



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# Environmental Permitting (England and Wales) Regulations 2010

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## Environmental Permits Appeal Procedure Guidance



INVESTOR IN PEOPLE



May 2013

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# THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2010

## ENVIRONMENTAL PERMITS (IPPC, LA-IPPC & LA-PPC)

**Note:** The information contained within this guidance relates to procedures in [Wales only](#).

From 1<sup>st</sup> April 2013 the Environment Agency ceased to operate in Wales, and their functions were taken over by Natural Resources Wales.

The information in this leaflet was correct when it was published, but it has no legal status.

## GUIDANCE ON THE APPEALS PROCEDURE

### Introduction

1. The Planning Inspectorate is an Agency of the Welsh Government and the Department for Communities and Local Government. Our main work is the processing of planning and enforcement appeals and holding inquiries into local development plans. We also deal with a wide variety of other appeal casework including Environmental appeals and Rights of Way Orders. We deal with appeals in Wales from our office in Cardiff and appeals in England from our Bristol office.
2. These instructions cover the procedures for appeals in respect of environmental permits (including the imposition of conditions, enforcement notices, revocation notices, suspension notices, prohibition notices and closure notices).
3. The appeal procedures to be followed are set out in the Environmental Permitting (England and Wales) Regulations 2010, SI 2010 No. 675, particularly regulation 31 and Schedule 6. These regulations should be consulted before submitting an appeal.
4. Operators whose installations are categorised under Schedule 1 of the Environmental Permitting (England and Wales) Regulations 2010, SI 2010 No. 675, may appeal under regulation 31 to the Welsh Ministers against certain decisions made by the relevant regulator. Natural Resources Wales is the regulator for Part A1 installations (IPPC equivalent under Schedule 7 of the regulations).

The local authority is the regulator for Part A2 installations (LA-IPPC equivalent under Schedule 7) and Part B installations (LA-PPC equivalent under Schedule 8), in relation to air emissions only.

5. The Welsh Ministers have delegated the power to decide the appeals to Inspectors (as given under the Environment Act 1995, Section 114 & Schedule 20).

## Grounds for appeal

6. Regulation 31 gives an applicant a right of appeal against the decision made by the regulator in the following circumstances:
  - i. refusal to grant an application for an environmental permit;
  - ii. if the applicant is aggrieved by a decision to impose an environmental permit condition following their application;
  - iii. if the applicant is aggrieved by a decision to impose a condition on an existing environmental permit –
    - i. as a result of a regulator initiated variation, or
    - ii. to take account of the partial transfer, partial revocation or partial surrender of that environmental permit.
  - iv. if the applicant is aggrieved by the “deemed withdrawal” of their duly made application, where further information has not been provided under paragraph 4(2) of Part 1 of Schedule 5;
  - v. if the applicant is aggrieved by a decision relating to an environmental permit held by that person not to authorise the closure procedure mentioned in –
    - i. Article 13 of the Landfill Directive after a request referred to in Article 13(a)(ii) of that Directive, or
    - ii. Article 12 of the Mining Waste Directive after a request referred to in Article 12(2) (b) of that Directive.
  - vi. where the enforcing authority has served an enforcement notice, a revocation notice, suspension notice, prohibition notice, landfill closure notice or mining waste facility closure notice

## Before making an appeal

7. Prospective appellants are advised to try to resolve any difficulties or disagreements with the regulator. The right of appeal should be exercised as a **last resort**.

## Who decides your appeal?

8. Most appeals are decided by an Inspector, acting as a delegate of the Welsh Ministers under section 114 of the Environment Act 1995.
9. However, the Welsh Ministers may take over and “recover” a case if it is particularly important or controversial (see Appendix 2)<sup>1</sup>. This means that an Inspector conducts a site visit and / or hears the parties and then writes a report giving recommendations to inform the decision which is subsequently made by the Welsh Ministers. If the decision is going to be made by the Welsh Ministers, we/they will tell you why we/they have decided to “recover” it.

