

Public Sector Co-operation Agreement User Guide March 2024

Executive Summary

Under section 13 of the Flood and Water Management Act 2010 (FWMA) operating authorities are encouraged to improve working arrangements to achieve optimal use of available resources and improved management of flood risk and coastal erosion. Section 13 places duties on risk management authorities to cooperate and share information. Under section 13(4) of that Act, “a risk management authority may arrange for a flood risk management function to be exercised on its behalf by another public sector risk management authority”.

The standard form of Public Sector Cooperation Agreement (PSCA) enables a risk management authority to undertake works and other activities on behalf of another.

This guide describes how to set up and use the standard form Public Sector Cooperation Agreement between two risk management authorities for carrying out flood risk management maintenance works and similar activities.

The Environment Agency and Association of Drainage Authorities (ADA) have agreed the template agreement document and user guide to be used between any two public sector risk management authorities.

Within the guide there is a strong emphasis on setting up agreements with the Environment Agency. For clarity guidance specific to Environment Agency staff is shown in text boxes.

PSCAs should always be considered as a first approach before bespoke agreements for individual works are pursued.

If you are considering setting up a PSCA, please contact the Environment Agency National Advisor, Wennyi Ding, in the first instance @ Wennyi.Ding@environment-agency.gov.uk .

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PART A - Guidance on setting up a Public Sector Cooperation Agreement

Operating authorities are encouraged to improve working arrangements to achieve optimal use of available resources and improved management of flood risk and coastal erosion. Section 13 of the Flood and Water Management Act 2010 (FWMA) places duties on risk management authorities to cooperate and share information. Under section 13(4) of that Act, “a risk management authority may arrange for a flood risk management function to be exercised on its behalf by another public sector risk management authority”. A risk management authority (Section 6(13)) is:

- a) The Environment Agency,
- b) A lead local flood authority,
- c) A district council for an area for which there is no unitary authority,
- d) An internal drainage board,
- e) A water company,
- f) A highway authority.

For coastal areas, under section 13(8) FWMA “The Environment Agency may arrange for a coastal erosion risk management function to be exercised on its behalf by--

- a) a coast protection authority,
- b) a lead local flood authority, or
- c) a internal drainage board.”

Navigation authorities are not defined as a risk management authority in the FWMA. A navigation authority may perform a flood risk function on behalf of a risk management authority but there is no reciprocal arrangement. This means a navigation authority may undertake works and activities for a risk management authority (provided that such arrangements otherwise fit within this guide), but risk management authorities have no authority to undertake works for the navigation authority. If you are considering a PSCA with a navigation authority, please contact the Environment Agency National Advisor for guidance.

Arrangements under s.13(4) and s.13(8) FWMA can be made using an agreement of “cooperation between public bodies”, subject to satisfying the objectives and conditions in this guide to ensure compliance with procurement laws and no distortion of the commercial marketplace. The Authorising Parties’ commercial and legal teams will be able to assist with any queries which arise in relation to such matters.

The agreements have been developed so that maintenance works, similar routine activities and relevant pre work services can be carried out by one risk management authority on behalf of another where the relevant experience and competency exists. Subject to agreement with commercial and legal teams, small scale asset improvement works may also be undertaken where the partner can demonstrate relevant experience. We anticipate that these arrangements will be used to authorise the Environment Agency to carry out work on an ordinary watercourse or for an IDB or a local authority to carry out work on a main river or to address flooding or coastal erosion.

Suitable works for a PSCA.

- Asset operation & monitoring¹
- Maintaining structures
- Grass cutting (Hand or mechanical)
- Routine tree works (excluding arial)
- Small scale asset repairs²
- In channel obstruction removal & debris clearance
- Routine de silting and dredging
- Small scale asset improvement works²
- Transportation of plant
- Weed control (mechanical and chemical)
- Support in managing flood incidents and recovery works including pumping operations³.

¹NOTE: If the operation of EA assets is proposed this must be discussed with the National Advisor and area legal team prior to progressing to ensure that all risks and liabilities are considered.

²NOTE: For PSCAs with the Environment Agency commercial approval is required.

³NOTE: Installation of temporary barriers can only be permitted when RMAs have undertaken the appropriate training issued by the mobile assets team.

Suitable services for a PSCA.

Asset condition inspection, to include:

- Asset inspection
- Bridge inspection
- CCTV survey

For PSCAs with the Environment Agency the above services are to be undertaken in line with the appropriate Environment Agency standard and/or external Codes of Practice.

Pre-works activities, to include:

- Topographical survey
- Ecological survey
- Issuing of notices of entry served by Authorising Party
- Pre-works engagement

Works and Services not suitable for a PSCA.

Works and services deemed not suitable for use with a PSCA include but are not limited to:

- Provision of professional services
- Delivery of large scale, complex and or high-risk improvement works.
- Specialist activities

- Diving
- Asbestos clearance
- Electrical contracting
- Confined spaces
- Aerial tree work

Objectives of PSCAs.

