

**ANNEX N (APPENDIX 1)****OPERATIONAL LIAISON ON ACCESS AND INSPECTION****(AN ANNEX TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENT AGENCY AND THE MINISTRY OF DEFENCE)****INTRODUCTION**

1 This Annex details the procedures to be followed by the Environment Agency (the Agency) and the Ministry of Defence (the Ministry) in arranging, carrying out, and reporting on, inspections of MoD units, establishments, and activities. These procedures are intended to facilitate such inspections, recognising the statutory right of the Agency to carry them out in all areas covered by the relevant legislation, and their commitment to do so in such a way as not to compromise national security or the operational capability of the armed forces. Any notices served by the Agency within the scope of this Annex will be served in the same way as for civil establishments.

**ACCESS AND INSPECTION**

2 There are three categories of inspection as carried out by Agency Officers:

- a. Planned;
- b. Routine unplanned/unannounced;
- c. Emergency.

3 The majority of inspections will be planned and notified in advance. The Agency recognises that relevant personnel need to be aware of the planned visit and be available in order to ensure an effective inspection. However, the Agency retains the right to carry out unannounced inspections. Emergency inspections are carried out as part of the Agency's response to incidents, and are intended for the purposes of locating and, if possible, preventing harm to the environment, which has occurred, or is likely to occur. The Ministry agrees to permit immediate access and full cooperation in such circumstances.

4 In the event of a planned inspection, inspectors from Environment Management teams within the Environment Agency will contact the relevant Ministry establishment prior to the inspection by telephone, facsimile, or letter, in order to make an appointment. The point of contact on the site will be the Commanding Officer or Head of Establishment unless another individual, responsible for compliance with the legislation as delegated by the Commanding Officer or Head of Establishment, has been identified to the Agency. On receipt of notification of an inspection, the Commanding Officer or Head of Establishment should inform the relevant environmental Focal Point through the chain of command.

5 Failure to agree a mutually convenient date for the inspection or any other difficulties that arise should be discussed by the Commanding Officer or Head of Establishment with the Inspector's Environment Manager.

6 Inspectors carry Agency warrants, and will so identify themselves to the site authorities. Agency inspectors will also comply with any site security arrangements regarding temporary passes and vehicle identification etc.

7 Commanding Officers and Heads of Establishment are responsible for controlling access to all parts of the site and at facilities on the site. During all inspection visits, the inspector will be escorted. He or she will be permitted access to any part of the site, and to see any facilities on the site, which are relevant to the inspection, unless national security or operational readiness may be compromised by such access. In such cases, the Commanding Officer or Head of Establishment will provide written reasons for denial of access.

8 Contractors working on Ministry property will be inspected according to the same arrangements as listed above, except that when such an inspection is to be carried out, the Ministry official, Commanding Officer, or Head of Establishment responsible for contractor management at the site in question, will be informed of the visit.

9 In the event of any issue that can not be resolved locally the Inspector may wish to contact the appropriate MOD Contact Point listed separately.

### **Visiting Forces**

10 Arrangements in respect of US Visiting Forces on Ministry property in England and Wales are set out in Annex 3.

### **Ships and aircraft**

11 These arrangements also apply to aircraft at bases in England and Wales, and to shipping in UK territorial waters. However, the Agency will not inspect any facilities while the aircraft or shipping is in transit.

### **Inspection findings and reporting**

12 The inspector will discuss the finding of his or her inspection with the Commanding Officer, Head of Establishment, or nominated deputy prior to leaving the site. A remedial action necessary to correct deficiencies will be agreed orally. Such action will also be confirmed by letter within five working days.

### **Disagreements and disputes resolution**

13 Any disagreements concerning the details of this procedure will be subject to the arrangement laid out in section 3.2 of the MoU.

### **Enforcement Action**

14 Action to be taken by the Commanding Officer or Head of Establishment in the event of enforcement action by an Agency inspector:

- a. Enforcement notices, works notices, prohibition notices, suspension of environmental licences, variation of licence conditions - inform the relevant environmental Focal Point;
- b. Possible application for a declaration against the Ministry or institution of prosecution against an individual Ministry employee - inform the relevant environmental Focal Point and D S&C.
- c. Major sites and account managers

15 For major sites both the Agency and the Ministry should consider appointing Account Managers to effectively coordinate liaison and assist in the resolution of issues. Where necessary, consideration should be given to meeting annually to review the environmental performance of the site and to give early warning of matters that may arise over the next 12 months.

### **Signatories**

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