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<sup>1</sup> Paragraph 13.5 of the joint Welsh Assembly Government (WAG) / Defra *Environmental Permitting Guidance: Core Guidance*:  
<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

## HOW TO MAKE AN APPEAL

10. There is no charge for lodging an appeal. Although there is no statutory requirement to submit an appeal form, you can obtain an appeal form from the address below or it can be downloaded from the Planning Portal<sup>2</sup>.
11. The form helps to ensure that you submit all the necessary information that we need to allow us to proceed with the appeal.
12. For an appeal to be valid, appellants are legally required under Schedule 6(2)(1) to provide the following documents to the Planning Inspectorate and, at the same time, to the regulator:
  - i. written notice of appeal;
  - ii. a statement of the grounds of appeal;
  - iii. a statement indicating whether you wish the appeal to be dealt with by the written representations procedure or otherwise to be heard by an Inspector at a hearing or inquiry;
  - iv. a copy of the relevant application (if any);
  - v. a copy of the relevant environmental permit (if any);
  - vi. a copy of any relevant correspondence, plans etc. exchanged with the regulator; and
  - vii. a copy of the decision or notice which is the subject of the appeal.
13. Your grounds of appeal should explain, in full, why you are aggrieved by the regulator's decision. It should describe those aspects of the decision which you would wish to change and how the change should be effected.
14. You should also state whether any of the information enclosed with the appeal has been the subject of a successful application for commercial confidentiality under regulation 48, providing relevant details. Unless such information is provided, all documents submitted will be in the public domain and open to inspection. In cases where the appellant considers that matters of confidentiality will arise during the life of the appeal, the case may be recovered for decision by the Welsh Ministers.

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<sup>2</sup> Information available on the following page:  
[http://www.planningportal.gov.uk/uploads/pins/environmental\\_permitting\\_appeal\\_form\\_engwel.pdf](http://www.planningportal.gov.uk/uploads/pins/environmental_permitting_appeal_form_engwel.pdf)

15. The Notice of Appeal should be sent to<sup>3</sup>:

The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Tel: 029 2082 3866  
Fax: 029 2082 5150  
E-mail: [wales@pins.gsi.gov.uk](mailto:wales@pins.gsi.gov.uk)

**You must also send a copy of your appeal to the relevant regulator.**

### **Time limit for lodging an appeal**

16. Notice of appeal must be given (i.e. **received** by the Inspectorate and the regulator) within the following time-scales:

- a. in relation to an appeal against a revocation notice, **before** the revocation notice takes effect;
- b. in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than **15 working days** after the date of the further notice served by the authority stating that the application is deemed to be withdrawn;
- c. in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice or landfill closure notice, not later than **2 months** after the date of the variation notice;
- d. in relation to a prohibition notice, not later than **21 days** after the date of the notice; or
- e. in any other case, not later than **6 months** after the date of the decision or deemed decision.

17. Appeals made outside the time limits are only accepted in very exceptional circumstances for appeals outlined in 'b' to 'e' above. We cannot accept appeals against revocation notices ('a' above) if they are submitted outside the time limit.

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<sup>3</sup> For appeals in England, please forward appeal documents to:

Environmental Appeals Team, Room 4/04 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or Tel: 0117 372 8726.

## The effect of making an appeal

18. Where an appeal is lodged against a revocation notice, the revocation **will not take effect** until the decision is issued or the appeal is withdrawn.
19. If an appeal is made in relation to refusal of a permit, transfer, surrender, variation or conditions, the lodging of an appeal **will not suspend** the decision or the operation of the conditions (see para 20 below).
20. Where an appeal has been made against a variation notice, enforcement notice, suspension notice or deemed withdrawal of an application, the appeal **will not suspend** the notice.
21. Where an appeal is brought against a closure notice or to initiate a closure procedure, the appeal **will not suspend** the notice.
22. Where an appeal is brought against a condition on a permit for a water discharge activity, the condition **will not take effect** until the determination or withdrawal of the appeal.

