

## COMAH Remodelling **Investigation Procedure**

the Competent Authority



### 1. Operating Procedures for CA Investigation

- 1.1 The purpose of this document is to guide the reader through the remodelled procedures for COMAH investigation.

### 2. Investigation and the duty to investigate

- 2.1 **Investigation** is the reactive work undertaken by the CA as a result of an incident or complaint at a COMAH establishment.
- 2.2 This procedure covers the arrangements for COMAH and the functioning of the CA during investigations. Importantly, the CA will continue to ensure that for each COMAH relevant incident an Investigation Manager will be appointed who will ensure that the primary investigation team are sufficiently briefed and possess the appropriate capabilities.
- 2.3 COMAH regulation 19(4) places a duty on the CA to investigate major accidents and take actions where necessary. COMAH regulation 21 places a duty on the CA to report specified major accidents to Europe.

### 3. Scope and Application of Investigation procedure

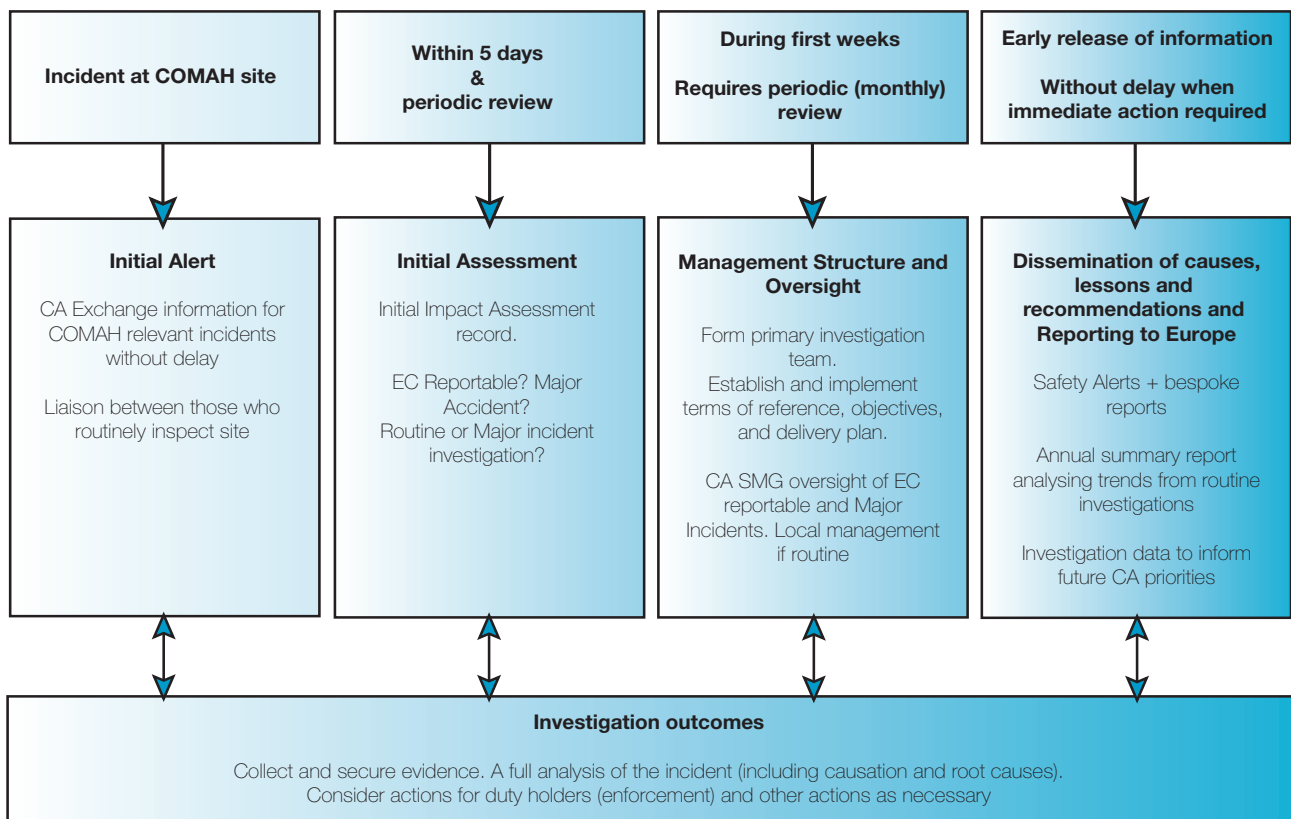
- 3.1 This procedure provides a common framework for CA investigation at COMAH establishments. It supplements existing arrangements for investigation, as outlined in the separate policy and procedures of the Health and Safety Executive (HSE), Environment Agency (EA) and Scottish Environment Protection Agency (SEPA). Any person involved with an investigation will retain their own powers as granted by their own warrants and will follow the procedures of their respective organisations, except where directed otherwise by this procedure. It is recognised there are some differences between the way HSE, EA and SEPA investigate, but the CA has a proven track record in enforcement and prosecution, both independently and jointly.
- 3.2 Investigation may be concerned with issues related to COMAH, or another legislative regime or many regimes (Health and Safety at Work Act or Environmental Permitting Regulations or Water Resources Act):
- a) where the facts of an incident are relevant to COMAH, this procedure applies (including investigations involving other non-COMAH legislation);
  - b) where the facts of an incident are not relevant to COMAH, this procedure does not apply. This procedure explains COMAH relevance in more detail (see Phase 1 Initial Alert).
- 3.3 Enforcement activities of the CA are not detailed in this procedure. Since enforcement considerations are fundamental to the way the CA approaches dutyholders following an incident or complaint, this procedure should be considered in combination with Competent Authority (CA) policy and guidance on enforcement.