- To secure benefits of public sector bodies working together in cooperation based on the provisions in section 13(4) and 13(8) of the Flood and Water Management Act 2010 (FWMA)
- To secure efficient local working arrangements which will achieve value for money in delivering operational maintenance or similar routine activities.
- To take advantage of local skills and experience including local knowledge of geography, associated river/ drainage systems and operational practices, to benefit local communities.
- To encourage and embrace the multiple benefits of partnership working.
- To secure flexible partnership working arrangements to supplement existing resources on an outline programme of maintenance and similar routine activities. It is suggested that agreements may cover a period of up to 5 years with annual reviews to refine the specific extent of activities to be carried out.

These agreements have been developed by the Environment Agency in partnership with ADA. They are for use with the Environment Agency, IDBs, local authorities and other public sector risk management authorities. We do not at this stage plan to roll out the use of these agreements with water companies, which are privatised, due to procurement laws. But if you are considering an arrangement with a water company, speak to your legal team who can advise.

Conditions for a cooperation arrangement to be established.

- The two risk management authorities, as public bodies, and partners in the proposed arrangement, should have common aims and secure the shared performance of common tasks; they will be joint participants in the arrangement.
- The arrangement is a framework of genuine cooperation involving mutual rights and obligations, and the partners will be able to demonstrate mutual benefits.
- Because the arrangement is for the carrying out of common tasks, the kinds of tasks not normally undertaken by one partner could not be carried out by them under this arrangement on behalf of the other partner.

- The maintenance works or similar activities under the arrangement shall be carried out either free of charge or at cost and not for profit. Any reimbursement will be of actual costs corresponding to the carrying out of the activity. Costing models will be fully transparent.
- Maintenance works or similar activities should usually be carried out in-house using the partner's own equipment and staff resources. If a third party is engaged to carry out works or services, the delegate authority (the Delivery Party) must procure works or services using transparent procurement procedures in accordance with the Public Contracts Regulations and EC Treaty.
- Because the work is to be carried out by one partner on behalf of another, a risk management authority carrying out work for the Environment Agency must be competent to undertake the works to the same environmental standards as the Environment Agency.
- The PSCA agreement will need to be signed by a person who is authorised to sign the agreement on behalf of their respective organisation for the anticipated aggregated value of work over the period of the PSCA. All necessary internal approvals should be in place before the agreement is signed. For the Environment Agency this will be your Operations Manager.

Management of Health and Safety.

Prior to establishing a PSCA it is essential to understand the management of health and safety. The main conditions are highlighted below, these are also included in the PSCA agreement.

- When undertaking work or services the Delivery Parties staff will be subject to, and work in accordance with, their own employer's health and safety policies and safe systems of work.
- The Authorising Party must provide the Delivery Party with the adequate works information to undertake the relevant works or services including any known risk and hazard information.
- Prior to undertaking any works or services the Delivery Party is responsible for undertaking its own assessment of the risks to its Staff's health and safety arising from the works or services and implementing any necessary control measures.
- The Parties agree that when undertaking works on land, assets or premises owned or controlled by the other Party, the Delivery Party's Staff shall be subject to all health and safety and security requirements communicated by the other Party.
- For the purposes of the CDM Regulations 2015 the Delivery Party will be the CDM Client.

Steps to set up a new PSCA.

The guidance below is for Environment Agency staff setting up or renewing a PSCA for works on main river. It is advised that other RMAs setting up or renewing PSCA follow the same process however they may also wish to adopt their own approach.

It is essential for consistency that national oversight is maintained over all PSCAs set up with the Environment Agency. Therefore, before entering into detailed discussions with the partner, you must contact the National Advisor to discuss the proposed use for the PSCA. If the National Advisor is happy with the proposal the following steps must be completed prior to the agreement being signed.

1. In liaison with your commercial team complete the commercial justification for setting up a PSCA. This is required for all PSCAs irrelevant of value. This needs to include the following:
 - The initial 5yr value of the PSCA
 - Proposal and summary of work and services to be delivered via the PSCA and any associated residual risks.
 - A comparison of the RMAs rates against FCRM Operation Framework (FOF) standard rate workbook to ensure value for money (NOTE: The PSCA is a not-for-profit agreement).
 - An outline of expected savings and non-financial benefits of setting up the PSCA.
 - Approval of your Local Delivery Lead, Operations Manager, Commercial lead, and Commercial Manager.

Please contact your local commercial team for a copy of the PSCA commercial justification.

Following the approval of the commercial justification the commercial team will issues a unique Contract Procurement Agreement (CPA) number for the PSCA. This must be referenced when raising orders for the PSCA.

1. At the same point as completing the commercial justification the RMA needs to provide information to prove their competence to enter into a PSCA. This is provided using the evidence proforma contained in appendix C. Once the information is provided this is reviewed and approved by the National Advisor.
2. Following approval of the commercial justification the PSCA agreement is drafted for signing by the National Advisor. The NFSoD approver for the Environment Agency is the Operations Manager, the equivalent approver should sign the agreement for the RMA. The RMA may wish to review the agreement prior to signing.

Renewals of existing PSCAs.

