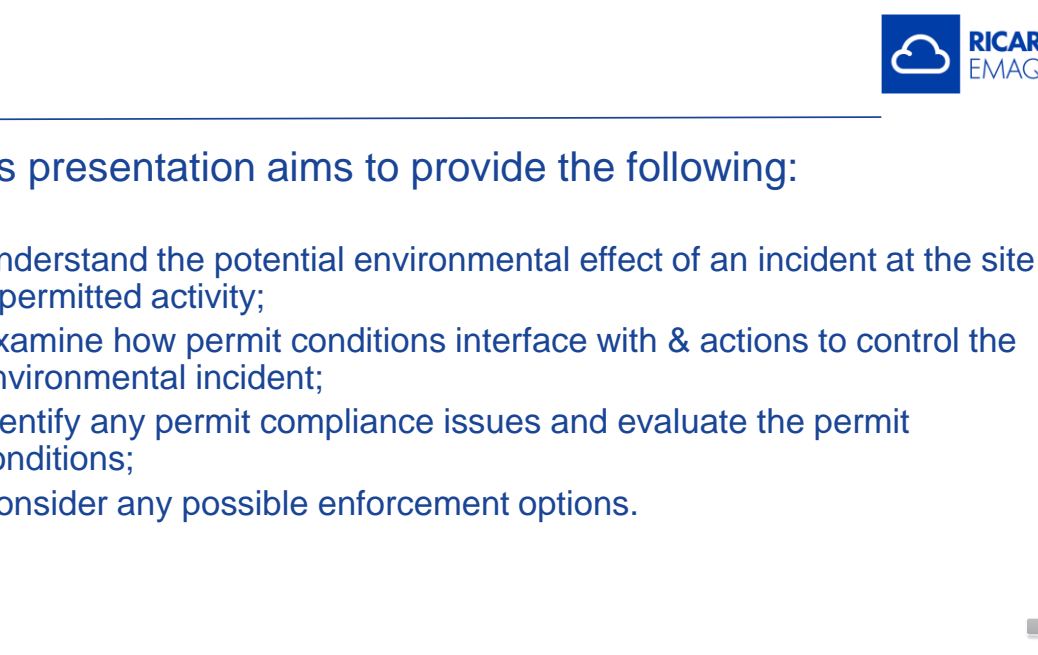
Essentials of PPC 5


Session 6: Enforcement Case Study



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1



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Aims

- This presentation aims to provide the following:
 - Understand the potential environmental effect of an incident at the site of a permitted activity;
 - Examine how permit conditions interface with & actions to control the environmental incident;
 - Identify any permit compliance issues and evaluate the permit conditions;
 - Consider any possible enforcement options.



2

Site



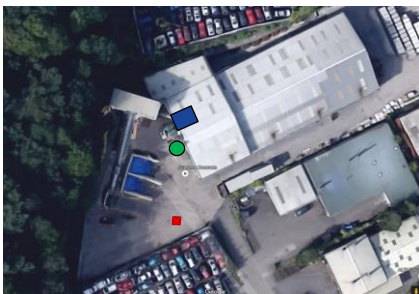
- **Pollution Incident Example:**

- *Based on a real event;*
- The purpose of the exercise is to review the incoming information and decide on action(s) to take;
- We will need to:
 - Log & consider the information received concerning the incident;
 - Consider what action is necessary to address the incident;
 - Determine which actions are the responsibility of the local Authority;
 - Be particularly mindful of communications;
 - Review the permit conditions for enforceability.
 - Confirm the enforcement options.



3

Site of Permitted Activity



Concrete batching installation

- Silo
- Batching
- Drain



4

Site Showing Extent of the External Spillage



Spillage



5

Because things never happen on Friday...



Background

- An environmental incident occurs involving the spillage of a large amount of cement powder.
- The permitted activity site is located on an industrial estate, however there is an adjacent children's nursery (40m to the northeast).
- The weather conditions are still, dry, and cool, with little wind.
- We will now examine the;
 - Description of incident,
 - Process of investigation.



6

Chronology of the Incident



Time	Action	Response
Tzero	Urgent phone call received by the regulator from Company Head office. Confirms that an environmental incident has taken place. The installation operator has informed head office of a major spillage of cement dust from a storage silo. The incident occurred about 1 hour before the regulator receives the notification.	Incident logged by environment team.
T+10mins	Phone call received from installation operator, approx 10 tonnes cement dust is lying in the open yard area with a further 2 tonnes inside the installation building. Clean up is proceeding. Installation operator reports no escape of material over boundary of permitted activity site.	
T+30mins	Officer arrives on site; Initial impression; large accumulation of cement dust in the open, but little visible dust in the air. Cement dust in the building has 'settled'. External clean up with mechanical sweeper ineffective. Weather forecast predicts unsettled weather imminent. Installation manager is actively involved in the clean up operation.	