#### 4. Purpose of Investigation Procedure

- 4.1 This procedure aims to provide an efficient approach to joint working within investigations and to gather evidence to enable any necessary enforcement, other action or dissemination of causes, lessons and recommendations. The key aims are to strengthen and encourage teamworking and improve the way investigations are managed.
- 4.2 The procedure guides the working arrangements of the CA to achieve investigation outcomes (see Investigation Outcomes section of this procedure). These outcomes are linked to the CA Investigation Policy (see **Appendix 1**), actions for duty holders (e.g. enforcement) and other CA COMAH duties (Reg. 19 (4) & 21).
- 4.3 The main purposes of investigation are to collect and secure evidence, determine the factors leading up to the accident, its impact both on and off site, establish its causation including root causes, and to initiate in a timely manner any remedial or improvement actions. In addition, without prejudice to any potential enforcement action, the CA will seek to ensure early dissemination of causes and lessons from investigation and will make recommendations on future preventive measures (including reporting to Europe as required). A wider set of investigation objectives can be found in **Appendix 2**.

### 5. Introduction to revised procedures

5.1 The investigation process has been divided into four phases: 1) Initial Alert, 2) Initial Assessment, 3) Management Structure and Oversight, and 4) Dissemination of causes, lessons, recommendations and reporting to Europe. Each phase will be guided by the required outcomes, delivering action to achieve these outcomes.



### 6. Resource Planning

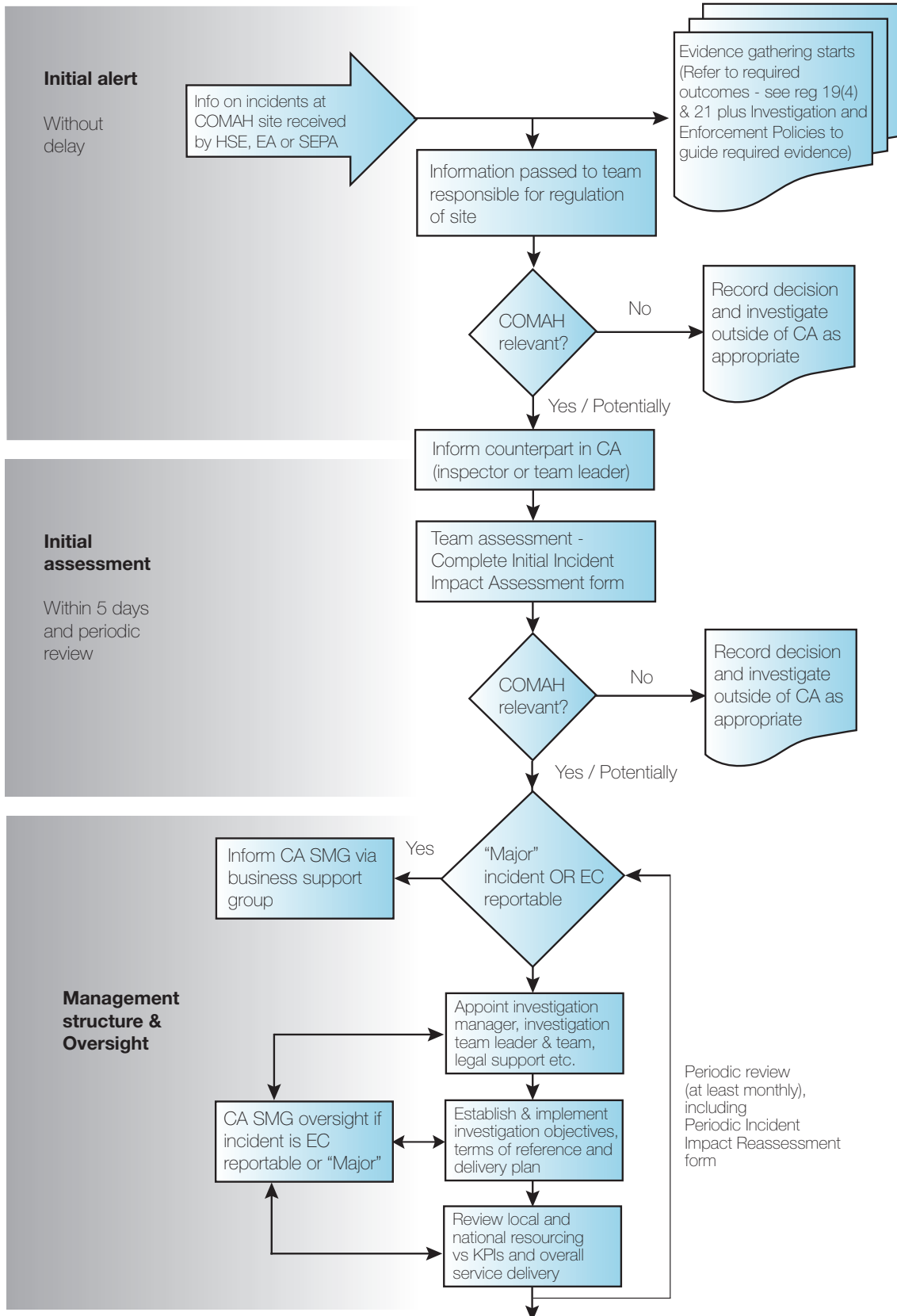
6.1 Field teams should expect that they will undertake an ongoing level of routine investigation and ensure resources are managed to achieve this without impact on delivery of other targets. Local knowledge is essential to predict this allocation, however, on average across the CA, routine investigation requires an additional 10% of resource (all disciplines) above that required for delivery of inspection and assessment work.

6.2 The CA Strategic Management Group (CASMG) acknowledges the resource implications of investigations and will review and revise CA resourcing levels as necessary. This will occur especially during major incident investigations.