PSCAs are normally agreed for a five-year period. Prior to the expiry of an existing PSCA it is possible to renew the agreement if both parties agree and there are still mutual benefits. For agreements with the Environment Agency the requirements are:

1. Written confirmation from both parties that they want to enter into another 5yr agreement period.
2. A new agreement template signed by both parties to cover the next 5yrs.
3. Update of documentation HSW & Environmental etc. that may have changed (both parties). It is advised that you inform your FBG team that you are planning to renew the agreement to ensure their assistance.
3. In liaison with your commercial team complete the commercial justification for renewing a PSCA. This is required for all PSCAs irrelevant of value. This needs to include the following:
 - The initial 5yr value of the PSCA
 - Proposal and summary of work and services to be delivered via the PSCA and any associated residual risks.
 - A comparison of the RMA's rates against FCRM Operation Framework (FOF) standard rate workbook to ensure value for money (NOTE: The PSCA is a not-for-profit agreement).
 - An outline of expected savings and non-financial benefits of setting up the PSCA.
 - Approval of your Local Delivery Lead, Operations Manager, Commercial lead, and Manager.

Please contact your local commercial team for a copy of the PSCA commercial justification

4. A new CPA number for the agreement.

The process should be jointly undertaken between the EA & RMA. Please contact the National Advisor before considering any renewals.

The process and requirements for renewals between other RMA's excluding the Environment Agency must be decided by joint discussion.

Termination of existing PSCAs.

On occasions there may be no demand to renew a PSCA following the initial 5yr period. Where this is agreed by both parties the agreement can be terminated using a formal termination letter issued by the National Advisor.

PART B – Guidance on using a Public Sector Cooperation Agreement.

What happens after the agreement is in place?

Once the agreement is in place it is usually valid for five years. At commencement the overall scope and delivery plan of the works and activities should be identified along with an outline first year annual programme. These should be recorded in schedule 2 of the agreement.

For PSCAs with the Environment Agency it is recommended that following the sign off by the Operations Manager of the AIMS OM national and local choices revenue programmes in March a planning meeting is held to discuss the forthcoming annual programme and rates with PSCA partners.

It is expected that Asset Performance teams, Field Operations Technical Contract Advisors and Local Delivery Leads will be involved in the planning and delivery of PSCA works.

For all works including those undertaken to support flooding incidents it is essential that the Delivery Party is given sufficient time to plan and manage the proposals. It is recommended where possible that the required works information and purchase orders numbers are provided to the Delivery Party prior to the start of the financial year for planned works. For ad-hoc works it is recommended that all provisions are provided to the Delivery Party a minimum of two weeks prior to the planned commencement of the work.

Where both parties are comfortable, and confidence exists with future funding it is possible to commit to extended work programmes. The agreement is a framework for cooperation, so it does not oblige the partners to do any particular works and activities, unless and until specific tasks are agreed.

Provision of works information via the specification (Schedule 3).

The Authorising Party must provide the Delivery Party with the adequate works information to undertake the relevant works or services including any known risks and hazard information. These should be discussed and agreed with the Delivery Party prior to the commencement of works.

The works information should be provided using the specification (Schedule 3) of the PSCA standard agreement which is contained in appendix A of this guide. Specifications (Schedule 3) should be produced for each set of planned works or activities. These should be agreed and signed by both parties before any work is commenced. Once agreed the Delivery Party should deliver the services in accordance with the specification (Schedule 3).

The Delivery Party should inform the Authorising Party of the commencement of works and provide updates on progress at timescales agreed by the Parties. If the works require any consents, permits, permissions or exemptions the Party applying for these should confirm in writing to the other Party that these are in place before commencement.

For PSCAs with the Environment Agency the specification (Schedule 3) must be accompanied by a Maintenance Schedule or Pre-Construction Information (PCI).

Key elements of the specification.

Identify the powers being used to deliver the works and activities.

The specification (Schedule 3) requires you to set out clearly what powers are being exercised by the Delivery Party on behalf of the Authorising Party. These will usually be works powers primarily, but there may be more than one power (e.g. works powers and a power to take surveys).

Please consider carefully what powers are being exercised under which legislation, for example the Water Resources Act 1991, Land Drainage Act 1991, or Coast Protection Act 1949. This will depend on whether the works are in connection with flooding from a main river, ordinary watercourse, surface water or groundwater flooding, sea flooding or coastal erosion works. Check with your legal team if you're not sure – you'll need to explain what the proposed work or activity is and what risk it is designed to address.

The most common powers to do works, are the following (but check with your legal team which one applies for your specific works or activities):

- Flood risk management works on or in connection with a main river or sea flooding: Section 165 Water Resources Act 1991 together with section 37 of the Environment Act 1995
- Flood risk management works on or in connection with an ordinary watercourse: these may be under Section 11, 14 or 14A Land Drainage Act 1991 depending on the nature of the works. Please check.
- Flood risk management works in connection with surface water or ground water flooding: Section 14A Land Drainage Act 1991
- Coastal works to sea and tidal defences: section 165(2) Water Resources act 1991 together with section 27 of the Environment Act 1995
- Coast protection works section 4 Coast Protection Act 1949

Identification of any limits, constraints, or guidance.