## Action on receipt of an appeal

23. When an appeal is received the Inspectorate will check the validity of the appeal and then, if everything is in order, give you an appeal **start date**. On the same day we will notify the regulator of the start date for the appeal.
24. If you have requested that the appeal proceeds by way of written representations, we will ask the regulator to confirm their agreement to that procedure or alternatively state that they wish to put their case orally at a hearing or inquiry. Whichever procedure is used will have no bearing upon the decision, which will be based on the merits of the evidence.
25. Within **10 working days** of receipt of the appeal start date the **regulator** must inform:
  - any person who made representations to the regulator about the subject matter of the appeal;
  - any person who appears to the regulator to have a particular interest in the appeal; and
  - relevant national consultees (generally those consulted at the application stage).
26. The regulator must notify the above parties that an appeal has been made and by whom, describe the application or permit to which the appeal relates and state that if they wish to submit any further representations, these must be made in writing to the Planning Inspectorate within **15 working days** of the date of the notification.

27. The notification should also explain that any representations made to the Inspectorate will be copied to the appellant and the regulator and will be entered on the Public Register<sup>4</sup>. The regulator will confirm to the Inspectorate that this has been done.

## **APPEAL PROCEDURES**

### **Written Representations Procedure**

28. The written procedure for dealing with an appeal is an exchange of statements between yourself and the regulator, followed by a visit to the site by an Inspector who will determine the appeal. This is usually the quickest, simplest and most cost effective way of deciding an appeal.

#### **(for Natural Resources Wales regulated Part A1 installations only)**

29. Appeals are dealt with in the spirit of the Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003, SI 2003 No. 390 (W.52). You and the regulator will be asked to send 2 copies of your appeal statement to the Inspectorate within **6 weeks** of the start date. You and the regulator then have the opportunity to comment on all the submitted statements and representations (including all those received from interested parties) within **9 weeks** of the start date.

#### **(for Local Authority (LA) regulated Part A2 and B installations only)**

30. The appeal procedures will follow those laid out in Para 30.16 of the joint Welsh Government (WG)/ Defra *General Guidance Manual on Policy and Procedures for A2 and B Installations*. The regulator has **28 working days** from the start date of the appeal to submit written representations to the Inspectorate and must send a copy to you at the same time.

31. If you wish to respond to the regulator's statement, you should send your comments to the Inspectorate within **17 working days** of receiving the regulator's written representations from the Inspectorate. At the same time, you must send a copy of your comments directly to the regulator.

32. Any representations made to the Inspectorate by interested parties will be copied to you and the regulator. You and the regulator will be asked to forward any comments on these letters to the Inspectorate within **12 working days**.

### **The Site Visit**

33. After the final deadline for representations has passed for all installation types, an Inspector will visit the site at an agreed date and time. It is normal practice for the Inspector to be accompanied at the site visit by you and/or your representative and a representative for the regulator. However, the Inspector will not allow any discussion about the merits of

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<sup>4</sup> A regulator is required to maintain a register ("a public register") containing information prescribed by paragraph 1 of Schedule 24 (public registers) of the Environmental Permitting (England and Wales) Regulations 2010, SI 2010 No. 675.



the case and any questions will be restricted to those physical features of the site that have already been raised in written evidence.

### **Appearing Before an Appointed Person**

34. Schedule 6(5) states that the Inspectorate may give the appellant and regulator an opportunity to be heard by an Inspector, and must do so where a request has been duly made by the appellant or regulator.
35. In practice, sometimes such an event will be relatively informal, and on other occasions a more formal event which may involve legal representation for the parties is more appropriate. For that reason we offer the option of a hearing or an inquiry:

### **Hearings**

36. Under normal circumstances a hearing is held in public and is conducted in the spirit of the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003, SI 2003 No. 1271.
37. However, there is provision for the Inspector to decide that the hearing, either whole or in part, may be held in private. This applies in cases where commercial confidentiality is raised.
38. A hearing allows the parties to present their case in a more relaxed and less formal atmosphere than at an inquiry (see para. 40). It usually takes the form of a discussion led by the Inspector, followed by a site visit if necessary.
39. Either party may request a hearing, or the Inspectorate may decide a hearing is needed if we consider that the issues raised in evidence merit discussion without the need for cross-examination. Where a hearing is requested by one of the parties, we will review the issues in question and decide whether or not a hearing is justified. Where the Inspectorate considers the issues to be straight forward, we will reason that the case would be more suitably dealt with by way of the written representations procedure; should this be the case, we will write to you and the regulator asking for agreement to the written representations procedure.
40. You and the regulator will be asked to send 2 copies of your hearing statements to the Inspectorate within **6 weeks** of the start date. We will then exchange those statements and forward on any comments from interested parties. You and the regulator will have the opportunity to make any comments on those submissions within **9 weeks** of the start date.
41. A notice scheduling the hearing will be placed at the appeal site and other places deemed to be appropriate in the locality 21 days before the hearing is due to commence. Local residents and other interested parties will be allowed to attend the hearing and, at the discretion of the Inspector, give their views.