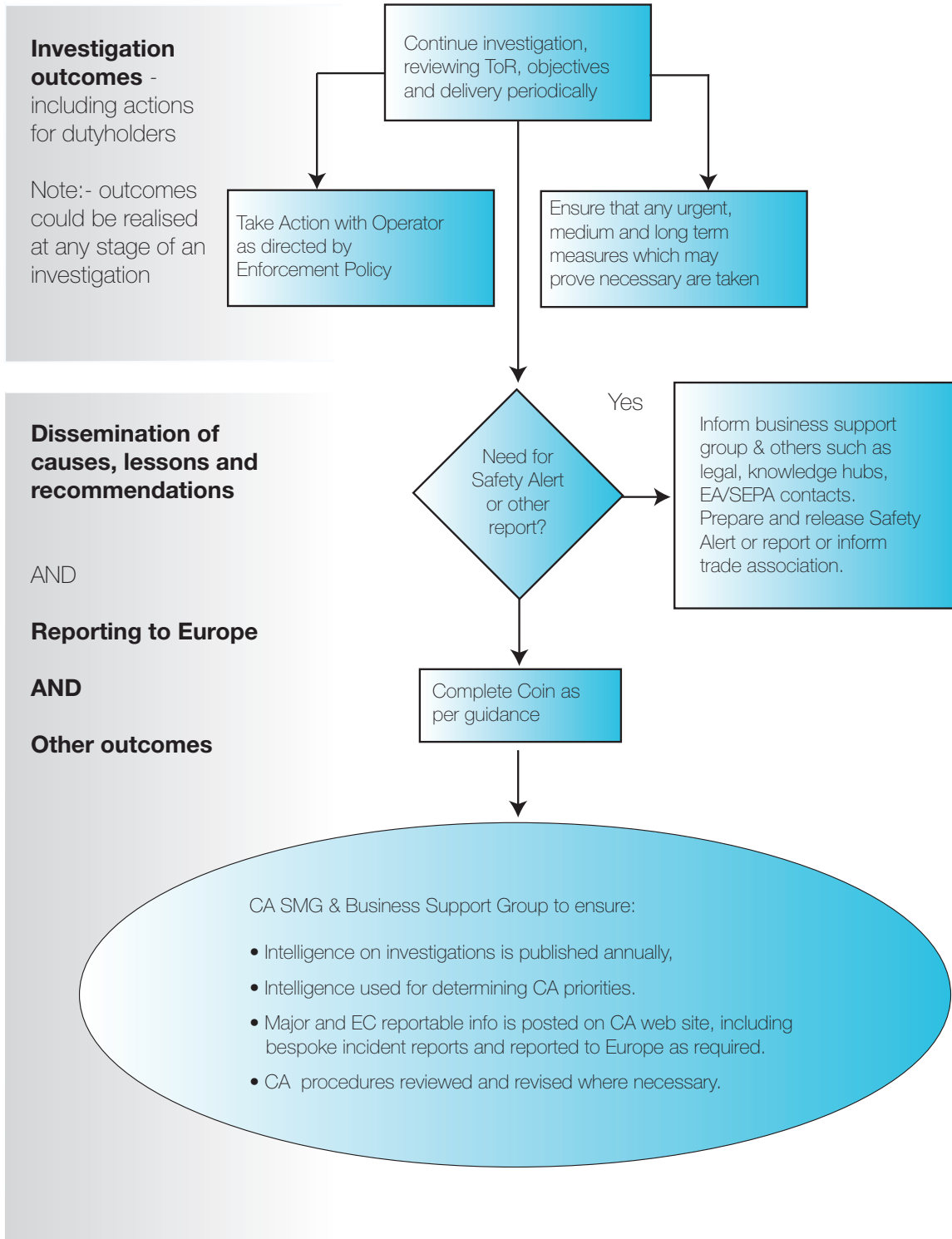
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### 8. Investigation flow diagram



### 8. Investigation flow diagram (continued)



### 9. Investigation Outcomes

- 9.1 **Field teams**, and in particular **Team leaders** need to be aware of the reasons for carrying out investigations and any priorities for investigations. These guide the conduct of investigations as outlined in the CA policy for investigation (see **Appendix 1**) and the CA Plan of Work.
- 9.2 COMAH regulation 19(4) places a duty on the CA to investigate major accidents and take actions where necessary, including:
- a) obtaining information from the operator to determine the incident circumstances, effects, emergency/remedial/other measures taken and any other information to enable reporting to Europe if necessary;
  - b) ensuring urgent, medium or long-term measures are taken;
  - c) making a full analysis of the major accident;
  - d) ensuring that the operator takes remedial measures;
  - e) making recommendations on future preventive measures.

Also, COMAH regulation 21 places a duty on the CA to report specified major accidents to Europe. **Team leaders** should refer to the guidance on regulation 19(4) & 21 in the guide to the COMAH regulations (L111) to get full detail on this.

- 9.3 After an incident or complaint, the CA will investigate to:
- a) gather and establish the facts (collect and secure evidence);
  - b) identify immediate and underlying causes and the lessons to be learned;
  - c) prevent recurrence;
  - d) detect breaches of legislation;
  - e) take "appropriate action".

Other reasons (objectives) for carrying out investigation are listed in **Appendix 2**.

- 9.4 The "appropriate action" to be taken by the CA may include:
- a) enforcement action, to include COMAH and other relevant legislation – see CA Enforcement Policy, procedure and guidance;
  - b) other mitigatory measures;
  - c) issue of safety alerts, bulletins or incident reports;
  - d) reporting to Europe;
  - e) issue of new or revised guidance;
  - f) revision of CA Policy and Procedures or priorities and their delivery.
- 9.5 These outcomes may occur at any stage of an investigation, be it gathering evidence on the day an incident occurs and issue of a prohibition notice shortly after, through to completion of a court case.



