



EP Permit ref: 028
Variation ref: 005

Coventry City Council
The Environmental Permitting (England and Wales) Regulations 2007
Regulation 20 [and Regulation 18 in relation to consolidated permits]

Variation Notice

To: **Atritor Ltd**
PO Box 101 Edgwick Park Industrial Estate
Canal Road
Coventry
CV6 5RD

Coventry City Council ("the Council"), in the exercise of the powers conferred upon it by regulation 20 of the Environmental Permitting (England and Wales) Regulations 2007¹ ("the 2000 Regulations") hereby gives you a notice as follows-

The Council has decided to vary the conditions of permit reference 028 granted under regulation 13(1) of the 2007 Regulations in respect of the operation of the installation/mobile plant at:

Atritor Ltd
PO Box 101 Edgwick Park Industrial Estate
Canal Road
Coventry
CV6 5RD

The variation of the conditions of the permit and date[s] on which they are to take effect are specified in Schedule 1 to this notice. A consolidated permit as varied by this notice [and by variation notices ref 001 - 004] is set out in Schedule 2.

Signed on behalf of Coventry City Council

.....

Date.....

Neil Chaplin
Environmental Protection Officer

An Authorised Officer of the Council

¹ S.I. 2007 No. 3538

Guidance for Operators receiving a Variation Notice

(This guidance does not form part of the Variation Notice, but it is for the guidance of those served with the notice). Further guidance can be found in the general guidance manual at:

<http://www.defra.gov.uk/environment/ppc/localauth/pubs/guidance/manuals.htm>

Dealing with Variation Notice

This notice varies the terms of the permit specified in the Notice by amending or deleting certain existing conditions and/or adding new conditions. The Schedule attached to the notice explain which conditions have been amended, added or deleted and the dates on which these have effect.

The Council may have included a 'consolidated permit' which takes into account these and / or previous variations. In cases where a consolidated permit is not included this variation notice must be read in conjunction with your permit document.

Offences

Failure to comply with a variation notice is an offence under regulation 38 (1) (b) of the 2007 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £20,000 or imprisonment for a term not exceeding 6 months or both; or (ii) to an unlimited fine or imprisonment for a term not exceeding 5 years or both, depending on whether the matter is dealt with in Magistrates Court or Crown Court.

Appeals

Under regulation 31 and Schedule 6 of the 2007 Regulations operators have the right to appeal against a variation notice. The right to appeal does not apply in circumstances where the notice implements a direction of the Secretary of State given under regulations 61 or 62 or a direction or when determining an appeal.

Appeals against a variation notice do not have the effect of suspending operation of the notice. Appeals do not have the affect of suspending permit conditions, or any of the mentioned notices.

Notice of appeal against a variation notice must be given within **two months** of the date of the notice, which is the subject matter or the appeal. The secretary of State may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

How to appeal

There are no forms or changes for appealing. However, for an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide (see paragraphs 2(1) and (2) of Schedule 6 of the 2007 Regulations):

- Written notice of the appeal
- A statement of the grounds of appeal;
- A statement indicating whether the appellant wishes the appeal to be dealt with by written representations procedure or a hearing --a hearing must be held if either the appellant or enforcing authority requests this, or if the Planning Inspector or the Secretary of State decides to hold one;
- (Appellants must copy the above three items to the local authority when the appeal is made)
- A copy of any relevant application;
- A copy of any relevant permit;
- A copy of any relevant correspondence between the appellant and the regulator; and
- A copy of any decision or notice, which is the subject matter of the appeal.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for commercial confidentiality under regulation 48 of the 2007 Regulations, and provide relevant details. Unless such information is provided all documents submitted will be open to inspection.

Further guidance on commercial confidentiality can be found in chapter 8 of the LA-IPPC and LAPPC manual.

Where to send your appeal documents

Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate
Environment Team, Major and Specialist Casework
Room 4/04 –Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

On receipt of an appeal and during the appeal process the main parties will be informed about the next steps, and will also normally be provided with additional copies of each other's representations.

To withdraw an appeal – which may be done at any time – the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone with an interest in the appeal.

Costs

Guidance from the Planning Inspectorate states that operator and regulator would be normally expected to pay their own expenses during an appeal. Where a hearing or enquiry is held as part of the appeal process, by virtue of paragraph 5 (6) of Schedule 6 of the 2007 Regulations, either the appellant or the local authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claimed them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representatives.

Commercial Confidentiality

An operator may request certain information to remain confidential i.e. not be placed on the public register. The operator must request the exclusion from the public register of commercially confidential information at the time of supply of the information requested by this notice or any other notice. The operator should provide clear justification for each item wishing to be kept from the register. The amount of information excluded from the register should be kept to the minimum necessary to safeguard the operator's commercial advantage. It may assist the local authority if the information the operator considers to be commercially confidential is submitted in a way which will allow it to be easily removed should the claim be granted, for example on separate pages, marked 'claimed confidential'. The onus is on the operator to provide a clear justification for each item to be kept from the register. It will not simply be sufficient to say that the process is a trade secret.

The general principle is that information should be freely available to the public. Information that maybe considered commercially confidential is that which if it "were being contained within the register would prejudice to an unreasonable degree the commercial interests of an individual or any other person" (regulation 31(12) of the 2000 Regulations).

Further guidance on commercial confidentiality can be found in Chapter 8 of the LA-IPPC and LAPPC manual.

National Security

Information may be excluded from the public register on the grounds of National Security. If it is considered that the inclusion of information on a public register is contrary to the interests of national security, the operator may apply to the Secretary of State, specifying the information and indicating the apparent nature of risk to national security. The operator must inform the local authority of such an application, who will not include the information on the public register until the Secretary of State has decided the matter.