## Inquiries

42. Inquiries are conducted in the spirit of the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003, SI 2003 No. 1267, as appropriate.
43. Although either party may request to be heard at a public inquiry, the Inspectorate will decide whether to hold a hearing or inquiry. In reaching that decision we will take your views and those of the regulator into account. Even where neither party has requested to be heard, the Inspectorate may decide that an appeal would be most appropriately dealt with at an inquiry. This discretion will only be exercised in exceptional cases, for example where particularly complex technical evidence is submitted, or where there is a large number of submission or a considerable amount of public interest, or where unprecedented legal issues are involved.
44. Within **6 weeks** of the start date, you and the regulator must submit 2 copies of your statement to the Inspectorate giving full details of the case to be put forward at the inquiry. Both you and the regulator will have an opportunity to comment on each other's statements and any interested party representations within **9 weeks** of the start date. Not later than 4 weeks before the inquiry, written statements of evidence and a statement of common ground should also be submitted.
45. A written statement of evidence is a statement of the evidence a witness intends to give at the inquiry. If your written statement of evidence is more than 1,500 words long, you should also provide a summary that is no more than 10% of the length of the written statement. A statement of common ground is a list of all the matters upon which you are agreed and should be signed by you and by the regulator.
46. An inquiry is more formal than a hearing and usually begins with brief opening statements from you and the regulator. Both parties can then each call their witnesses to give evidence. Witnesses may then be cross-examined by the other side. The regulator will normally present its case first. Interested parties may also attend the inquiry and will usually be allowed to give their views at the Inspector's discretion.
47. As in paragraph 39 above, a site notice detailing the arrangements for the inquiry will be placed at the appeal site and other places in the locality 21 days before the inquiry is due to commence. Interested parties can attend and speak at the Inspector's discretion. The Inspector may hold part or all of the inquiry in private where matters such as commercial confidentiality or national security are involved.

## DECISIONS ON APPEALS

### Inspector's decision

48. The decision will include the important and relevant points which give effect to the Inspector's decision. The Inspector may affirm or quash the regulator's decision or notice and can direct the regulator to grant or vary the conditions in a permit. The Inspector's decision will be sent to the appellant and the regulator at the same time. Copies will be sent to interested parties where one has been requested, unless confidentiality is involved. The decision will also be placed on the Public Register.

### Decisions by the Welsh Ministers

49. In these cases where an appointment is made pursuant to paragraph 5 of Schedule 6 of the Regulations, the Inspector will send a report to the Welsh Ministers. The report will summarise the arguments and evidence presented, conclude on that evidence, and make a recommendation as to whether or not the appeal should be allowed. The Welsh Ministers will then consider the report and issue a decision which will be sent to the appellant and the regulator together with a copy of the Inspector's report.

## OTHER POINTS

### Withdrawal of appeals

50. You may withdraw an appeal at any time; to do so you must send written notification to the Planning Inspectorate and send a copy directly to the regulator.

### Commercial Confidentiality Appeals

51. If the regulator has decided that information should be placed on the Public Register, any objector who has a commercial interest that may be affected by the inclusion of certain information may appeal to the Welsh Ministers under regulation 53, on the grounds that it should be considered commercially confidential. Appeals should be submitted within **15 working days** from the date the notice of determination was given. The regulator must not include the information that is the subject of the appeal on the public register until the appeal is decided.

52. The procedures for this type of appeal will follow the same procedure as appeals determined by an appointed person (paragraph 5 of Schedule 6) against permit appeals as set out above, except that hearings / inquiries will be conducted wholly or partly in private (see paragraph 5(2) of Schedule 6).