Sometimes the Delivery Party will be authorised to act with only limited authority and will need to revert to the Authorising Party if it wants to go further than the limited authority it is given. Set out any restrictions which limit the Delivery Party's authority in this section.

Environmental requirements.

All works delivered by the PSCA must be screened to identify environmental constraints and opportunities prior to commencement on site. Environmental screening actions, mitigation and enhancement opportunities must be recorded in the specification (Schedule 3). Because the work is to be carried out by one partner on behalf of another, a risk management authority carrying out work for the Environment Agency **must** be competent to undertake the works to the same environmental standards as the Environment Agency.

For all PSCAs with the Environment Agency the initial high level environmental screening must be undertaken by the Fisheries Biodiversity Geomorphology (FBG) team and when appropriate referred to the Natural Environmental Assessment Service (NEAS).

FBG screen for opportunities and risks to fisheries, biodiversity, and geomorphology. This includes screening for WFD compliance, protected sites, habitats and species and opportunities to further conservation and work with natural processes using natural flood management techniques.

NEAS screen the maintenance programme for environmental issues including heritage, landscape, carbon / sustainability and have a statutory duty to screen projects under the EIA Land Drainage Regulations

Environmental screening is now fully integrated into the asset maintenance bidding process. FBG and NEAS are full users of AIMS: OM.

For PSCAs with the Environment Agency environmental constraints should be indicated on an appropriate maintenance schedule or in the environment plan of the Pre-Construction Information (PCI).

Any actions, mitigation and enhancement opportunities highlighted by the initial high level environmental screening can be undertaken by either party if they are competent to do so. This will include any pre-work site walkovers that are required, these should be agreed in advance of the works commencing.

The specification (Schedule 3) should be used to record all post screening actions, mitigations, and enhancements and who is undertaking these.

Management of waste.

For all works delivered by the PSCA you must consider all aspects in relation to the generation, reuse, recycling, and disposal of waste.

For all waste streams generated the Delivery Party must record the details of waste carriers and destination facilities where waste will be sent. All transfer and consignment notes must be retained for records with the project documentation for 3 years.

For PSCAs with the Environment Agency waste requirements must be recorded in the waste plan check list and waste plan planning / delivery stage of the Pre-Construction Information (PCI)

Construction, Design & Management (CDM) Regulations 2015 and Health, Safety & Wellbeing.

The PSCA arrangement is not intended to be a contract for works or services in the sense of a commercial contract. Where one party carries out work on behalf of the other using a PSCA under s.13 (4) or 13(8) FWMA, it is acting under the powers and duties of the other. A PSCA represents a partial delegation of powers from one body to the other.

When works are proposed that may be classed as construction under the CDM Regulations 2015 it is important that this is agreed by both parties prior to progressing. In the event of agreement not being reached it may be decided that the PSCA is not suitable to deliver the works or dispute resolution may be sought. Following this agreement the parties will need to identify who is undertaking the relevant roles. The PSCA specifies the Delivery Partner as the lead Client. Once agreed these should be set out in the specification (Schedule 3) and the Pre-Construction Information (PCI) for PSCAs with the Environment Agency. Guidance as to the identification of these duty holders' roles under the CDM Regulations 2015 can be found on the HSE website: [Summary of Roles under CDM Regulations](#), a summary of the roles is shown below.

The **Client** is any individual or organisation for whom a construction project is carried out. The Client must make suitable arrangements for managing a project, including the allocation of sufficient time and other resources. The Client must, prior to the commencement of the construction phase ensure a construction phase plan is drawn up by the Contractor and that the Principal Designer prepares a health and safety file.

Where there is more than one Client for a construction project, those Clients may agree in writing that only one of them is to be treated as the Client for the purposes of the project. Agreeing that there is only one Client in this way does not affect the responsibility of the other 'Clients' to fulfil several overarching obligations required by the CDM Regulations, including the provision of pre-construction information or to co-operate with others involved in the project.

The role of **Designer** can be undertaken by a number of persons (including the Client or the Contractor) and is an organisation or individual who, as part of their business, prepares or modifies designs relating to a structure (or a product or mechanical or electrical system intended for a particular structure) or arranges for or instructs others to do this. Designs include drawings, design details, specifications, bills of quantity and design calculations.

Where there is more than one Contractor, the Client must appoint a **Principal Designer**. The Principal Designer must have control over the pre-construction phase of the project; the pre-construction phase is the time when design or preparatory work is carried out for a project and may continue into the construction phase. Principal Designers have an important role in influencing how risks to health and safety are managed throughout a project.

The **Contractor** is an organisation or individual who as part of their business, carries out, manages, or controls construction work. Contractors can include sub-contractors and self-employed workers. They must have the skills, knowledge, experience and, if they are an organisation, the organisational capability to carry out the work safely and without risk to health.

Where there is more than one contractor the Client must appoint a **Principal Contractor** to control the construction phase of the project.

Principal contractors have an important role in managing health and safety risks during the construction phase so they must have the skills, knowledge, experience and, where relevant, organisational capability to carry out this work safely and without risk to health.

In the context of a PSCA:

Client Role.