7

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T+30mins	Officer arrives on site; Initial impression; large accumulation of cement dust in the open, but little visible dust in the air. Cement dust in the building has 'settled'. External clean up with mechanical sweeper ineffective. Weather forecast predicts unsettled weather imminent. Installation manager is actively involved in the clean up operation.	



8

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T+30mins	Officer arrives on site; Initial impression; large accumulation of cement dust in the open, but little visible dust in the air. Cement dust in the building has 'settled'. External clean up with mechanical sweeper ineffective. Weather forecast predicts unsettled weather imminent. Installation manager is actively involved in the clean up operation.	Site inspector notes situation, takes photographs, notes clean-up work ongoing; difficult to engage with operator as involved in clean-up but comments on-site sweeper ineffective to tackle clean-up.



9

Chronology of the Incident

Time	Action	Response
T+45 mins	Installation operator advises LA officer on site of an accident, a member of staff has slipped whilst cleaning up cement and has a dislocated shoulder and sustained chemical burns from the cement, ambulance called.	Site inspector questions whether (reduced) on-site resources are sufficient to tackle clean-up.
T+60 mins	Clean up operation is limited to spillage containment. Weather becomes more windy, threat of rain. Installation manager decides to halt clean-up and cover accumulation of cement dust in the open yard & surface water drainage systems provided with protection. Installation operator agrees that specialist equipment required.	
T+180 mins	Specialist clean up equipment & operator arrives, accumulation of cement dust vacuum cleaned from open yard area and from inside building.	
T+300 mins	Clean up completed, incident over.	



10

Chronology of the Incident



Time	Action	Response
T+45 mins	Installation operator advises LA officer on site of an accident, a member of staff has slipped whilst cleaning up cement and has a dislocated shoulder and sustained chemical burns from the cement, ambulance called.	Site inspector questions whether (reduced) on-site resources are sufficient to tackle clean-up.
T+60 mins	Clean up operation is limited to spillage containment. Weather becomes more windy, threat of rain. Installation manager decides to halt clean-up and cover accumulation of cement dust in the open yard & surface water drainage systems provided with protection . Installation operator agrees that specialist equipment required.	Records details
T+180 mins	Specialist clean up equipment & operator arrives, accumulation of cement dust vacuum cleaned from open yard area and from inside building.	
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11

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12

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T+180 mins	Specialist clean up equipment & operator arrives, accumulation of cement dust vacuum cleaned from open yard area and from inside building.	Records details
T+300 mins	Clean up completed, incident over.	Brief update to advise operator any concerns and next steps, site inspector departs



13

Chronology of the Incident



Time	Action	Response
T+1 Day	Debrief with operator.	Officer visits permitted activity site to review paperwork concerning the incident. Raise any potential permit breaches. Record details.
T+ 5 Days	Operator provides incident report: Conclusion of incident cause is a failure of the sock connecting screw conveyor to silo, when a valve did not shut off correctly determined as cause of spillage.	
T+ >5 Days	Further Investigation details to be determined;	



14

Chronology of the Incident

Time	Action	Response
T+1 Day	Debrief with operator.	Officer visits permitted activity site to review paperwork concerning the incident. Raise any potential permit breaches. Record details.
T+ 5 Days	Operator provides incident report: Conclusion of incident cause is a failure of the sock connecting screw conveyor to silo, when a valve did not shut off correctly determined as cause of spillage.	Review whether permit conditions breached.
T+ >5 Days	Further Investigation details to be determined;	



15

Chronology of the Incident

Time	Action	Response
T+1 Day	Debrief with operator.	Officer visits permitted activity site to review paperwork concerning the incident. Raise any potential permit breaches. Record details.
T+ 5 Days	Operator provides incident report: Conclusion of incident cause is a failure of the sock connecting screw conveyor to silo, when a valve did not shut off correctly determined as cause of spillage.	Review permit conditions for potential breach.
T+ >5 Days	Further Investigation details to be determined;	Review permit to decide if condition breach has occurred. Review enforcement policy. Decide if formal action or informal action is appropriate.



16

Permit



What are the relevant permit conditions ?

Condition	Potential breach ?
No visible particulate matter shall be emitted beyond the installation boundary.	
The emission requirements and methods and frequency of monitoring set out in Table 1 (See next slide) shall be complied with. Sampling shall be representative. Any monitoring display required for compliance with the permit shall be visible to operating staff at all times. Corrective action shall be taken immediately if any periodic monitoring result exceeds a limit in Table 1, or if there is a malfunction or breakdown of any equipment which might increase emissions. Monitoring shall be undertaken or repeated as soon as possible thereafter and a brief record shall be kept of the main actions taken.	
All plant and equipment capable of causing, or preventing, emissions and all monitoring devices shall be calibrated and maintained in accordance with the manufacturer's instructions. *Records shall be kept of such maintenance.*	



17

Permit



What are the relevant permit conditions ?

