

# INDUSTRIAL EMISSIONS DIRECTIVE AND BAT COMPLIANCE

Overview of IED and Best Available Techniques  
Compliance

# INTRODUCING THE TRAINERS

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**Paul Wright**  
**Technical Discipline Manager – EMPC Europe**

Paul has nine year's continuous experience as an environmental Regulator with Natural Resources Wales and its predecessor bodies. Prior to joining SLR in September 2018, he held the role of Industry Regulation Team Leader for North and Mid Wales for six years, where he was responsible for the regulation of approximately 120 industrial sites under various regulatory regimes, including Environmental Permitting, COMAH and Radioactive Substances Regulations. Paul's regulatory experience gives him superb insight into the requirements of environmental permitting and compliance and in particular, knowledge of how the approach to engagement and improvement can influence the nature and timing of Regulator actions.

This knowledge is complemented by a detailed understanding of industrial business operations, which has been gained through 20 plus years supervising new build and operational management of a variety of industrial sites. Paul is a Chartered Environmentalist and a Chartered Engineer.

# INTRODUCING THE TRAINERS

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**Sharon Abrams**  
**Principal Consultant – EMPC Europe**

Sharon is a Principal Consultant with SLR and is part of the Environmental Management, Permitting and Compliance (EMPC) team. Sharon has over twenty years of experience as an environmental consultant having been involved in a wide range of environmental projects, many as a project manager.

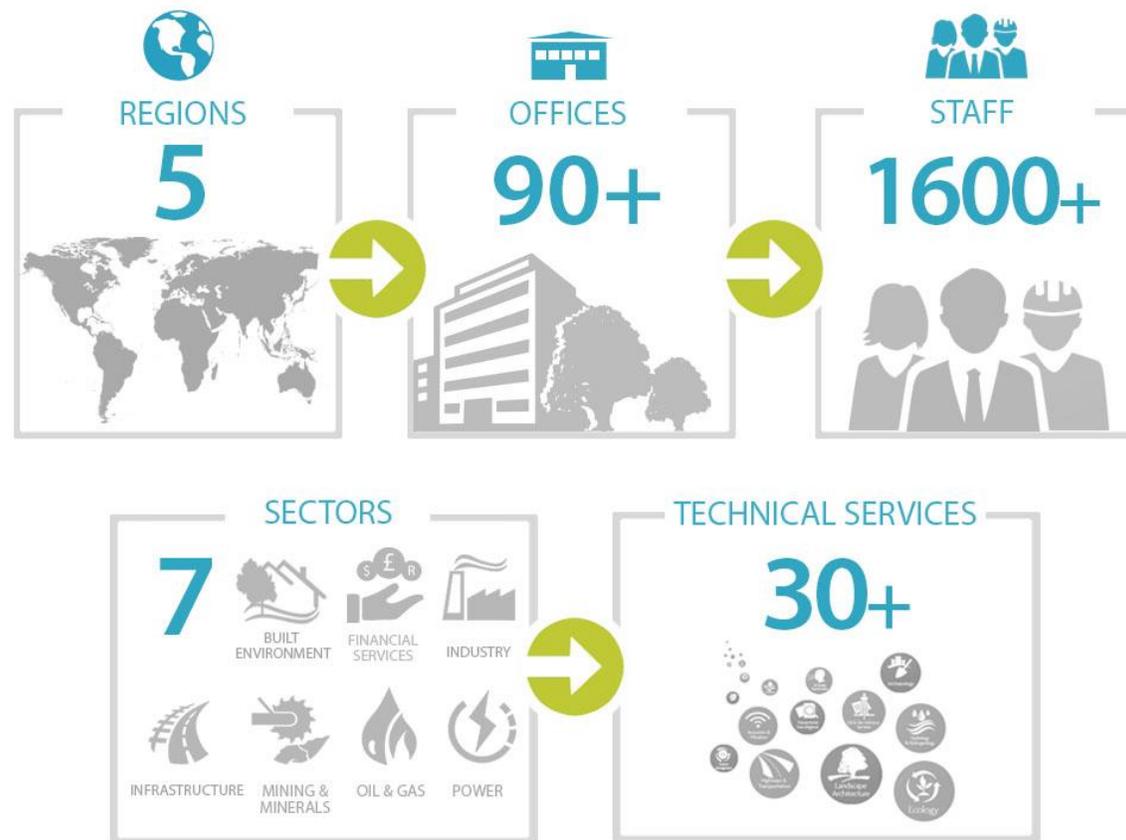
With proven expertise in Environmental Impact Assessment (EIA), environmental due diligence and compliance auditing, regulatory permitting, environmental management systems and contaminated land assessment. Sharon provides support to clients across a range of business sectors, including industry, property, investment, financial, and legal.