53. The Inspector will determine whether:

- a. the relevant information is to be classified as commercially confidential and therefore should be excluded from the regulator's Public Register (status reviewed after 4 years in certain cases); or

- b. the relevant information is not commercially confidential, in which case the regulator should place it on the Public Register.

## **Assessors**

54. Exceptionally, in some cases an assessor may be appointed by the Planning Inspectorate (pursuant to paragraph 4(4) in Schedule 20 of the Environment Act 1995) on behalf of the Welsh Ministers to advise the Inspector on specific legal, scientific or technical issues. The assessor will attend the inquiry with the Inspector and consider the representations made. The assessor will write a report advising the Inspector on specific issues. The report will be made public when the decision is issued (unless issues of confidentiality are involved).
55. Where an assessor is appointed, everyone entitled to appear at the inquiry will be notified of the assessor's name and the matters upon which he/she will advise the Inspector.

## **Costs**

56. Paragraph 5 of Schedule 6 of the regulations applies Section 250 of the Local Government Act (as modified by sub-paragraph (6) of the Schedule) to hearings and inquiries and Schedule 20 refers to S114 of the Environment Act 1995 in relation to 'appointed persons'.
57. Although there is no charge involved in lodging an appeal, you and the regulator will have to pay your own expenses. However, if the appeal is to be decided by a hearing or an inquiry, then costs may be applied for and awarded on grounds that the unreasonable behaviour of the other party in the conduct of the proceedings has caused a party unnecessary or wasted costs.
58. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claiming them can show that the other side behaved unreasonably and put them to unnecessary expense.
59. Following an application for costs, the Inspector or the Welsh Ministers will act in the spirit of Welsh Office Circular 23/93 on *Awards of Costs Incurred in Planning and Other (Including Compulsory Purchase Order Proceedings)* issued in March 1993. An application for costs can only be considered where an 'event' (i.e. a hearing or inquiry) has been held.

## **How we use your personal information**

60. If you participate in an application under the Environmental Permitting Regulations, then the type of personal information contained in your representations will normally include your name, contact details and any other personal information you choose to provide.
61. We use the information provided to process the application, and this includes making your written representations available to the appellant, Natural Resources Wales and other relevant parties.
62. We publish the Inspector's decision on the Planning Portal. In some cases, we also publish appeal documents and representations, including

names and addresses. Phone numbers, fax numbers and e-mail addresses are removed before publication.

63. The guidance in this leaflet explains the application process in more detail and you are advised to read this leaflet before providing any representations. For further details please see our privacy statement:

[www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa](http://www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa)

If you have any queries about our use of your personal information please contact us at the address below.

### **Further Information**

64. Further information about our privacy policy is on the Planning Portal at [www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa](http://www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa) or on request. If you have any queries about our policy, or wish to request your personal data, then please contact us through the address below:

### **Contacting us**

The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff CF10 3NQ  
Phone: 029 2082 3866  
E-mail: [wales@planning-inspectorate.gsi.gov.uk](mailto:wales@planning-inspectorate.gsi.gov.uk)  
Website: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

### **Complaints about the decision**

65. The decision on your appeal is final; after it has been issued, neither the Welsh Ministers, or the Inspector can consider further representations or make any comments on the merits or otherwise of the case.

66. The decision can only be challenged in the courts by judicial review. An application to seek permission for judicial review should be made to the Administrative Court of the High Court of Justice. This should be done quickly and in any case not longer than 3 months after the date of the decision.

67. If the appeal is quashed following the proceedings before any court, the main parties will be notified and asked to provide any further representations within 28 days. The Welsh Ministers may then ask for a hearing to be held or re-opened and the appeal will be re-determined.

### **Complaints about the Planning Inspectorate**

68. The letters acknowledging receipt of appeal will give the name of the Case Officer. If you have any complaints about the handling of your

appeal at any stage you should contact the Complaints Officer at the following address:

The Complaints Officer  
The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Tel: 029 2082 3889

Fax: 029 2082 5150

E-mail: [wales@pins.gsi.gov.uk](mailto:wales@pins.gsi.gov.uk)

69 We will investigate your complaint and you can expect a full reply within three weeks. However, we can not reconsider an appeal if a decision has already been given on it. The decision can only be challenged in the courts by judicial review.