Many of the duties of the Client under the CDM regulations can only be performed by someone with a direct contractual relationship with the Contractor (or Principal Contractor) and or the Designer (or Principal Designer). For example, the Client must ensure that the Contractor (or Principal Contractor) prepares a Construction Phase Plan and that any Principal Designer prepares a health and safety file.

Under the PSCA, the Party which has those direct contractual relationships will be the Delivery Party. This is because the Authorising Party will not have a direct contractual

relationship with the Contractor or Principal Designer so will not have the direct contact or contractual leverage be able to perform those duties.

Therefore, when undertaking works that are classed as construction the Delivery Party should always be the CDM Client. Since the Delivery Party is best suited to conducting the Client role it is also important that the Delivery Party has the benefit of appropriate insurance cover in respect of the activities required by the Client role. The PSCA sets out how the liabilities will be borne and shared as between the Delivery Party and the Authorising Party. Consequently, before progressing with construction works, it is essential that the Delivery Party is competent and comfortable to undertake the role of the Client and it is essential that the Delivery Party has early involvement in any construction works to ensure that it can properly discharge its Client Duties.

Agreeing that there is only one Client in this way does not affect the responsibility of the other 'Clients' to provide Pre-Construction Information or to co-operate with others involved in the project. Therefore, although in the context of the PSCA the Delivery Party is Client by default there is a continuing obligation upon the Authorising Party to supply the Designer and Contractor with all relevant Pre-Construction Information which is within its possession.

Designer & Principal Designer Role.

Where works are undertaken on main river the Authorising Party will usually fund these and therefore have a vested interest. As such the Authorising Party is most likely to prepare the required specifications and designs and, in this instance, the Authorising Party will be the Designer. Consequently, on these occasions, the Authorising Party, in its Designer role, will be responsible for planning, managing, and monitoring the pre-construction phase in order to ensure the project is carried out without risks to health and safety. On these occasions the Environment Agency will be self-insured in respect of any liabilities or claims which may be attributed to the design.

There may be occasions when the Delivery Party have greater input into the design process. If this is the case the Delivery Party may be the Designer.

Where works involve more than one contractor a Principal Designer must be appointed by the Client. The Principal Designer must be a party which has overall control over the pre-construction phase The Delivery Party acting as Client could appoint their own Principal Designer or appoint the Authorising Party as the Principal Designer.

Contractor & Principal Contractor Role.

The Delivery Party in its role of Client will appoint the Contractor, or where there is more than one contractor, the Principal Contractor.

Use and deployment of Temporary Flood Barriers.

The Environment Agency has recently undertaken a review of the use and deployment of temporary flood barriers. This has now concluded that their use and deployment falls under the remit of construction as defined in the 2015 CDM Regulations.

Where installation of temporary barriers is planned RMAs must have undertaken the appropriate training issued by the mobile assets team.

Risk Assessments & Method Statements (RAMS).

The Authorising Party must provide the Delivery Party with all relevant works information within its possession to include all relevant risks and hazards.

For PSCAs with the Environment Agency works information must be supplied using an appropriate maintenance schedule or the Pre-Construction Information (PCI) for construction works.
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The Delivery Party will prepare Risk Assessments and Method Statements (RAMS) to reflect the extent and specification of works. These will be made available to the Authorising Party on request. If the works are classed as construction under the CDM Regulations 2015 then the Delivery Party will require the Contractor or Principal Contractor to produce a suitable Construction Phase Plan (CPP).

Safety, Health, Environment & Wellbeing (SHEW) Code of Practice (CoP).

The Environment Agency Safety, Health, Environment & Wellbeing (SHEW) Code of Practice (CoP) sets out risk management standards for construction work and is recognised as an example of industry best practice. It is recommended that before undertaking any construction works using the PSCA that consideration is given to the fundamental principles of the SHEW CoP.

The CoP is available on the Defra Content Cloud and on the ADA website here: - <https://www.ada.org.uk/key-topics/health-safety-and-welfare/>

Powers of entry and other ancillary powers.

Given the range of work that can be delivered under these agreements, it will be especially important that officers understand what power of entry they are using, and where necessary that they are properly authorised by the Authorising Party to exercise powers of entry as provided for in the legislation and required by the Statutory Code of Practice on Powers of Entry. Identify in the table the specific power of entry that is being used, seeking guidance from legal services to help you identify the legal power of entry you need to use. The appropriate power of entry will depend on what works power you are using. The most usual ones are the following (but check with your legal team which one applies for your specific works or activities):

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- Entry in connection with works under s.165 Water Resources Act 1991 where the works are for maintenance of existing works or watercourses: the power of entry is included within the power to do works, see section 165(6) Water Resources Act 1991
- Entry in connection with all other works under s.165 Water Resources Act 1991: power of entry under section 172 and schedule 20 Water Resources Act 1991
- Entry in connection with works under s.11, 14 or 14A of the Land Drainage Act 1991: Power of entry under section 64 Land Drainage Act 1991
- Entry in connection with works under section 4 Coast Protection Act 1949: power of entry under section 25 Coast Protection Act 1949

Training, authorisation, and guidance for individual officers of the Delivery Party must be given to those officers before any powers of entry are exercised. The Statutory Code of Practice requires records to be maintained. A temporary authorisation will need to be issued to any officers of the Delivery Party who need to exercise powers of entry. Seek guidance from your internal advisers on the requirements for your respective organisation.