# SLR TODAY



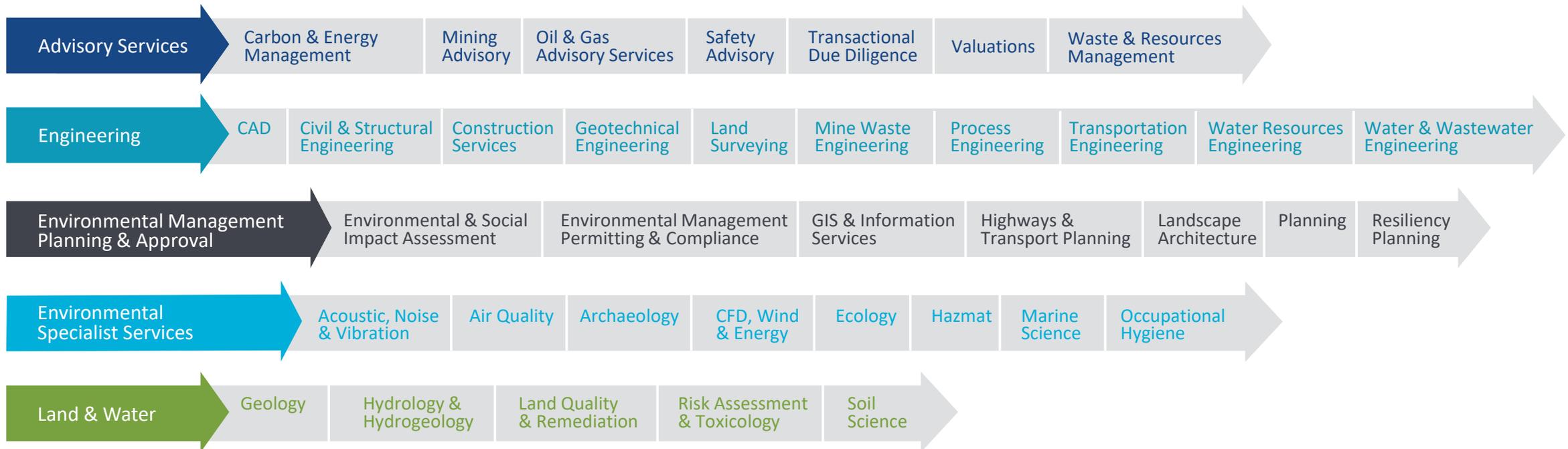
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We provide advice and services to clients in the oil and gas, mining and minerals, infrastructure, built environment, industry, financial and power sectors.



# SLR SERVICES

We offer our clients strength in depth with an extensive range and considerable expertise in more than 30 environmental and advisory services.



# SESSION OVERVIEW

This webinar will provide you with an overview of the IED, how it is implemented in the UK, the requirements to comply with Articles 13 and 15 of IED and how to minimise the environmental impact of your operations.



# OVERVIEW OF IED & EPR

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# FUNDAMENTALS OF IED

The IED was based upon the following fundamentals:

1. An **integrated** approach – permit must consider the performance of the whole plant, e.g. emissions to air, water, land, generation of waste, use of raw materials, energy efficiency, noise prevention of accidents and restoration of the site upon closure. [[Permit conditions](#)]
2. Permit conditions must be based on **BAT**. BAT is set at EU level by a group of experts from member states. This is co-ordinated by the European IPPC Bureau at the joint EU Research Centre in Seville. This process results in BAT Reference Documents (BRefs), the BAT conclusions (BATc) contained within the BRef are adopted by the Commission as Implementing Decisions, IED requires that these BATc are the reference for setting permit conditions. [[BRefs](#)]

For certain activities, the IED also sets EU wide emission limits (IED Annexes) for certain pollutants.



# FUNDAMENTALS OF IED CONTINUED

The IED was based upon the following fundamentals:

3. Allows **flexibility** for competent authorities (CA) to set less strict ELVs. Only possible in strict cases where an assessment shows that achieving the ELV associated with BAT would lead to disproportionately higher costs compared to the environmental benefits due to the geographical location/local environmental conditions/technical characteristics of the installation.