- 9.6 All investigation activities should aim to deliver the overarching priority of the CA as stated in Box 1 and should consider the priorities of the CA Plan of Work (e.g. for 2010/11 investigation of serious incidents is a CA priority including that we will ensure process safety leadership failings are highlighted in incident reports).

### **Box 1: COMAH Competent Authority Strategic Priority**

“To protect people and the environment from, and limit the consequences of, major accidents occurring within the onshore chemical manufacturing and process industries.”

## **10. General Conduct of CA investigations**

- 10.1 CA Investigations should be carried out according to the principle that HSE leads for aspects relating to danger to persons and the agencies lead for aspects relating to danger to the environment. However, this is not restrictive and the CA should deploy its resources in the most efficient way to achieve the required investigation outcomes.
- 10.2 With the exception of the requirements of this procedure, any person carrying out a CA investigation will follow the procedures of their own organisation.

These include:

- For HSE
- HSE Operational procedures**
  - HSE Major Incident and Civil Contingencies Procedure**
  - HID CI Delivery Guide – Workstreams 3a & 13 a/b Investigation**
  - HID Guidance on what constitutes a major accident under the COMAH Regulations**
- For SEPA
- Policy 5 - SEPA Policy Statement of Enforcement
  - SEPA COMAH Investigation Procedures
- For EA
- National Investigations Manual**
  - Procedure for Major Investigations**
  - Other Enforcement Guidance**

- 10.3 In some cases, to enable efficient joint working, these procedures may not need to be followed, but deviation from procedures shall only take place after case specific legal advice has been given.

### 11. Investigation Phase 1: Initial Alert

#### CA Exchange Information for COMAH relevant incidents without delay

##### 11.1 Box 2: COMAH Relevant Incident

A COMAH Relevant Incident is an incident at a COMAH establishment that is or could potentially have become a COMAH 'Major Accident' and must:

- a) involve a dangerous substance(s); and/or
- b) involve a failure of part of the safety management system (SMS).

COMAH relevant incidents include 'Major Accidents', as well as some other accidents, incidents, dangerous occurrences or other near misses (precursors) relevant to COMAH.

COMAH relevant incidents may come to light from reported incidents (e.g. RIDDOR or Environmental Permitting notifications), from complaints received or from CA inspection (e.g. inspection of maintenance system records or incident/near miss reporting records).

- 11.2 On receipt of information into HSE, EA or SEPA about an incident at a COMAH establishment, the **Regulatory Inspector** or **Agency Inspector** (or other **Field Team** member in their absence) shall consider the known facts of the incident and decide whether it is a COMAH Relevant Incident (see Box 2 above):
  - a) if it is a COMAH relevant incident, information about the incident should be exchanged with their counterpart in the CA without delay (within hours of awareness of the incident) i.e. the **Regulatory Inspector** will pass incident details to the **Agency Inspector** and vice-versa;
  - b) if it is not known whether an incident is a COMAH relevant incident, information must be exchanged and then the incident can be excluded from CA investigation at a later stage if it was found not to be COMAH relevant;
  - c) if site inspectors are not available the exchange may take place between their relevant **Team Leaders**.
- 11.3 Exchange of information on COMAH relevant incidents may initially be verbal, but should always be followed up as soon as is possible by a written exchange of information, which should be between **Regulatory/Agency Inspectors** and include an alert to their relevant **Team Leaders**.
- 11.4 Field teams need to be aware of how to contact each other (including out of hours arrangements) and contact details need to be agreed and maintained. Inspector details should be routinely updated and readily available and accessible at the outset of an incident.
- 11.5 Incidents which are not COMAH relevant can be dealt with outside the CA and it is not necessary to exchange information on these incidents. A record should be made of such incidents and why they are not COMAH relevant.

### 12. Initiating an investigation – COMAH relevant incidents

- 12.1 **Field Teams** within HSE, EA and SEPA responsible for regulation of COMAH need to ensure that evidence starts to be collected and secured as soon as the CA is aware of a COMAH relevant incident (subject to personal safety issues). This may require the issue of a direction to leave undisturbed, to preserve evidence for as long as is reasonably necessary for the purpose of examination or investigation.
- 12.2 The evidence required will depend on the nature of the incident, but initial reference should be made to the Investigation Outcomes section of this procedure when deciding what actions to take. **Field Teams** should pay particular attention in the early stages of an incident to collecting transient evidence such as gaining statements/video/photographic/sample evidence of ongoing events within and outside the establishment, prior to or during mitigatory action being taken (e.g. evidence of harm to persons and property inside and outside the establishment or evidence of failings in containment systems and harm to the environment being caused or permitted). Field teams should consider all incident responders/emergency services as potential witnesses.
- 12.3 The initial structure for an investigation team should be the same as that established for inspection of the establishment. The investigation will likely initially be led by the **HSE Principal Inspector** for the site, with the team being the same as the pre-incident inspection team (**Regulatory Inspector, Agency Inspector** and **Specialists** as necessary). Other staff of HSE and the agencies may also be involved, and it is important that they are aware who is leading the COMAH investigation in the initial phases and the evidence required. This position must be reviewed at the earliest opportunity, when establishing the Investigation Manager and Primary Investigation Team (see Investigation Phase 3 – Management Structure and oversight).