Where notices of entry onto land are required, these should always be signed and served by the Authorising Party. The Parties will need to work closely to ensure that they are properly discharging their legal duties in terms of notices and powers of entry and complying with the Statutory Code of Practice on Powers of Entry.

Compensation.

You will need to specify which party will be responsible for planned compensation to landowners and third parties, if any arises. Clauses 10.1,2,3 & 4 of the PSCA agreement outline the compensation requirements that can apply to specific works and activities.

Summary of clauses

10.1 Negligence

If the Delivery Party or anyone else for whom they are responsible is negligent whilst carrying out works under the agreement, and loss or damage results from such negligence, then they must indemnify the Authorising Party against all compensation or related claims that result.

This is subject to clauses 10.5 and 10.6.

10.2 Works paid for by the Delivery Party

The Delivery Party must indemnify the Authorising Party and their staff against all statutory compensation or related claims that arise from the Delivery Party carrying out works under the agreement.

This is subject to clauses 10.5 and 10.6.

10.3 Works paid for by the Authorising Party

The Authorising Party must indemnify the Delivery Party and their staff against all statutory compensation or related claims that arise from the Delivery Party carrying out works under the agreement.

This is subject to clauses 10.5 and 10.6.

10.4 Works paid for by both parties.

The parties shall share between them the costs arising from all statutory compensation or related claims that arise from the Delivery Party carrying out works under the agreement. This should be proportional to the parties' financial contributions towards the works.

This is subject to clauses 10.5 and 10.6.

If you are not sure how to deal with compensation under the agreement it is important that you seek advice from your estates and legal teams.

Funding and financial arrangements.

The PSCA allows for either party or both parties to fund the works. In the case of joint funding, the split of funding needs to be agreed to meet the financial outturn cost of the work. If third party funding is being contributed, either the Authorising Party or the Delivery Party needs to be responsible for securing those funds and then contributing them under this PSCA arrangement. The third-party funder is not a party to the PSCA agreement.

For PSCAs with the Environment Agency it is expected that works will be bid for and allocated funding via the usual AIMS OM process or form part of the Local Choices program. All PSCA works should be part of the approved RFCC maintenance programme.

For PSCAs with the Environment Agency RMA rates will be bench marked against FCRM Operation Framework (FOF) standard rate workbook rates during the completion of the commercial justification.

Following the set up or renewal of the PSCA rates should be reviewed and agreed prior to the commencement of the annual programme.

Estimated costs and the associated rates must be agreed by the parties before work proceeds and recorded in the specification (Schedule 3). Estimates should include all costs required to undertake the work and consider elements such as pre-works activities and supervision.

Purchase orders should be set up and the numbers supplied to the Delivery Party to allow sufficient time to plan and manage the works. It is recommended that purchase order numbers are provided a minimum of two weeks prior to the planned commencement of the work.

The most efficient requisition method for purchase orders should be agreed between the Authorising Party and Delivery Party prior to the commencement of work. This may vary dependant on the nature and scope of the proposed works. Records should be retained on file so that efficiencies or other benefits achieved are captured. On completion of the work, payment is based on the actual outturn cost using agreed rates, not the estimate. The Delivery Party will be expected to provide evidence to support any request for payment.

The PSCA may be used to support incident response activities during time of flooding. Due to the nature of incident response, it may not be possible to allow sufficient time for planning works and the provision of estimates. However, whenever possible the levels of support and associated costs including agreement of rates for incident response activities should be agreed in an advance by the parties. The Delivery Party will be expected to provide evidence to support any request for payment.

For all PSCAs between the Environment Agency and another risk management authority once the agreement has been set up and signed, commercial will issue a unique Contract Procurement Agreement (CPA) number. It is essential that the CPA number is referenced on specification (Schedule 3) for specific works and when raising any respective purchase orders.

Variations to the specification.

Once the specification for the works or services has been issued to the Delivery Party variations should be avoided where possible. When the parties agree that a variation to the specification cannot be avoided the Authorising Party will issue the request in writing to the Delivery Party and provide any additional information required to manage the risks associated with the change.

Any variation or change request should allow adequate time prior to the planned commencement on site for the Delivery Party to consider the proposal and undertake the necessary preparation. The notice period should reflect the planning required for the proposed scale of variation or addition. In all cases a discussion must take place between the Delivery Party and Authorising party to agree timescales involved as each RMA's ability to cater for the change may vary.

Post works review.

It is good practice to maintain liaison during the works. On completion, value for money, any other benefits and lessons learned including environmental compliance should be discussed and identified to benefit potential future use of the PSCA. This

review should be kept as simple as possible according to type of works and risks involved.

If a dispute or complaint occurred during the works, the Parties at an appropriate time after the conclusion of any dispute or complaint, shall consider whether to undertake a review of how the dispute or complaint was handled and whether it could be handled better in the future. Where desirable this review should be undertaken jointly, however it remains in each Party's sole discretion whether to engage in this process.