Condition	Potential breach ?
No visible particulate matter shall be emitted beyond the installation boundary.	No breach
The emission requirements and methods and frequency of monitoring set out in Table 1 (See next slide) shall be complied with. Sampling shall be representative. Any monitoring display required for compliance with the permit shall be visible to operating staff at all times. Corrective action shall be taken immediately if any periodic monitoring result exceeds a limit in Table 1, or if there is a malfunction or breakdown of any equipment which might increase emissions. Monitoring shall be undertaken or repeated as soon as possible thereafter and a brief record shall be kept of the main actions taken.	
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18

Permit



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All plant and equipment capable of causing, or preventing, emissions and all monitoring devices shall be calibrated and maintained in accordance with the manufacturer's instructions. *Records shall be kept of such maintenance.*	



19

Permit



What are the relevant permit conditions ?

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No visible particulate matter shall be emitted beyond the installation boundary.	No breach
The emission requirements and methods and frequency of monitoring set out in Table 1 (See next slide) shall be complied with. Sampling shall be representative. Any monitoring display required for compliance with the permit shall be visible to operating staff at all times. Corrective action shall be taken immediately if any periodic monitoring result exceeds a limit in Table 1, or if there is a malfunction or breakdown of any equipment which might increase emissions. Monitoring shall be undertaken or repeated as soon as possible thereafter and a brief record shall be kept of the main actions taken.	Monitoring not applicable, see next slide.
All plant and equipment capable of causing, or preventing, emissions and all monitoring devices shall be calibrated and maintained in accordance with the manufacturer's instructions. *Records shall be kept of such maintenance.*	Not applicable



20

Permit

Table 1 - Emission limits, monitoring and related provisions

Row	Substance	Source	Emission limits/provisions	Type of monitoring	Monitoring frequency
1	Particulate matter	Whole Process	No visible airborne emission to cross the site boundary where harm or nuisance may be caused	Operator observations	At least daily
		Silo inlets and outlets (for silos new since 1st July 2004)	Designed to emit less than 10mg/m ³	Operator observations	At time of delivery
		Silo inlets and outlets	No visible emission		
		Arrestment equipment, or any point where dust contaminated air is extracted from the process to atmosphere, with exhaust flow >300m ³ /min. (other than silo arrestment plant)	50mg/m ³	Recorded indicative monitoring	Continuous
			Arrestment equipment, or any point where dust contaminated air is extracted from the process to atmosphere, with exhaust flow >100m ³ /min. (other than silo arrestment plant)	No visible emission Arrestment equipment should be provided with a design guarantee that the equipment can meet 50mg/m ³	Indicative monitoring to demonstrate that the arrestment equipment is functioning correctly
Arrestment equipment, or any point where dust contaminated air is extracted from the process to atmosphere, with exhaust flow <100m ³ /min. (other than silo arrestment plant)	No visible emission	Operator observation Or Indicative monitoring		At least daily Or Continuous	
2	Droplets, persistent mist and fume	All emissions to air (except steam and condensed water vapour)	No droplets, no persistent mist, no persistent fume.	Visual observations	*On start-up and on at least two more occasions during the working day*

Only emissions to atmosphere are required to comply with the emission limits within this table.

Notes:

- *All periodic monitoring results shall be checked by the operator on receipt and sent to the Council within 8 weeks of the monitoring being undertaken.*
- a) The reference conditions for limits in Table 1 are: 273.1K, 101.3kPa, without correction for water vapour content, unless stated otherwise.
- b) All periodic monitoring shall be representative, and shall use standard methods.
- c) The emission limits do not apply during start-up and shut down. All emissions shall be kept to a minimum during these periods.



21

Permit

Silo conditions

Condition	Potential breach ?
Bulk cement shall only be stored within the bulk cement silos.	
Dust emissions from loading or unloading road tankers shall be minimised by venting to Bag filtration plant, and back venting to a delivery tanker fitted with an on-board, truck mounted relief valve and filtration system and by connecting transfer lines first to the delivery inlet point and then to the tanker discharge point, and by ensuring delivery is at a rate which does not pressurise the silo.	
Silos and bulk containers of dusty materials shall not be overfilled and there shall be an overfilling alarm.	
When loading silos which were new after Jun 2004, deliveries must automatically stop where overfilling or over-pressurisation is identified.	
Displaced air from pneumatic transfer shall pass through abatement plant prior to emission to air.	