### 13. Investigation Phase 2: Initial Assessment

- 13.1 Within five working days of the CA becoming aware of a COMAH relevant incident, the Regulatory Inspector, Agency Inspector and Specialists (as necessary) will carry out an initial assessment of the available information. The assessment will be recorded on the *Initial Incident Impact Assessment* form (see **Appendix 3**).
- 13.2 This form supports assessment of known facts to determine whether the incident may be an EC Reportable Major Accident (schedule 7 criterion), a Major Accident (as defined by reg 2(1)), a Major Accident To The Environment (MATTE - DEFRA guide), or otherwise relevant to CA regulation of the site under COMAH. The completed form will provide a record which will inform the conduct of any continuing CA investigation and will require periodic review (see form in **Appendix 4**). The review process is explained further in Investigation Phase 3 – Management Structure and oversight.
- 13.3 It may be concluded at this stage that the incident is not actually a COMAH relevant incident and thus need not be investigated by the CA, but will be handed to either HSE or one of the agencies or another authority to manage. If this is the case, the *Initial Incident Impact Assessment* form enables a record of this decision.

- 13.4 The consideration of nature, extent and severity of the incident will enable the **Regulatory Inspector, Agency Inspector** and their **Team Leaders** to determine whether the investigation should be classified as Routine or Major (see Box 3 below) and record their view on the *Initial Incident Impact Assessment* form.

### 13.5 Box 3: Routine vs Major Incident Investigations

A COMAH Routine Investigation is an investigation of a 'COMAH Relevant Incident' that can be carried out and concluded using normal resourcing of the CA at local level without disruption to normal operations of the CA.

A COMAH Major Incident Investigation is an investigation of a 'COMAH Relevant Incident' which demands a response beyond the routine, i.e. significant deployment of CA resources (particularly staff time), which disrupts normal operations and means we have to reorganise our priorities.

- 13.6 Once complete, the *Initial Incident Impact Assessment* form should be reviewed and signed by the **Principal Inspector** and **EA PPC Team Leader or SEPA Process Engineering Unit Manager** and attached to COIN Investigation Case. Guidance on setting up COIN records for investigations is given at <http://intranet/information/coin/guidance/investigations.htm>

## 14. Investigation Phase 3: Management Structure and Oversight

- 14.1 The CA will investigate all major accidents (as defined by reg 2(1)), RIDDOR dangerous occurrences at COMAH establishments and other COMAH relevant incidents (the latter is subject to resource availability and the nature of the incident).

### Appointment of Investigation Manager (Major/EC Reportable incident investigations)

- 14.2 The **Principal Inspector** and **EA PPC Team Leader or SEPA Process Engineering Unit Manager** shall jointly ensure that all EC reportable major accidents and any incidents that appear to require a major incident investigation are referred to the Business Support Team without delay. This is to enable subsequent CA SMG oversight of these investigations. This referral should be via the usual head office contacts (e.g. HSE – CI4 Team Leader, EA – Technical Advisor, SEPA – Policy Advisor). The *Initial Incident Impact Assessment* form should be referred to when considering this issue, but referral to CASMG should occur at the earliest opportunity and it is not necessary to wait for this form to be completed if an incident is clearly major or EC reportable.
- 14.3 CASMG or other senior management of HSE or the agencies will, in consultation with local line management, appoint an Investigation Manager for any EC reportable major accidents or major incident investigation. This process will follow established procedures for major incident response and investigations, and may involve the establishment of a Major Incident Investigation Board (MIIB) and a Policy and Procedures Review (PPR).

### Appointment of Investigation manager (Routine investigations)

14.4 **The Principal Inspector** and **EA PPC Team Leader or SEPA Process Engineering Unit Manager** shall liaise and jointly appoint an Investigation Manager for routine investigations. The Investigation Manager for routine investigations will likely be either the Principal Inspector or the EA PPC Team Leader or SEPA Process Engineering Unit Manager. The decision will be guided by the nature of the incident, likely staffing of the primary investigation team and the principle that HSE leads for danger or harm to people, whilst the agencies lead for danger or harm to the environment.

### Role of Investigation Manager

14.5 The **Investigation Manager** shall form the Primary Investigation Team and shall ensure it is sufficiently resourced. Resourcing considerations include:

- team capabilities (to include regulatory/investigative/enforcement skills, experience of previous COMAH routine or major incident investigations, industry sector knowledge, technical specialist skills, office/evidence management skills and administrative support); and
- other resources (e.g. accommodation and equipment).

The investigation manager should also ensure the primary investigation has sufficient access to legal advice throughout the investigation.

14.6 When forming the primary investigation team the **Investigation Manager** should review the *Initial Incident Impact Assessment* form. Selection of Primary Investigation Team members will include consideration of the nature of the incident and the need to gather evidence to confirm or rule out impacts (by reference to the *Initial Incident Impact Assessment* form). Appointment of Primary Investigation Team members will follow the principle that HSE leads for danger or harm to people, whilst the agencies lead for danger or harm to the environment. The Primary Investigation Team for routine investigations will likely be small and involve the pre-incident inspection team (**Regulatory Inspector, Agency Inspector** and **Specialists** as necessary), subject to any need for assuring independence in the investigation process.

14.7 The **Investigation Manager** will ensure the Primary Investigation Team is sufficiently briefed on relevant aspects of the investigation.

14.8 The **Investigation Manager** will establish investigation terms of reference, objectives and a delivery plan in order to deliver the required investigation outcomes. This should include consideration of the full range of enforcement and other actions available to the CA (see outcomes section). The delivery plan should describe the required investigation tasks and for each task identify the task lead regulator (HSE or agency) and the task lead inspector/specialist/officer and a target completion date for that task. Example terms of reference and objectives are presented in [Appendix 2](#).