Schedule 3 retention.

Completed and signed copies of the Schedule 3 must be retained by the Authorising Party for the duration of the PSCA.

Where can I get more information?

Please contact the Environment Agency National Advisor, Wennyi Ding in the first instance for information on establishing and using PSCAs @ Wennyi.Ding@environment-agency.gov.uk

Appendix A - SCHEDULE 3

PUBLIC SECTOR COOPERATION AGREEMENT (PSCA) FORM of Schedule for Specific Work or Activity

The following schedule must be.

- a) agreed and signed by both parties before work commences.
 - b) referred to throughout the works and activities; and
 - c) checked and signed off by both parties on completion of works.
- The final cost of the works and activities and the efficiencies gained, need to be reported. Any issues and learning encountered may also be noted in order to inform future working between the parties.

Title of Specific Work or Activity	
PSCA between the EA/IDB/LLFA/NA (delete as appropriate & insert name)	
and EA/IDB /LLFA/NA (delete as appropriate & insert name)	
CPA Number (EA agreements only)	
Authorising Party for these Works / Activities & Contact name	
Delivery Party for these Works (this is the Party who will undertake and manage the works on site.) & Contact name	
Watercourse or defence or asset name	
Identify whether works are on Main River or Ordinary Watercourse or other local source or tidal /sea defence	
Location of Specific Work / Activity	
Description of Specific Work / Activity (State type of work	<i>For PSCAs with the Environment Agency pre works information should be supplied using the PCI section of the Safety, Health,</i>

and reference to any relevant documents including environmental standards, specifications, and drawings)	<i>Environment & Wellbeing (SHEW) Area operations- Risk Management Planning Pack or the relevant maintenance schedule.</i>
Starting date and timescale for works or stages of works as appropriate Commencement and progress of works to be reported to the Authorising Party.	
MAIN POWER AUTHORISED TO EXERCISE Which power(s) is the Authorising Party authorising the Delivery Party to use to carry out the Specific Works and Activities?	<i>Set out the flood or coastal risk management function(s) which the Delivery party will be relying on in carrying out the specific works and activities. This should be the specific sections from legislation setting out the works powers or other relevant power. Consider if there will be more than one. Check whether the powers are Flood Risk Management powers (whether river or sea flooding etc.) delegated under 13(4) or Coastal Protection powers that can be delegated section 13(8).</i>
Are there any limits, constraints, or guidance that the Delivery Party must be aware of or follow when using this power?	<i>E.g. legal environmental duties EA 1995 s6/7, NERC s40, WCA 1991, WFD/Hab Regs/Eel Regs, LDA 91 s60.</i>
POWER OF ENTRY / OTHER ANCILLARY POWERS Which power of entry is being used? (please state power in legislation relied upon)	
Is authority for personal warrants required to be given by the authorising party?	
What additional guidance must be followed related to access, entry and record keeping, and compliance with the Code of Practice Generally? (reference to relevant documents, please attach copy)	
Are notices of entry required to be served? These should	

always be served by the Authorising Party. What are the arrangements to liaise over this?	
Are there any other ancillary powers to consider?	
H&S Is the work classed as construction under CDM Regs 2015?	
If the CDM Regs apply specify which party (ies) have the duty holder roles as the: a) Designer or Principal Designer b) Contractor or Principal Contractor	a) b)
What hazard or other H&S information is available and who is providing this?	<i>For PSCAs with the Environment Agency pre works information should be supplied using the PCI section of the Safety, Health, Environment & Wellbeing (SHEW) Area operations- Risk Management Planning Pack or the relevant maintenance schedule.</i>
Will Risk Assessments & Method Statements (RAMS) been prepared to reflect the extent & specification of the works? If the works are classed as construction under CDM Regs 2015 will a Construction Phase Plan (CPP) be produced?	
ENVIRONMENTAL Has initial environmental screening been undertaken? (Attach any relevant documents including screening records)	<i>For PSCAs with the Environment Agency initial environmental screening must be undertaken by the Fisheries Biodiversity Geomorphology team and when appropriate referred to the National Environmental Assessment Service (NEAS) teams. All actions should be recorded in the Environment Plan of the PCI or highlighted on the relevant maintenance schedule</i>
Has the initial environmental screening highlighted the need for any further actions and mitigation?	

<p>If yes who will be undertaking these and are they trained and authorised?</p>	
<p>Have you considered all aspects in relation to the generation, reuse, recycling, and disposal of waste for the planned works?</p>	<p><i>For PSCA with the Environment Agency waste requirements must be included in the waste plan checklist and waste plan planning stage of the Pre-Construction Information (PCI)</i></p>
<p>Duty of Care information.</p>	<p><i>For all waste streams generated the Delivery Party must record the details of waste carriers and destination facilities where waste will be sent. All transfer and consignment notes must be retained for records with the project documentation for 3 years.</i></p> <p><i>For PSCA with the Environment Agency the waste plan – delivery stage of the Pre-Construction Information (PCI) can be used for this purpose.</i></p>
<p>CONSENTS</p> <p>What consents, permits permissions and exemptions are required for works? (FRAP, waste and environmental)</p>	
<p>Who is applying for the consents, permits and permissions? (The Party applying for any consents, permits, permissions or exemptions will inform the other Party in writing that these are in place prior to the commencement of works)</p>	
<p>FINANCIAL</p> <p>Which party or parties are funding this work?</p>	
<p>What rates are being used for this work?</p>	
<p>What is estimated cost?</p>	
<p>Reports on progress and invoices for interim payments will be made monthly, with final costs and invoices submitted promptly</p>	