## **LEGISLATIVE BACKGROUND**

### **MAIN LEGISLATION**

#### **Eu Council Directive 2008/1/EC concerning Integrated Pollution Prevention and Control (the IPPC Directive)**

The purpose of this directive is to achieve integrated prevention and control from certain activities, with measures designed to prevent (or at least reduce) emissions to air, water and land in order to achieve a high level of protection of the environment taken as a whole.

#### **Pollution Prevention and Control Act 1999 (c.24)**

The Act making provisions, under regulation 2, for implementing the above Directive into UK law and enabling the Welsh Ministers to make any associated regulations.

### **SECONDARY LEGISLATION**

#### **The Environmental Permitting (England and Wales) Regulations 2010, SI 2010 No.675**

**These regulations provide for a consolidated system of permitting for certain activities that could harm the environment and human health. The regime replaces and extends that provided under the 2007 Environmental Permitting Regulations and also transpose provisions of 18 EU Directives.**

### **PRINCIPAL ASSOCIATED EC DIRECTIVES**

#### **EU Council Directive 2006/12/EC on Waste (the Waste Directive)**

This Directive requires that member states ensure that waste is recovered or disposed of without endangering human health and by using processes / methods which do not harm the environment. It requires that obligations are imposed on those dealing with waste at various stages, including holders, collectors and transporters of waste.

#### **EU Council Directive 99/31/EC on Landfill of Waste (the Landfill Directive)**

The overall objective of this Directive is to complement the Waste Directive and prevent / reduce as far as practicable the harmful effects of the disposal of waste by landfilling on the environment and human health. This is achieved by having uniform technical standards and requirements for location, management, engineering, closure and monitoring of landfill sites. The Directive also requires the progressive diversion of biodegradable municipal waste from landfill.

### **EU Council Directive 2000/53/EC on End of Life Vehicles (the ELV Directive)**

This Directive also supplements the Waste Directive, to prevent waste from vehicles through the re-use, recycling / recovery of end-of-life vehicles and their components, reducing the disposal of vehicle waste, both by operators involved in all stages of a vehicles life ad particularly those operators involved in the treatment of end-of-life vehicles.

### **EU Council Directive 2002/96/EC on Waste Electrical and Electronic Equipment (the WEEE Directive)**

The WEEE Directive also supplements the Waste Directive and makes provisions for the waste prevention, reuse, recycling / recovery of WEEE, reducing the disposal of this waste stream. It also specifies treatments requirements.

### **EU Council Directive 2000/76/EC on the Incineration of Waste (the Waste Incineration Directive)**

This Directive seeks to prevent or limit as far as practicable the negative effects on the environment and risks to human health from pollution by emissions to air, soil, surface and groundwater from the incineration and co-incineration of waste. This is achieved through various operational conditions, technical requirements and emission limit values.

### **EU Council Directive 2000/60/EC on Water (the Water Framework Directive)**

**This Directive integrates requirements of a number of existing Directives and introduces new ecological objectives to prevent further deterioration of aquatic ecosystems; to protect and enhance their status; to promote sustainable water use and mitigate the effects of floods and droughts.**

### **EU Council Directive 2006/21/EC on management of waste from the extractive industries (the Mining Waste Directive)**

**This Directive provides for measures to prevent or reduce as far as possible any adverse effects on the environment and human health from the management of waste from mining and other extractive industries.**

### **EU Directive 2006/66/EC on batteries and accumulators (the Batteries Directive)**

**This Directive supplements the waste Directive and seeks to improve the sustainability throughout the life cycle of batteries and accumulators (rechargeable batteries) from production to waste treatment and recycling.**



## **GUIDANCE**

### **Welsh Government Guidance (WG): Environmental Permitting Core Guidance for Part A1 Installations and Mobile Plant, WG/ Defra**

The scope of this guidance is to provide comprehensive advice to those operating, regulating or interested in facilities covered by the EP Regulations and regulated by Natural Resources Wales. It sets out the provisions of the regulations and the views of the Secretary of State (SoS) for Defra and the Welsh Government on how it should be applied and interpreted. The relevant guidance for appeals is at Chapter 12.

