

APPENDIX C

SUPPLEMENTARY ENFORCEMENT POLICY ISSUES – ENVIRONMENTAL HEALTH (PRESCRIBED PREMISES FOR POLLUTION CONTROL)

The purpose of this appendix is to give further guidance on the provisions of the above legislation.

More information regarding prescribed premises for pollution control (also known as permitted installations) can be found at

<https://www.middevon.gov.uk/residents/environment/air-quality/regulated-installations/>

Prescribed premises for pollution control

We are the relevant enforcing authority for the purposes Environmental Permitting Regulations 2010 (EPR) made under the Pollution Prevention Control Act 1999 in respect of installations prescribed for local authority control within our district.

Under EPR we regulate “installations” that carry out certain industrial activities. Permits are issued for these installations containing conditions that are intended to achieve a high level of protection for the environment as a whole. The powers cover two regimes, Local authority Integrated Pollution Prevention and Control (LA-IPPC) “A2 Installations” and Local authority Pollution Prevention and Control, “Part B installations”. For A2 installations the Regulations require that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, must be considered in the permit and that sites that cease to be permitted are restored to their original condition. For Part B installations the Regulations require that emissions to air should be considered.

Operators of prescribed installations are required by the EPR to comply with both procedural and operational conditions. A failure to do so in either case might constitute an offence.

Enforcement of regulated installations

The purpose of enforcement is to ensure that preventative or remedial action is taken to protect the environment or to secure compliance with the regulatory system. The need for enforcement may stem from an unauthorised “incident” or activity or from a breach of the conditions of a permitted activity. Although we expect full voluntary compliance with relevant legislative requirements or permit provisions, we will use our enforcement powers where necessary. The powers available include:

Preventative /remedial actions

- Enforcement Notices
- Suspension Notices
- Variation of permit conditions
- Revocation Notices

Criminal enforcement responses

- Prosecution
- Formal caution
- Warnings

Enforcement Notices

Enforcement Notices may be served under the EPR where the operator is contravening or likely to contravene permit conditions. We will consider in each case the advantages of serving an Enforcement Notice, using warning letters or taking court proceedings. The use of an Enforcement Notice may not be appropriate merely to restate what is required by an existing condition. Warning letters will usually be sent and in the event of non-compliance prosecution will be considered.

Suspension Notices

We may serve a Suspension Notice under the EPR where, in respect of an installation permitted by it, there is a risk of serious pollution. This may or may not involve a contravention of a condition of the permit. Once the Council is satisfied that the requisite action has been taken, written notification shall be given to the operator and the Notice withdrawn.

Variation Notices

We will consider the issue of a Variation Notice in respect of permitted installations in the following cases;

- where the operator formally requests a specific variation
- where the operator notifies the Council of a proposed change to the process or installation and the Council determines that a variation is required to accommodate that change
- where the Council believes that the existing conditions attached to an authorisation or permit require amending or additional conditions are required

When issuing a Variation Notice, we will include as part of that notice a copy of the consolidated authorisation or permit. Where the operator makes an application for a variation and we decide not to vary the permit then we will notify the operator of our decision and the right of appeal against that decision.

Revocation Notices

We may revoke a permit in whole or in part, at any time by service of a Revocation Notice for appropriate reasons. These include non-payment of the annual subsistence fee.

When issuing a Revocation Notice the Council will provide an accompanying letter stating the reasons and effect of the Revocation Notice. We will give prior notice and appropriate warning of our intention issue a Revocation Notice giving the operator of the permitted installation appropriate notice to address the issue.

Failure to comply with permit conditions or Notices

Failure to comply with permit conditions or the requirements of a notice may lead to a criminal enforcement response.

Operating without a permit

The Council would expect any operator to be aware of the need for a permit and to obtain one before commencing operation. Should an operation be being carried on without a permit

the operator will be invited to make a timely application and the additional fee for operating without a permit will apply. Failure to complying after the warning may lead to prosecution of the operator.

Other Actions

Requisitions for Information

The Council may require any person to provide such information as it may reasonably require discharging its functions under the EPR. Where such a notice is not complied with the Council may instigate legal proceedings.