<p>at the conclusion of the work or activity.</p> <p>Does the Authorising party want updated estimates of costs from the Delivery Party as works progress? If so, please indicate the frequency of providing estimates.</p>	
<p>Will AIMS OM be used to raise the contract & record the costs?</p>	
<p>COMPENSATION & LIABILITY</p> <p>Set out which party is responsible for planned compensation to landowners or third parties? Check clauses 10.1, 10.2 and 10.3 of the agreement and the user guide for your answer. If clause 10.3 applies you need to set out the proportions in which compensation will be shared between the Parties for these Specific Works and Activities, if any arises.</p>	
<p>OTHER INFORMATION</p> <p>Any other information relevant to these works / activity?</p>	
<p>PRE WORKS SIGNATURES</p>	
<p>Environment Agency - FCRM</p> <p>Name</p> <p>Position</p> <p>Signature</p> <p>Date</p>	
<p>Environment Agency - FBG</p> <p>Name</p> <p>Position</p> <p>Signature</p>	

Date	
IDB / LLFA/NA Name Position Signature Date	
POST WORKS	
What was final cost?	
Did works achieve expected outcome?	
Were there any variations to expected works? If so, describe them	
Did works achieve value for money and what was estimated efficiency value (%) or other benefit	
Any lessons learned for future use on this type of works	
POST WORKS SIGNATURES	
Environment Agency – FCRM Name Position Signature Date	
IDB / LLFA/NA Name Position Signature Date	

Appendix B – Evidence Proforma

Item No.	Question	Evidence to be provided by RMA
1	Are the maintenance or similar activities / works within the RMA area or neighbouring area?	
2	Are maintenance or similar activities / works to be undertaken free of charge or on a cost recovery basis? Will proposed rates achieve value for money compared with alternative options?	Guidance – Confirm that a breakdown of the estimated costs for the works has been provided and that bench marking has taken place to ensure value for money. Supply a schedule of rates that will be used of future works, rates to be revised / agreed annually
3	Evidence of resources, experience, and capabilities to undertake identified maintenance or similar activities / works. This includes environmental resources.	Guidance- Insert number of operatives, experience, training & plant available or refer to separate schedule. Only a summary required for setting up agreement. Further details such as training records, plant certificates can followed up later in method statement etc. according to specific works as appropriate.
4	If using subcontractors or suppliers, will the RMA comply with all Defra Commercial Group & Public Procurement directives?	
5	Evidence of financial standing – please provide the last 2 years of your publicly available accounts.	
6	Evidence of appropriate H&S policy and procedures including knowledge of the 2015 CDM Regulations. Will H&S risks be defined and managed satisfactorily?	<p>Guidance - Identify whether a H&S Policy is available and send as an attachment.</p> <p>In your reply, please provide evidence of the following: -</p> <p>i) Formal delegation of H&S responsibilities are set out within policy document</p>

		<p>ii) Risk assessments and method statements will be prepared to reflect extent and specification of work</p> <p>iii) Formal incident reporting system is outlined within H&S Policy</p> <p>iv) The RMA issues appropriate PPE to all employees. Where specific tasks are being undertaken e.g. chainsaw work, then specific PPE is provided to trained operatives.</p> <p>v) All employees have completed the 'Emergency First Aid at Work' course</p> <p>vi) First Aid kits are carried in all the Boards vehicles and held at depot/office.</p> <p>vii) If subcontractors are used (subject to agreement with EA) all H&S provisions will be to same standard.</p> <p>viii) Evidence of CDM training & understanding</p>
7	<p>Evidence of appropriate environmental policy and procedures and that environmental risks and enhancements have been defined and will they be managed satisfactorily?</p>	<p>Guidance - Identify here whether Environmental Policy and procedures are available and send as an attachment.</p> <p>In your reply, please provide evidence of the following: -</p> <p>i) The RMA has access to an ecologist that screens works where required for environmental constraints and opportunities – give details of the ecologist.</p> <p>ii) The RMA has a procedure for identifying and implementing environment requirements / enhancements during both the activity design and implementation stages.</p> <p>iii) The RMA has developed its own Biodiversity Action Plan.</p> <p>iv) Training is provided to raise awareness of environmental issues relating to the maintenance and operation of watercourses and the wider catchment. This should include identification of alien species.</p> <p>v) The RMA's waste carrier licence.</p>

Note: -

The PSCA cannot be signed until satisfactory evidence is provided, when this is received the EA will advise the RMA. The agreement will then be signed by both parties, and each hold a copy. A Contract Procurement Agreement (CPA) number will be given to the agreement. All future work, carried out under the agreement will be referenced to this CPA number.