The CA must document its justification for granting a derogation. [[Derogations](#)]

4. Mandatory requirements for **environmental inspections**. Member States shall set up a system of environmental inspections and draw up inspection plans accordingly. The IED requires a site visit to take place at least every 1 to 3 years using a risk-based criteria. [[Compliance](#)]



# FUNDAMENTALS OF IED CONTINUED

The IED was based upon the following fundamentals:

5. IED ensures the **public has a right to participate** in the decision-making process and to be informed of its consequences, by having access to permit applications, permits and the results of monitoring. [[Public Register](#)]

Also, through the European Pollutant Release and Transfer Register (E-PRTR) emissions data reported by Member States are made accessible in a public register, which is intended to provide environmental information on major industrial activities.

IED entered force on 6 January 2011 and had to be transposed in Member State legislation by 7 January 2013. In the UK this resulted in the Environmental Permitting Regulations 2013.

The IED strengthened the position of BAT Reference Documents (BRefs) and their associated BATc introducing legally binding emission levels in BAT-AELs.





# ARTICLES 13 and 15 OF IED

Impacts on Emission Limit Values and  
Derogations

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# ARTICLE 13 – BEST AVAILABLE TECHNIQUE (BAT)

- IED Article 13 relates to development, review and updates of the Best Available Techniques (BAT) reference documents (BRefs).
- The BRefs, which are developed at EU level, are reference documents which cover many of the industrial activities covered in Annex I of the EU IPPC Directive.
- The BRefs provide descriptions of a range of industrial (including food and drink) processes and include details on operating conditions, emission rates and importantly provide best available techniques.
- On publication of a BRef, the BAT Conclusions (BATc) are issued as a standalone document. The BATc summarise the BAT requirements as detailed in the associated BRef.
- EU Member States are required to take these documents into account when determining BAT for environmental permitting purposes.

# ARTICLE 13 – HOW BREFs ARE DEVELOPED

- The EU Commission organises an exchange of information between the Commission, EU Member States, the industries concerned, and non-governmental organisations promoting environmental protection.
- After a positive opinion on draft implementing decisions, these are adopted by the EU Commission and published in the Official Journal (OJEC).
- The adopted BRefs and BATc documents are the published on the European IPPC Bureau website <https://eippcb.jrc.ec.europa.eu/reference/>

*The Expert Group (IED Article 13 Forum) is listed on the register of commission expert groups on the EU website <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2611>*

# ARTICLE 13 – BAT CONCLUSIONS

## WHEN DO THEY APPLY AND WHEN SHOULD YOU COMPLY?

- **New Installations** – immediately  
BAT is used for setting permit conditions; all relevant BAT conclusions published before the permit is issued apply.
- **Existing Installations** – following publication of revised BAT Conclusions (BATc).  
An existing permitted Installation must comply with the BATc within the 4 year period from the date of publication of revised BAT.
- For installations not covered by any BAT conclusions, IED Article 21(4) provides more generally that permit conditions shall be reconsidered and, if necessary, updated where developments in the BAT allow for the significant reduction of emissions. The same principle should apply for IED installations where the main activity is not covered by BAT conclusions, while other activities carried out in that installation are. The UK Environmental Regulators will determine how and when the permits for these installations are reviewed

# ARTICLE 13 – BAT CONCLUSIONS

## WHEN DO THEY APPLY AND WHEN SHOULD YOU COMPLY? CONTINUED

- Following publication of BRef and associated BATc updates, the Regulator will contact permitted Installations by way of a Regulation 61 notice.
- In addition to the BATc, the Reg 61 notices will also require consideration of other EU and UK legislation.
- Subject to the response to the Reg 61 notice, the Regulator may vary your permit to ensure compliance with the updated requirements. This review also allows the regulator to consolidate original permits to reflect variations/changes made via earlier versions of the permit.

# ARTICLE 15 – EMISSIONS LIMIT VALUES AND DEROGATION

Relevant BRef notes define BAT associated Emission Levels (BAT-AELs) in the BATc under specific reference conditions.

**Paragraph 3** states that Regulators shall set ELVs that, under normal operating conditions, ensure that emissions do not exceed BAT-AELs associated with the best available techniques as stated in the BAT conclusions.

**Paragraph 4** states that by way of derogation the Regulator may, in specific cases, set less strict ELVs. Such a derogation may apply only where an assessment shows that the achievement of BATc ELVs would lead to disproportionately higher costs compared to environmental benefits due to:

- a) geographical location or local environmental conditions; or
- b) technical characteristics of the installation

## ARTICLE 15 OF IED CONTINUED

Publication of BATc triggers a permit review by the Regulators to establish BAT for the installation and setting ELVs that deliver compliance with BAT-AELs. The Regulator will issue an information notice (Reg 61) to the Operator to gather information for the permit review. This will include how the Operator intends to meet BATc and BAT-AELs.

If the Operator states that they will be unable to meet BAT-AELs, they must submit a derogation request.