- 14.9 The **Investigation Manager** will ensure routine review of the investigation, to include delivery against terms of reference, objectives and the delivery plan. This should include review of the incident impact, monthly or sooner if significant information comes to light during investigation, and the outcome of this review recorded using the *Periodic Incident Impact Reassessment* form (see **Appendix 4**). Reassignment of the severity of the incident, either increasing or decreasing the severity or need to move from routine to major incident investigation shall be referred to the original *Initial Incident Impact Assessment* form signatories for ratification.
- 14.10 If at any time during an incident it becomes apparent that the incident is an EC reportable major accident, or requires a major incident investigation, the **Investigation Manager** shall ensure it is referred to the **Business Support Team** without delay to enable subsequent CASMG oversight of these investigations. This referral should be via head office contacts (e.g. HSE – CI4 Team Leader, EA – Technical Advisor, SEPA – Policy Advisor).

### 15. Investigation Phase 4: Dissemination of causes, lessons, recommendations and reporting to Europe

- 15.1 The **Investigation Manager** shall ensure that, once sufficient evidence has been gathered, RIDDOR DOs and any other investigated loss of containment incidents which meet the definition for a major accident are recorded on COIN in accordance with the guidance on "How to Record Investigation of loss of containment dangerous occurrences and other loss of containment Major Accidents on COIN". This information will inform CA knowledge on incident causation, mitigation and effects, allowing us to collate information and to share common themes across the CA and with industry.
- 15.2 The **Investigation Manager** and the **Primary Investigation Team** shall, at all times during an investigation, be aware that CA COMAH investigation Policy states:
- "Without prejudice to any potential enforcement action, the CA will seek to ensure early dissemination of causes and lessons from investigation and will make recommendations on future preventive measures. This will include identifying and transmitting without delay to duty holders and other appropriate recipients any information requiring immediate action to further safety and/or environmental protection".
- 15.3 Dissemination of information may be achieved by CA release of a:
- safety alert (for major faults that would result in a serious or fatal injury and where immediate remedial action is required);
  - safety notice;
  - message to duty holders or trade bodies;
  - bespoke report(s) (mostly these are for major incident investigations).
- 15.4 Safety bulletins (alerts and notices) are explained on the HSE website Safety Bulletins home page (<http://www.hse.gov.uk/safetybulletins/index.htm>). Further guidance, including the procedure for their preparation and issue, can be found on the HSE intranet (<http://intranet/safetybulletins/index.htm>).

- 15.5 If it becomes apparent to the **Investigation Manager** or the **Primary Investigation Team** that the CA should urgently alert duty holders to a serious situation, risk, or major hazard, then the **Investigation Manager** should seek advice on the means to achieve this via head office contacts (e.g. HSE – CI4 Team Leader, EA – Technical Advisor, SEPA – Policy Advisor).
- 15.6 The **Investigation Manager** shall, when requested by the **Business Support Team**, provide information to enable the CA to make the necessary reporting to Europe.
- 15.7 The **Investigation Manager** shall, when requested by the **Business Support Team**, provide information to enable the CA to issue
- a) new or revised guidance;
  - b) new or revised CA priorities;
  - c) new or revised CA policy and procedures; or
  - d) prepare and publish annual incident reports or any other incident details that may be seen as necessary to disclose in order to deliver the required investigation outcomes.

## 16. Glossary

### 16.1 COMAH Relevant Incident

An incident at a COMAH establishment that is or could potentially become a COMAH 'Major Accident' and must:

- a) involve dangerous substances; and/or
- b) involve a failure of part of the safety management system (SMS).

COMAH relevant incidents include 'Major Accidents', as well as some other accidents, incidents, dangerous occurrences or other near misses relevant to COMAH.

### 16.2 COMAH Major Incident Investigation

An investigation of a COMAH relevant incident which demands a response beyond the routine, i.e. significant deployment of CA resources (particularly staff time), which disrupts normal operations and means we have to reorganise our priorities.

### 16.3 COMAH Routine Investigation

An investigation of a COMAH relevant incident that can be carried out and concluded using normal resourcing of the CA at local level, without disruption to normal operations of the CA.

### 16.4 Field Teams

The teams in HSE, EA and SEPA responsible for regulation of COMAH and managed by Principal Inspectors, PPC Team Leaders and Process Engineering Unit Managers respectively.

### 16.5 IIA form *Initial Incident Impact Assessment* form (see [Appendix 3](#))

### 16.6 Investigation

The reactive work undertaken by the CA as a result of an incident or complaint at a COMAH establishment.

### 16.7 Major Accident

An occurrence (including in particular, a major emission, fire or explosion) resulting from uncontrolled developments in the course of the operation of any establishment and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances.



## **Appendix 1 – CA Policy for investigation and reporting of incidents at COMAH Establishments**

1. Incidents at COMAH establishments, including major accidents, may be notified to the CA via HSE, via the relevant agency, or via both parties. Upon receipt of information about a COMAH relevant incident, the two parts of the CA will exchange information without delay.
2. The CA will assess the available information to determine whether an incident is a COMAH major accident and to define the appropriate action to take as soon as possible in order to ensure thorough investigation of major accidents.
3. Investigation and reporting shall be carried out in accordance with:
  - a) duties placed on the CA within the COMAH regulations;
  - b) the policies and procedures of the parts of the CA.
4. The main purposes of the investigation shall be to collect and secure evidence, determine the factors leading up to the accident, its impact both on and off site, establish its causation including root causes and to initiate in a timely manner any remedial or improvement actions.
5. For an accident that is believed by the CA to be an EC reportable major accident, or those which may be classified by the CA as COMAH major incidents or investigations, the CA Strategic Management Group may oversee the investigation, which will potentially include establishing a Major Incident Investigation Board and carrying out a Major Incident Policy and Procedure Review.
6. For all major accident investigations the CA will appoint an investigation manager(s) and investigation team, and establish investigation objectives and terms of reference. When determining how an investigation will be structured and resourced, the CA will consider the actual and potential harm caused by the accident, including its extent and severity and whether harm has or could have been caused to persons, the environment or both.
7. The CASMG acknowledges the resource implications of investigations and will review CA resourcing levels as necessary.
8. Any necessary follow up action with operators following a major accident will be agreed by those involved in the investigation, in line with the CA enforcement policy.
9. Without prejudice to any potential enforcement action, the CA will seek to ensure early dissemination of causes and lessons from investigation and will make recommendations on future preventive measures. This will include identifying and transmitting without delay to duty holders and other appropriate recipients any information requiring immediate action to further safety and/or environmental protection. Any accident report linked to COMAH activities that is published will be under the auspices of the CA.
10. The CA Business Support Group will ensure all required major accident notifications and reports, including analysis and recommendations, are submitted to the European Commission and shall maintain the administrative arrangements to support this.

