

Case IESS.23.032

Description: First review of SEPA's progress in implementing its public registers programme

Background

On 31 January 2024, Environmental Standards Scotland (ESS) issued a report on the informal resolution reached with the Scottish Environment Protection Agency (SEPA) on its compliance with its duty maintain public registers.¹ ESS found that the public registers were not fully available and maintained as required by law. This was largely because of a major cyber-attack which SEPA suffered in December 2020. ESS made recommendations for improvement which SEPA accepted and agreed to implement.

SEPA provided an implementation plan in this connection, which involved a stepped approach to publishing information. The plan considered risk and priority to ensure SEPA is collating and publishing the information that is of most importance in terms of its regulatory duties, and by what information is most likely to be sought by interested parties. SEPA agreed dates by which major milestones would be completed and to which SEPA can be held to account. In ESS' view, the plan is a proportionate and realistic pathway to achieving compliance.

¹ SEPA must maintain, and make available to the public, information about certain activities in the form of public registers. There are 16 public registers (collectively referred to as 'the Public Register') which SEPA is under a duty to maintain.

ESS agreed to monitor and update publicly on SEPA's performance in implementing its plan. This update sets out the outcome of ESS' first review of progress and should be read in conjunction with ESS' informal resolution report.²

Assessment outcome

Within the reporting period, SEPA's implementation plan provided for the following actions and publication of the following information to be undertaken:

- build a public register page on SEPA's new 'BETA' website
- key authorisation documentation for 'Part A'³ Pollution Prevention and Control (PPC) activities under the Pollution Prevention and Control (Scotland) Regulations 2012 ("the 2012 Regulations") and related environmental reports, including pre cyber-attack information
- a list of 98% of authorisations and key data associated with them (location, authorisation holder etc)
- a list of key authorisation conditions under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 ("the CAR Regulations"), the 2012 Regulations and Waste Regimes
- all recently received or issued authorisation documentation

² [Maintenance of Public Registers Informal Resolution Report - Environmental Standards Scotland](#).

³ Part A activities are those listed under Part A within Schedule 1 of the [Pollution Prevention and Control \(Scotland\) Regulations 2012 \(PPC 2012\)](#). These are generally larger industrial activities, potentially involving discharges to land, air and water, and include activities such as energy production, mineral activities, fertiliser production and certain types of waste management. Operators of Part A activities require a PPC permit to be able to undertake their activity.

Website page

ESS can confirm that SEPA has introduced an updated public register page on its website which sets out what information can be accessed online under the various public registers.⁴ The new page includes links to the BETA website where authorisation information and documentation can be found and sets out what information is not yet available and how it can be obtained from SEPA.

'Part A' PPC key authorisation documentation

SEPA has confirmed to ESS that there are 500 live PPC Part A permits, 490 of which have entries on the BETA website.⁵ SEPA explained that, for legal reasons, the remaining live permits do not currently have entries.

SEPA also outlined that, of the live permit entries, 469 contain key authorisation documentation. The remaining entries currently contain no documentation for either legal reasons or because no verification has been possible. Of the 469 Part A PPC entries which contain key authorisation documentation, some entries will include all key authorisation documentation (other than operator returns) whilst other entries will include some, but not all, key authorisation documentation due to SEPA being unable to complete the verification process.⁶

SEPA has confirmed to ESS that, other than operator returns, it has published all the key authorisation documents for PPC Part A sites which it has been able to verify and which it is legally able to publish.

⁴ [Public Register | Scottish Environment Protection Agency \(SEPA\)](#)

⁵ [Find an Authorisation Document | Scottish Environment Protection Agency \(SEPA\)](#)

⁶ The figures provided in this report are as reported to ESS by SEPA in July and August 2024

Authorisations and key associated data

At the time of review, there are over 180,000 entries on SEPA's BETA website [find authorisation information](#) page. SEPA has confirmed to ESS that this constitutes over 98% of authorisations under the CAR, PPC, Reservoirs and Waste regimes. SEPA explained that this number will fluctuate as it issues or revokes authorisations.

CAR Regulations, 2012 Regulations and Waste Regimes key authorisation conditions

SEPA has confirmed to ESS that it is in the process of manually entering numeric limit condition information relating to discharges to the water environment under licences issued under the CAR Regulations into a new internal database. SEPA explained to ESS that it will continue work on this project to check completeness of data and expand the regimes for internal purposes. SEPA also explained that, if it decides to publish this data, it will be as part of its new public register website, as this is the means of ensuring compliance with Digital Service Standards Scotland requirements, accessibility requirements and user experience.

SEPA explained to ESS that the publication of this information is not necessary in terms of its public register obligations and that it is therefore currently considering whether it should publish this data and, if so, when. SEPA noted that information on discharge conditions etc is contained within the CAR, PPC and waste authorisations that it is now publishing.

Recently received or issued authorisation documentation

SEPA confirmed to ESS that it is now publishing the following documentation on its [find an authorisation document](#) webpage:

- authorisation documents, including new authorisations and changes to existing authorisations that SEPA has issued since January 2021 for:
 - licences under the CAR Regulations

- other permits under the 2012 Regulations (PPC Part B permits)⁷
- licences under the Environmental Protection Act 1990 (Part II) and the Waste Management Licensing (Scotland) Regulations 2011

SEPA explained that it commenced publication of these documents on 11 June 2024, and that all new documents are now being published within 24 hours of issue. In respect of the documents issued since January 2021, SEPA confirmed that, as of 28 June 2024, it had published documents for 1896 sites. This includes the PPC Part A sites mentioned above as well as new documents issued under water, PPC and waste regimes. For the remaining 1401 sites that have had documentation issued since 1 January 2021, the documentation is being prepared for publication and will be uploaded when available.⁸

Conclusion

SEPA has made significant progress on how it provides information to the public and users can now search online for public register information through a number of methods, including site, location and holder. This enables members of the public to search for information that is relevant to them and their communities. Documents in relation to these authorisations can thereafter be accessed online or requested from SEPA if not held on the website. SEPA's website also provides more information to the public on its responsibilities and confirms its intention to go beyond regime

⁷ Part B activities are those listed under Part B within Schedule 1 of the Pollution Prevention and Control (Scotland) Regulations 2012. These are generally smaller industrial activities and operators of Part B activities require a PPC permit in order to be able to undertake their activity.

⁸ SEPA explained that, should a search return the notification "Document not found - Currently there are no published documents available for this authorised site", the reason will be a) The redaction and upload of the documentation issued from 1 January 2021 is ongoing or b) In limited circumstances there may be legal reasons why the documentation has not been published.

specified public register requirements and make most of its regulatory documents and data publicly available online.

The work carried out by SEPA broadly implements the milestones set out in their plan provided to ESS. ESS will continue to monitor SEPA's performance two months after the remaining steps are due to be implemented and publicly report on SEPA's progress in publishing all public register information online on a purpose-built website.