**Derogations** can be time bounded, e.g. if the Operator states that they can achieve BATc within 5 years, rather than the 4 stipulated. All derogations will be reviewed at the next BRef review which is every 8 years.

## ARTICLE 15 – EMISSIONS LIMIT VALUES AND DEROGATION CONTINUED

The Regulator would have to document in an annex to the permit the reasons for granting the derogation, including the results of the assessment and justification for the conditions imposed.

Any permit ELVs set by derogation cannot exceed the ELVs set out in the relevant Annexes of the IED and the Regulator must ensure no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.

# ARTICLE 15 – DEROGATION

Criteria for applying for a derogation relate to disproportionately higher costs compared to environmental benefits due to:

- geographical or local environment conditions
- technical characteristics of the installation

Other factors, i.e. an alternative project unrelated to BAT-AEL compliance that will reduce pollution and provide greater benefits than compliance with BAT-AELs by the relevant deadline.

# ARTICLE 15 – DEROGATION CONTINUED

## What do you need to do?

1) Upon receipt of your Reg 61 notice you need to complete the summary spreadsheet provided which lists each BATc, this is basically the BATc review where you will state how you intend to achieve BAT or whether you will need a derogation.

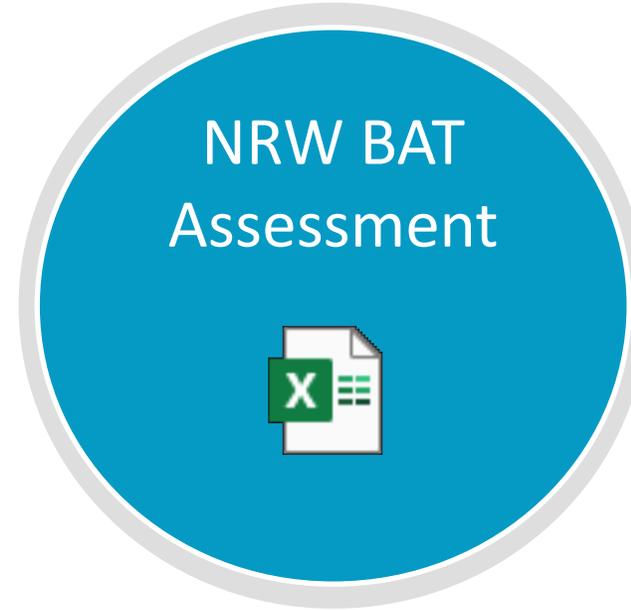
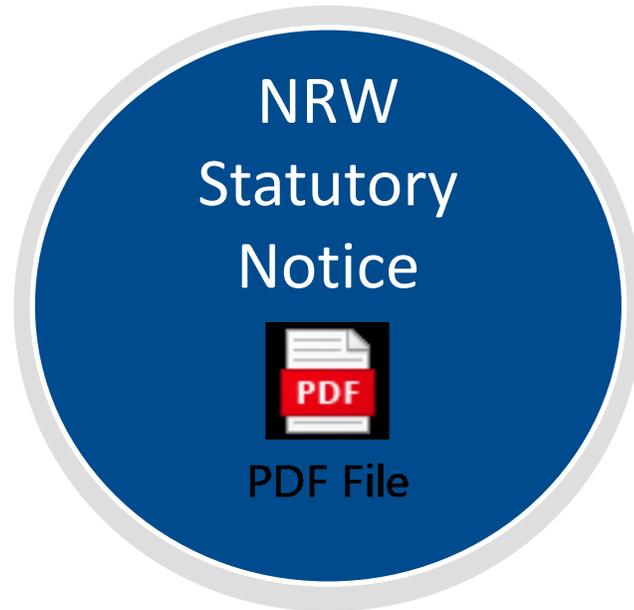
2) If you decide you need to apply for a derogation, please appreciate that it is not a quick or straightforward process and there is no guarantee that the Regulator will grant a derogation. Sufficient time is required for the Operator to gather the supporting information and then allow sufficient time for the Regulator to assess the request.

3) Demonstrate the disproportionately higher costs compared to environmental benefit by using the DEFRA approved Cost Benefit Analysis tool:

<https://www.gov.uk/government/publications/industrial-emissions-directive-derogation-cost-benefit-analysis-tool>

# DEROGATION PROCESS

You will receive a Regulation 61 notice



# DEROGATION PROCESS

You will receive a Regulation 61 notice

EA Statutory  
Notice



Adobe Acrobat  
Document

EA BAT  
Assessment



Microsoft Excel  
Worksheet

# THANK YOU FOR LISTENING

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## ANY QUESTIONS?