**Appendix 2 - Investigation objectives and terms of reference**

1. See Investigation Outcomes section of this procedure for context.

**Objectives**

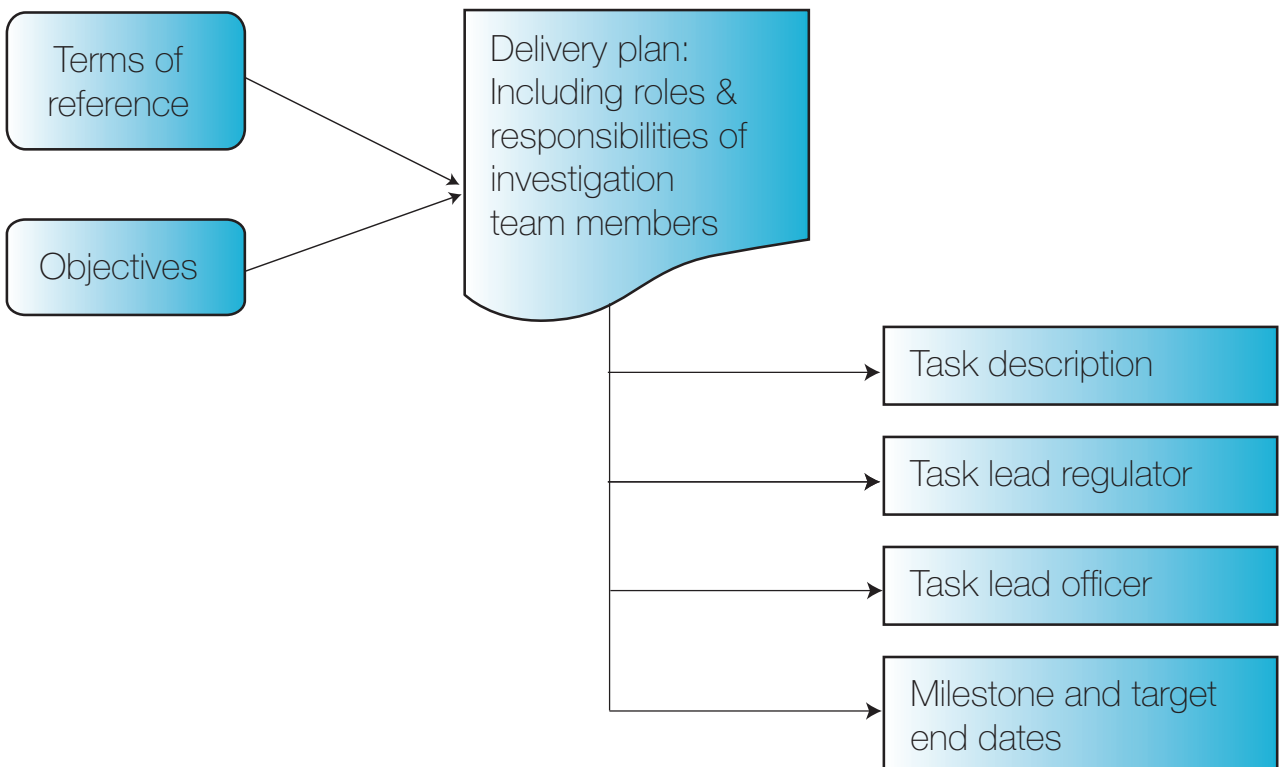
2. After an incident or complaint investigation is carried out to collect and secure evidence so that the CA can:
  - a) identify the immediate and underlying causes and consequences of the event;
  - b) rectify conditions giving rise to the particular accident;
  - c) identify any breaches of the law and the appropriate action to be taken in the circumstances;
  - d) ensure that similar conditions are not repeated in other parts of the same premises;
  - e) satisfy the expectations of the public, the media and pressure groups who expect action from the CA when a serious accident occurs;
  - f) act as a starting point for the analytical assessment of management's ability - a starting point as effective as a basic inspection in some places;
  - g) to contribute to the CA's knowledge of the causes of incident;
  - h) identify any shortcomings in policy, guidance or legislation and any consequential research;
  - i) help the CA evaluate the effectiveness of inspection activity; inform duty holders and the public about the causes of incidents and any relevant findings from investigations and;
  - j) meet the reasonable expectations of relevant stakeholders in line with other government commitments.

**Terms of reference**

3. The following terms of reference have been taken from those for a Major Incident Investigation Board, including PPR. For routine investigation, some (e.g. c&f&g) may not be appropriate. Terms of reference should reflect investigation outcomes, including reg 19(4) requirements:
  - a) to ensure the thorough investigation of the incident, the factors leading up to it, its impact both on and off site, and to establish its causation including root causes;
  - b) to identify and transmit without delay to duty holders and other appropriate recipients any information requiring immediate action to further safety and/or environmental protection in relation to storage and distribution of hydrocarbon fuels;
  - c) to examine the Health and Safety Executive's and the Environment Agency's role in regulating the activities on this site under the COMAH Regulations, considering relevant policy guidance and intervention activity;
  - d) to work closely with all relevant stakeholders, both to keep them informed of progress with the Investigation and to contribute relevant expertise to other inquiries that may be established;

- e) to make recommendations for future action to ensure the effective management and regulation of major accident risk at COMAH sites. This should include consideration of off-site as well as on-site risks and consider prevention of incidents, preparations for response to incidents, and mitigation of their effects;
- f) to produce an initial report for the Health and Safety Commission and the Environment Agency as soon as the main facts have been established. Subject to legal considerations, this report will be made public;
- g) to ensure that the relevant notifications are made to the European Commission;
- h) to make the final report public.