### **Welsh Government Guidance (WG): General Guidance Manual on Environmental Permitting Policy and Procedures for A2 and B Installations, WG/ Defra**

This manual is the principle guidance issued by the SoS and the Welsh Government on activities regulated by Local Authorities and give practical advice on the operation of the LA regulated pollution control regime and how it should be applied and interpreted. The guidance for appeal can be found at Chapter 30.

#### **Directive Specific Guidance:**

##### **Part A1:**

#### **Regime Specific Guidance (RSG), WG/ Defra**

These documents accompany the Regulations to describe the general permitting, compliance requirements and guidance for specific regimes within the EP framework; these include exempt waste operations, Radioactive Substances Regulation (RSR) and Water Discharge Activities. This guidance should be read in conjunction with the Core Guidance described above.

#### **Directive Specific Guidance Notes (DGN), WG/ Defra**

These documents accompany the Regulations and describe the general permitting, compliance requirements and guidance on each of the EU Directives implemented through the EP regime and should be read in conjunction with the Core Guidance described above.

#### **Sector Specific Guidance:**

##### **Part A1:**

#### **Horizontal Guidance Notes (HGN), Environment Agency**

A series of guidance notes applying to all sectors and relating to specific issues such as odour emissions, Environmental Risk Assessment, noise and site conditions reports. These are currently being updated and some PPC HGNS remain extant.

#### **Regulatory Guidance Notes (EPR), Environment Agency**

This is a series of guidance notes on interpretation of the regulations and regulatory issues produced for Agency staff to assist them in determining EP applications.

### **Technical Guidance Notes (TGN), Environment Agency**

These guidance notes aim to provide operators and regulators with advice on indicative standards of operation and environmental performance relevant to specific sectors, allowing assessment of compliance with regulations and setting out Best Available Techniques (BAT) for that sector and setting out BAT principles (from EC BAT Reference documents – BREFs) to be taken into account when deciding applications. These are currently being updated and the relevant PPC TGNs remain extant.

#### **Part A2:**

### **Local Authority Sector Guidance Notes (SGN), WG/ Defra**

Statutory guidance issued by SoS and the Welsh Government for specific LA-IPPC Part A2 industrial activities, giving details of mandatory requirements affecting emissions and impacts from installations and general BAT assessments. These are currently being updated and the current SGNs remain extant.

#### **Part B:**

### **Local Authority Process Guidance Notes (PGN), WG /Defra**

Statutory guidance issued by SoS, the Welsh Government and the Scottish Executive for specific industrial activities giving details of mandatory requirements affecting emissions to air from LAPPC Part B installations and guidance on BAT/Best Available Techniques Not Entailing Excessive Cost (BATNEEC) assessment. These are currently being updated and the current PGNs remain extant.

### **Air Quality Notes (AQ), WG/Defra**

These are additional guidance notes issued by Defra and the Welsh Government to update on local authority industrial pollution control issues. Some have now been incorporated into the EP guidance manual.

## **RECOVERED CASES**

1. These are cases of major significance which the Welsh Ministers recover for determination pursuant to paragraph 5 of Schedule 6 of the Regulations. In these cases, the Inspector will carry out a site visit, hearing or inquiry in the usual way but then prepare a report to the Welsh Ministers. The Inspector's written report will include his / her conclusions, recommendations or reasons for not making recommendations. The Welsh Ministers will then make the final decision.
2. Each case will be looked at on an individual basis and it is not possible to anticipate every kind of appeal which might fall into this category, but they may include for example:
  - cases involving processes or sites of major importance;
  - cases giving rise to significant public controversy;
  - cases which raise significant legal issues;
  - cases which can only be decided in conjunction with other cases over which our Inspectors have no jurisdiction; and
  - cases which raise major or novel issues of pollution control which could set a policy precedent (for example cases involving the use of new techniques).
3. There may be, exceptionally, other cases which merit recovery because of particular circumstances. For instance, some cases involving commercial confidentiality may need to be recovered though by no means all.
4. It is also possible that the circumstances of cases which have been recovered may alter during the course of the appeals process (e.g. if an accompanying appeal over which the Inspector has no jurisdiction is withdrawn). In such cases the appeal may be returned to the Inspector for decision.

