

Working Together Agreement between Environment Agency and Natural England/Countryside Council for Wales Environmental Permitting (England and Wales) Regulations 2007

What we want to achieve by working together on permitting decisions

- Protection of the natural environment and the general public in relation to activities prescribed under the Environmental Permitting Regulations. This applies particularly to protecting sites designated for conservation interest, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the Habitats and Birds Directives respectively, wetlands of international importance designated under the RAMSAR convention, and Sites of Special Scientific Interest (SSSI) notified under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) (hereafter referred to as the “WCA (as amended)”)
- Environmentally sustainable management of industrial installations
- Shared information on permitted activities and the nature of the areas in which they operate where it relates to environmental outcomes
- A risk based approach to permitting and to requests for further information
- Better public awareness of the relationship between the Environment Agency and Natural England and the Countryside Council for Wales

Roles and Responsibilities (of each participating organisation)

Roles are defined in statute (principally the Environment Act 1995, the Natural Environment and Rural Communities Act 2006, The Conservation (Natural Habitats, &c.) Regulations 1994 and the WCA (as amended).. More specifically:

- The Environment Agency is one of the regulators under the Environmental Permitting Regulations in England and Wales and has responsibility for the permitting of certain industrial and waste management activities specified in the Regulations
- Under the Environmental Permitting Regulations, the Environment Agency has responsibility for regulatory measures contributing to the implementation of European Directives, listed in Annex 1
- The Environment Agency is the competent authority for undertaking assessments required under the Habitats Regulations and judging whether installations would adversely affect the integrity of any SAC or SPA [or RAMSAR site]
- The Environment Agency is a Section 28G authority under the WCA (as amended), which means that it has a duty in exercising its functions to take reasonable steps to further the conservation and enhancement of SSSIs on which they exercise the above functions. It also has specific duties under sections 28H and I in relation to carrying out and authorising operations likely to damage the SSSI
- As statutory ‘nature conservation bodies’ under the Habitats Regulations, Natural England and Countryside Council for Wales are responsible for providing advice to the Environment Agency on whether proposed activities falling under the Environmental Permitting Regulations could affect the integrity of European designated sites. Natural England also has specific duties relating to the authorisation of operations likely to damage SSSIs, provided by the WCA (as amended).

- Natural England and Countryside Council for Wales have responsibilities to monitor and report on the condition of SSSIs, and the conservation status of the Natura 2000 series comprising of SACs and SPAs

How we will work together

Generally we will:

- Work to the principles described in the Memorandum of Understanding between Natural England, the Environment Agency, and the Forestry Commission (Annex 2)
- Work in accordance with the jointly agreed consultation procedures for Habitats Regulations (European Sites) and WCA (as amended) (SSSIs)
- Share information where appropriate

Specifically the Environment Agency will:

- Consult with Natural England and Countryside Council for Wales when developing the risk criteria to be complied with for standard permits and work to review/revise these risk criteria on the basis of experience
- Consult Natural England and/or Countryside Council for Wales under the Habitats Regulations, with regard to scoping and reviewing appropriate assessments undertaken for applications for bespoke permits judged as “likely to have a significant effect” on an SAC, SPA and RAMSAR site
- Consult Natural England and/or Countryside Council for Wales under the WCA (as amended) if permitting an “Operation Likely To Damage” a SSSI
- Consult on matters of evident concern identified by the Environment Agency or Natural England/ Countryside Council for Wales
- Consult Natural England/ Countryside Council for Wales on all applications and regulator initiated variations which entail a substantial change¹, or where the Environment Agency otherwise considers there should be consultation
- Have due regard to comments that are received within the agreed timescale
- Alert Natural England/ Countryside Council for Wales where further information is submitted which we consider pertinent to their interests
- Seek to improve the current joint working agreements based on experience
- In cases of cross border sites with Scotland, we will consult with Scottish Natural Heritage (SNH) and Scottish Environmental Protection Agency (SEPA) as appropriate

Specifically Natural England/Countryside Council for Wales will:

- Advise the Environment Agency on the scope of appropriate assessments under Regulation 48 of the Habitats Regulations.
- In accordance with jointly agreed consultation arrangements, provide expert advice on the risk to the integrity of European Sites presented by permit applications, to guide the Environment Agency’s regulatory decision making
- In accordance with Section 28I duties under the WCA (as amended), advise the Environment Agency whether or not a proposal should proceed, with or without conditions; or if Section 28H applies providing or refusing assent.
- Work with the Environment Agency to seek mitigation options where required

¹ A substantial change is one which could have significant negative effects on the environment or the general public

- Provide consultation responses and other general advice requested so far as possible within 20 working days
- Provide a robust pathway for consultations, which aligns with Environment Agency procedures
- Ensure procedures are in place to share cross border consultations

Acronyms:

SAC – Special Area of Conservation - cSAC

SPA – Special Protection area – pSPA

SSSI – Site of Special Scientific Interest

Annex 1

Directives which are implemented through the EP Regulations 2007

The IPPC Directive (96/61/EC), The Waste Framework Directive (1975/442/EC), Waste Incineration Directive (2000/76/EC), The Waste Electrical and Electronic Directive (2002/96/EC), Landfill Directive (99/31/EC), The End of Life Vehicle Directive (2000/53/EC), Large Combustion Plants Directive (2001/80/EC), Solvent Emissions Directive (99/13/EC); Habitats Directive (92/43/EC), The Asbestos Directive (2003/18/EC), The Titanium Dioxide Directive (92/112/EEC)

Annex 2

Memorandum of Understanding Between Natural England the Environment Agency and the Forestry Commission

1. This Memorandum of Understanding is between Natural England, the Environment Agency and the Forestry Commission. It is about how we will work together to protect and enhance the natural environment and promote its understanding and appreciation.
2. Each body has its own distinctive roles and responsibilities, based on its statutory remit, which it needs to pursue. However, we all recognise the benefits of working together to achieve our common goals. The purpose of this Memorandum is to agree those areas where we recognise we can achieve more for the environment by working together, to appreciate where we have separate objectives and to effectively manage the boundaries, including potential overlaps, between these interests. In many cases we are delivering our respective responsibilities to the same customers and partners. By working in partnership we can achieve more effective delivery of outcomes, improve service to our customers and avoid duplication.
3. This Memorandum sets out:
 - our respective roles and responsibilities;
 - the outcomes we will achieve by working together; and
 - the working practices we will use to achieve them.