22

Permit



Silo conditions

Condition	Potential breach ?
Bulk cement shall only be stored within the bulk cement silos.	Not applicable
Dust emissions from loading or unloading road tankers shall be minimised by venting to Bag filtration plant, and back venting to a delivery tanker fitted with an on-board, truck mounted relief valve and filtration system and by connecting transfer lines first to the delivery inlet point and then to the tanker discharge point, and by ensuring delivery is at a rate which does not pressurise the silo.	
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23

Permit



Silo conditions

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When loading silos which were new after Jun 2004, deliveries must automatically stop where overfilling or over-pressurisation is identified.	
Displaced air from pneumatic transfer shall pass through abatement plant prior to emission to air.	



24

Permit



Silo conditions

Condition	Potential breach ?
Bulk cement shall only be stored within the bulk cement silos.	Not applicable
Dust emissions from loading or unloading road tankers shall be minimised by venting to bag filtration plant, and back venting to a delivery tanker fitted with an on-board, truck mounted relief valve and filtration system and by connecting transfer lines first to the delivery inlet point and then to the tanker discharge point, and by ensuring delivery is at a rate which does not pressurise the silo.	Not applicable
Silos and bulk containers of dusty materials shall not be overfilled and there shall be an overfilling alarm.	Not applicable
When loading silos which were new after Jun 2004, deliveries must automatically stop where overfilling or over-pressurisation is identified.	
Displaced air from pneumatic transfer shall pass through abatement plant prior to emission to air.	



25

Permit



Silo conditions

Condition	Potential breach ?
Bulk cement shall only be stored within the bulk cement silos.	Not applicable
Dust emissions from loading or unloading road tankers shall be minimised by venting to bag filtration plant, and back venting to a delivery tanker fitted with an on-board, truck mounted relief valve and filtration system and by connecting transfer lines first to the delivery inlet point and then to the tanker discharge point, and by ensuring delivery is at a rate which does not pressurise the silo.	Not applicable
Silos and bulk containers of dusty materials shall not be overfilled and there shall be an overfilling alarm.	Not applicable
When loading silos which were new after Jun 2004, deliveries must automatically stop where overfilling or over-pressurisation is identified.	Not applicable
Displaced air from pneumatic transfer shall pass through abatement plant prior to emission to air.	



26

Permit



Silo conditions

Condition	Potential breach ?
Bulk cement shall only be stored within the bulk cement silos.	Not applicable
Dust emissions from loading or unloading road tankers shall be minimised by venting to bag filtration plant, and back venting to a delivery tanker fitted with an on-board, truck mounted relief valve and filtration system and by connecting transfer lines first to the delivery inlet point and then to the tanker discharge point, and by ensuring delivery is at a rate which does not pressurise the silo.	Not applicable
Silos and bulk containers of dusty materials shall not be overfilled and there shall be an overfilling alarm.	Not applicable
When loading silos which were new after Jun 2004, deliveries must automatically stop where overfilling or over-pressurisation is identified.	Not applicable
Displaced air from pneumatic transfer shall pass through abatement plant prior to emission to air.	Not applicable



27

Permit



Best available techniques and notifications

Condition	Potential breach ?
The best available techniques shall be used to prevent or, where that is not practicable, reduce emissions from the installation in relation to any aspect of the operation of the installation which is not regulated by any other condition of this permit.	
If the operator proposes to make a change in operation to the permitted installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition "change in operation" means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.	



28

Permit



Best available techniques and notifications

Condition	Potential breach ?
The best available techniques shall be used to prevent or, where that is not practicable, reduce emissions from the installation in relation to any aspect of the operation of the installation which is not regulated by any other condition of this permit.	Yes
If the operator proposes to make a change in operation to the permitted installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition "change in operation" means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.	



29

Permit



Best available techniques and notifications

Condition	Potential breach ?
The best available techniques shall be used to prevent or, where that is not practicable, reduce emissions from the installation in relation to any aspect of the operation of the installation which is not regulated by any other condition of this permit.	Yes
If the operator proposes to make a change in operation to the permitted installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition "change in operation" means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.	Not applicable



30

Permit Conditions & “Control”



- Identify which permit conditions are relevant to the incident:
 - Which are in breach?
 - Which are helpful?
- How effectively do the permit conditions allow for formal control of the incident by the LA regulator?
- How effective are the permit conditions following the incident?
- What additional permit conditions would you recommend?



31

Permit Condition Evaluation



- What action are you going to take:
 - At the time?
 - Following the incident?
- Is enforcement action likely? If so:
 - What needs to be done at the time of the incident?
 - What needs to be done after the incident?



32