EP Permit ref: 028
Variation ref: 005

Coventry City Council
The Environmental Permitting (England and Wales) Regulations 2007
Regulation 20 [and Regulation 18 in relation to consolidated permits]

Variation Notice

To: **Atritor Ltd**
PO Box 101 Edgwick Park Industrial Estate
Canal Road
Coventry
CV6 5RD

Coventry City Council ("the Council"), in the exercise of the powers conferred upon it by regulation 20 of the Environmental Permitting (England and Wales) Regulations 2007¹ ("the 2000 Regulations") hereby gives you a notice as follows-

The Council has decided to vary the conditions of permit reference 028 granted under regulation 13(1) of the 2007 Regulations in respect of the operation of the installation/mobile plant at:

Atritor Ltd
PO Box 101 Edgwick Park Industrial Estate
Canal Road
Coventry
CV6 5RD

The variation of the conditions of the permit and date[s] on which they are to take effect are specified in Schedule 1 to this notice. A consolidated permit as varied by this notice [and by variation notices ref 001 - 004] is set out in Schedule 2.

Signed on behalf of Coventry City Council

.....

Date.....

Neil Chaplin
Environmental Protection Officer

An Authorised Officer of the Council

¹ S.I. 2007 No. 3538

Guidance for Operators receiving a Variation Notice

(This guidance does not form part of the Variation Notice, but it is for the guidance of those served with the notice). Further guidance can be found in the general guidance manual at:

<http://www.defra.gov.uk/environment/ppc/localauth/pubs/guidance/manuals.htm>

Dealing with Variation Notice

This notice varies the terms of the permit specified in the Notice by amending or deleting certain existing conditions and/or adding new conditions. The Schedule attached to the notice explain which conditions have been amended, added or deleted and the dates on which these have effect.

The Council may have included a 'consolidated permit' which takes into account these and / or previous variations. In cases where a consolidated permit is not included this variation notice must be read in conjunction with your permit document.

Offences

Failure to comply with a variation notice is an offence under regulation 38 (1) (b) of the 2007 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £20,000 or imprisonment for a term not exceeding 6 months or both; or (ii) to an unlimited fine or imprisonment for a term not exceeding 5 years or both, depending on whether the matter is dealt with in Magistrates Court or Crown Court.

Appeals

Under regulation 31 and Schedule 6 of the 2007 Regulations operators have the right to appeal against a variation notice. The right to appeal does not apply in circumstances where the notice implements a direction of the Secretary of State given under regulations 61 or 62 or a direction or when determining an appeal.

Appeals against a variation notice do not have the effect of suspending operation of the notice. Appeals do not have the affect of suspending permit conditions, or any of the mentioned notices.

Notice of appeal against a variation notice must be given within **two months** of the date of the notice, which is the subject matter or the appeal. The secretary of State may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

How to appeal

There are no forms or changes for appealing. However, for an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide (see paragraphs 2(1) and (2) of Schedule 6 of the 2007 Regulations):

- Written notice of the appeal
- A statement of the grounds of appeal;
- A statement indicating whether the appellant wishes the appeal to be dealt with by written representations procedure or a hearing --a hearing must be held if either the appellant or enforcing authority requests this, or if the Planning Inspector or the Secretary of State decides to hold one;
- (Appellants must copy the above three items to the local authority when the appeal is made)
- A copy of any relevant application;
- A copy of any relevant permit;
- A copy of any relevant correspondence between the appellant and the regulator; and
- A copy of any decision or notice, which is the subject matter of the appeal.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for commercial confidentiality under regulation 48 of the 2007 Regulations, and provide relevant details. Unless such information is provided all documents submitted will be open to inspection.

Further guidance on commercial confidentiality can be found in chapter 8 of the LA-IPPC and LAPPC manual.

Where to send your appeal documents

Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate
Environment Team, Major and Specialist Casework
Room 4/04 –Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

On receipt of an appeal and during the appeal process the main parties will be informed about the next steps, and will also normally be provided with additional copies of each other's representations.

To withdraw an appeal – which may be done at any time – the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone with an interest in the appeal.

Costs

Guidance from the Planning Inspectorate states that operator and regulator would be normally expected to pay their own expenses during an appeal. Where a hearing or enquiry is held as part of the appeal process, by virtue of paragraph 5 (6) of Schedule 6 of the 2007 Regulations, either the appellant or the local authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claimed them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representatives.

Commercial Confidentiality

An operator may request certain information to remain confidential i.e. not be placed on the public register. The operator must request the exclusion from the public register of commercially confidential information at the time of supply of the information requested by this notice or any other notice. The operator should provide clear justification for each item wishing to be kept from the register. The amount of information excluded from the register should be kept to the minimum necessary to safeguard the operator's commercial advantage. It may assist the local authority if the information the operator considers to be commercially confidential is submitted in a way which will allow it to be easily removed should the claim be granted, for example on separate pages, marked 'claimed confidential'. The onus is on the operator to provide a clear justification for each item to be kept from the register. It will not simply be sufficient to say that the process is a trade secret.

The general principle is that information should be freely available to the public. Information that maybe considered commercially confidential is that which if it "were being contained within the register would prejudice to an unreasonable degree the commercial interests of an individual or any other person" (regulation 31(12) of the 2000 Regulations).

Further guidance on commercial confidentiality can be found in Chapter 8 of the LA-IPPC and LAPPC manual.

National Security

Information may be excluded from the public register on the grounds of National Security. If it is considered that the inclusion of information on a public register is contrary to the interests of national security, the operator may apply to the Secretary of State, specifying the information and indicating the apparent nature of risk to national security. The operator must inform the local authority of such an application, who will not include the information on the public register until the Secretary of State has decided the matter.