Our Roles and Responsibilities

4. Our roles are defined in statute (principally the Environment Act 1995, the Forestry Act 1967 and the Natural Environment and Rural Communities Act 2006).

Natural England leads on the conservation enhancement and management of the natural environment by:

- conserving the natural environment today;

- encouraging more people to enjoy, understand and act to improve the natural environment;
- ensuring the sustainable use of the natural environment;
- influencing decisions which securing the natural environment for the future.

The Environment Agency leads on the integrated protection and enhancement of natural resources (air, land and water), the sustainable use of resources, flood risk management and water-based recreation, fisheries and navigation.

The Forestry Commission leads on delivery of woodland policy including timber production, biodiversity, recreation, environmental protection and green infrastructure.

5. In addition to the respective lead responsibilities outlined above, each organisation also has a responsibility to contribute to the fulfillment of the others objectives. For example the Agency leads on air, land and water and also contributes towards Natural England's biodiversity, landscape and access objectives. Similarly Natural England leads on biodiversity, landscape and access and helps the Agency deliver its objectives for the protection of air, land and water.
6. All three bodies have an interest in land use and management which is fundamental to the delivery of our respective roles and responsibilities. In working together we will seek land management policies and delivery activities that secure the range of benefits we are seeking collectively.

Our Shared Vision and Outcomes

7. We share a common vision of conserving, enhancing and managing the environment thereby contributing to sustainable development and quality of life. We will achieve this vision through:-
 - Conserving, enhancing and managing land, flora and fauna, freshwater and marine environments, landscapes and geology;
 - Promoting access, recreation and public well-being;
 - Delivering environmental protection and improved air, soil and water; and
 - Contributing directly and indirectly to social and economic wellbeing.
8. The strategic environmental outcomes we will seek in partnership are:
 - Sustainable land use policy which provides a sound framework of advice, incentives and regulation to deliver integrated natural resource management including air, soil and water quality, biodiversity, landscapes, woods and natural features;
 - An increased resilience of the environment to climate change and adaptation to unavoidable change;
 - Integrated catchment management to deliver the conservation enhancement and management of landscapes and biodiversity, reduce diffuse pollution and flood risk, deliver sustainable water supplies and deliver good ecological status for river basins;
 - The conservation, enhancement and management of the marine environment including its biodiversity and natural resources;
 - Conservation, enhancement and management of protected areas including SSSIs and sites which contribute to the delivery of UK Biodiversity Action Plan targets;
 - Enhanced opportunities for outdoor recreation and improved access to land, water, coasts and the sea;
 - Sustainable agriculture and forestry that meets regulated standards of environmental protection and delivers a range of public goods including biodiversity and landscape conservation, resilience and adaptation of the environment to climate change, carbon

storage, flood management, access and recreation in exchange for tax payer incentives; and

- International, national, regional and local strategies and policies which secure the protection of the environment and contribute to sustainable development.

Joint Working Practices and Joint Working Areas

9. We will look to work jointly wherever we can achieve more for the environment by doing so. To underpin this we shall apply some principles and practices to all our work. We will:

- Build towards a shared evidence base by exchanging information, collaborating on research, data and evidence gathering at national and regional levels and alert each other to environmental issues and intelligence;
- Pool our expertise and resources when working jointly to avoid duplication;
- Ensure consistent and coordinated messages when working with customers and join up our respective advice, incentive and regulatory activities so as to improve customer service and deliver the Better Regulation agenda;
- Share information on events, promotions and media activity so as to demonstrate shared messages and avoid competing over separate initiatives, and to communicate our collaborative work together to government, partners and the public, sharing the credit for joint work;
- Share our positions and consult each other at the earliest opportunity on a) our own policies, b) our strategies and corporate plans and c) responses to policies and consultations of others, to enable joint messages to be crafted where possible, or to agree presentation of different views;
- Create a powerful joint voice for the environment in local, regional and national fora particularly through collaboration on environmental influencing strategies; and
- Ensure regular and routine contact throughout the three organisations at all levels to build relationships and facilitate honest and open dialogue.

10. There are a number of areas where partnership working and opportunities for collaboration will be particularly important. These will be delivered according to the principles defined in paragraph 7 above.

Governance of this Memorandum: Liaison and Review

11. The relationship between our organisations will evolve over time and we will keep this Memorandum under review. A formal review should take place in three years, or earlier as required. The following liaison arrangements are proposed:

- The CEOs of each of the organisations will own and sign off this Memorandum, and progress reviews should be included periodically at CEO meetings;
- Relevant Directors and Regional Directors, will meet regularly to put this Memorandum into operation and monitor outcomes. Staff at all levels will also meet either individually or collectively with their counterparts as a regular part of normal business activity; and
- Chairs will meet as necessary to discuss specific national issues and the overall progress on collaboration, largely as an agenda item at their routine meetings. Joint Board meetings will also be held as necessary.

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