



Emergency
Response

CMS
law · tax · future

Emergency Response Environment

Any incident. Any time.

CMS Environment

Our specialist Environment team has an extensive and successful history of supporting clients when environmental incidents happen. We understand that fast and decisive actions in the first few hours following an incident are critical to mitigate damage to both the environment and your reputation.

With our 24-hour emergency support hotline you can rely on our pragmatic and business-orientated advice whenever you need it. We are available to provide you with advice and support from the moment the incident arises and guide you through any regulatory investigation should one arise. Our team has experience in dealing with a variety of environmental issues ranging from pollution incidents to environmental permit breaches and waste related incidents.



The team, "provides an excellent service and has detailed knowledge of a specialised area"

Client feedback, Chambers & Partners

Following an incident our team of specialists can advise on all aspects that follow, including:

- Advice regarding the regulator's inspection of the site.
- Interviews under caution.
- Preventative measures to mitigate the risk of a future event occurring.
- Liaising with the regulator to obtain an early conclusion to the investigation.
- Advice regarding plea and handling the criminal proceedings up to and including trial.
- Responding to enforcement notices.

We encourage our clients to be proactive in their preparation should an incident happen. Therefore, we have set out below suitable steps to follow if, and when, an incident does occur. Whilst these steps provide useful guidance, client specific advice should be sought as soon as possible.

Steps

1

Step one – secure the incident area and manage the environmental impact

Ensure the area is secure and call the emergency services if necessary. Take proactive action to mitigate the environmental impact.

2

Step two – notify the relevant person(s) in your company

Contact the person responsible for environmental management in your company. This person will know the policies and procedures to follow when an incident occurs. They will also notify the Environment Agency if appropriate.

3

Step three – follow emergency procedures

The responsible person should inform you of the emergency procedure to follow when an incident arises. These procedures should be tailored to your business and should be followed.

4

Step four – set up a core investigation team

Appoint a lead person to coordinate the team's investigation and keep the team small. To assist with legal privilege, CMS should be instructed as part of the investigation team to direct the internal investigation. Keeping the circulation of documents and communication about the incident within the core team, along with obtaining the advice of a legally qualified person immediately, will assist with protecting legal privilege.

5

Step five – initial investigation and record keeping

The core team should begin its investigation as soon as possible after becoming aware of the incident. Points to consider will include: time and date of the incident, the person(s) involved, the location, what happened, the environmental impact and the initial findings on the cause of the incident. A record should be kept of the findings.

6

Step six – assess whether a regulator needs to be notified

Due to the nature of the incident, or the requirements of an environmental permit, the incident may need to be reported to the Regulator.



Other points to consider:

Preserve all evidence relating to the incident and do not interfere with it.

Keep a record of any documents shared with the regulator and document all correspondence.

The investigation powers of the regulator are wide and cloaked in legislative powers, however take care in providing information requested. No documentation should be shared with the regulator without first considering factors such as relevance, privilege or impact.

Incidents are varied and each presents unique facts and challenges. The steps above are informative, but judgment should be exercised to ensure what is right for your business in the circumstances.

Our Environment team at CMS understands how to mitigate against potential risks and readily apply the steps required during difficult situations. For more information please contact:



Lukas Rootman

Partner

T +44 114 279 4022

M +44 7970 497274

E lukas.rootman@cms-cmno.com



Olivia Jamison

Partner

T +44 20 7367 2055

M +44 7912 081535

E olivia.jamison@cms-cmno.com



Rosalind Morgan

Partner

T +44 1224 267138

M +44 7809 500225

E rosalind.morgan@cms-cmno.com



Sinead Oryszczuk

Partner

T +44 20 7067 3573

E sinead.oryszczuk@cms-cmno.com

You can reach our team 24/7 via our emergency hotline **+44 (0)333 20 21 010**.

CMS Law-Now™

Your free online legal information service.

A subscription service for legal articles
on a variety of topics delivered by email.
cms-lawnow.com

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF

T +44 (0)20 7367 3000
F +44 (0)20 7367 2000

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS Cameron McKenna Nabarro Olswang LLP is a limited liability partnership registered in England and Wales with registration number OC310335. It is a body corporate which uses the word "partner" to refer to a member, or an employee or consultant with equivalent standing and qualifications. It is authorised and regulated by the Solicitors Regulation Authority of England and Wales with SRA number 423370 and by the Law Society of Scotland with registered number 47313. It is able to provide international legal services to clients utilising, where appropriate, the services of its associated international offices. The associated international offices of CMS Cameron McKenna Nabarro Olswang LLP are separate and distinct from it. A list of members and their professional qualifications is open to inspection at the registered office, Cannon Place, 78 Cannon Street, London EC4N 6AF. Members are either solicitors or registered foreign lawyers. VAT registration number: 974 899 925. Further information about the firm can be found at cms.law

© CMS Cameron McKenna Nabarro Olswang LLP

CMS Cameron McKenna Nabarro Olswang LLP is a member of CMS Legal Services EEIG (CMS EEIG), a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices. Further information can be found at cms.law