#### 4. Delivery Plan



### Appendix 3: Initial Incident Impact Assessment form

#### Initial Incident Impact Assessment form

Establishment: \_\_\_\_\_  
 Incumbent: \_\_\_\_\_  
 Date of Incident: \_\_\_\_\_

Brief Description of incident: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### Major Accident as Defined in the COMAH Regulations

If all three conditions in Table 1 below are confirmed as satisfied then the incident shall be considered a Major Accident and a COMAH Investigation should be initiated. As a precautionary measure in initial assessments, if there is any uncertainty in deciding whether a condition is satisfied or not then it should be treated as having the potential to be satisfied until confirmed otherwise and reassessed at the next assessment point.

**Table 1**

	Confirmed or Potential	No
Did the incident result from uncontrolled developments at a COMAH establishment?		
Has the incident led to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment?		
Did the incident involve one or more dangerous substances?		

#### Other need for COMAH investigation

If the incident is **not** a COMAH Major Accident (NO entered in any row of Table 1), does there remain an overriding need to investigate under COMAH due to the involvement of dangerous substances or a failure of part of the safety management system (SMS) that is or could potentially become the root cause or a contributory factor leading to a COMAH Major Accident.

YES / NO\*

If the CA will NOT investigate, should the incident investigation be undertaken in another Regulatory regime? If so which ...

YES/NO\*

Delete as Appropriate\*

**Major Accident to the Environment (MATTE) as Defined in the COMAH Regulations**

A COMAH Major Accident with a confirmed impact exceeding any one of the following consequences means that the incident should be considered a MATTE.

As a precautionary measure in initial assessments, if there is any uncertainty in deciding whether a condition is satisfied or not then it should be treated as having the potential to be satisfied until confirmed otherwise and reassessed at the next assessment point.

	Confirmed or Potential	No
Incident which fulfills the fundamental characteristics of a MATTE or matches any MATTE example (a-k) (see pages 17 & 18 of DEFRA MATTE guidance).		
Exceeds criteria / threshold in Chapter 4 Table of DEFRA MATTE guidance.	Confirmed or Potential	No
1. National Nature Reserves, Sites of special scientific Interest, Marine Nature Reserves (Land/Water)		
2. Natura 2000 sites, Ramsar sites (Land/Water)		
3. Other Designated Land (Land)		
4. Scarce Habitat (Land/Water)		
5. Widespread Habitat (Land/Water)		
6. Aquifers or Groundwater (Water)		
7. Soil or Sediment (Land/Water)		
8. Built Heritage (Land - Man Made)		
9. Various Receptors, as defined (Water)		
10. Particular Species (Land/Water/Air)		
11. Marine (Water)		
12. Freshwater and Estuarine Habitats (Water)		

**COMAH EC Reportable Major Accident (Schedule 7 criterion)**

A Major Accident as defined in the COMAH Regulations and confirmed above in Table 1 with a confirmed impact exceeding any one of the following consequences means that the incident should be referred to CASMG for potential reporting to Europe.

A potential impact exceeding any one of the following consequences means that the incident should be classified as a Major Accident (includes near miss) since the incident should be deemed to have presented a serious danger to either human health or the environment.

1. a) Substances involved

	Confirmed or Potential	No
Fire or Explosion or Accidental Discharge of a dangerous substance involving a quantity of at least 5% of the top tier threshold?		

b) Injury to persons and damage to property

An accident directly involving a dangerous substance and giving rise to:	Confirmed or Potential	No
a death		
six persons injured within the establishment and kept in hospital for at least 24 hours		
one person outside the establishment kept in hospital for at least 24 hours		
dwellings outside the establishments damaged and unusable as a result of the accident		
the evacuation or confinement of persons for more than two hours (person x hours): the value is at least 500		
the interruption of drinking water, electricity, gas or telephone services for more than two hours (person x hours): the value is at least 1000		

c) Immediate damage to the environment

(i) permanent or long term damage to terrestrial habitats:	Confirmed or Potential	No
0.5 ha (hectare) or more of a habitat of environmental or conservation importance protected by legislation.		
10 or more hectares of more widespread habitat including 7 part 1 agricultural land;		

(ii) significant or long-term damage to freshwater and marine habitats:	Confirmed or Potential	No
10 km or more of river or canal		
1 ha or more of a lake or pond		
2 ha or more of delta		
2 ha or more of coastline or open sea		

(iii) significant damage to an aquifer or underground water:	Confirmed or Potential	No
1 ha or more		

(d) damage to property:

	Confirmed or Potential	No
damage to property in the establishment of at least ECU 2 Million		
damage to property outside of at least ECU 0.5 Million		

(e) cross-border damage:

	Confirmed or Potential	No
any accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned		

Incident status: COMAH relevant incident / COMAH Major Accident / MATTE / EC Reportable COMAH Major Incident / Referral to investigate under another regulatory regime (Delete any which are not applicable)

Investigation Status: Routine / Major (Delete as appropriate)

### Signatories

\_\_\_\_\_ Principal Inspector (HSE)

\_\_\_\_\_ PPC TL (EA) / Process Engineering Unit Manager (SEPA)

### Form Completed By

\_\_\_\_\_

\_\_\_\_\_





**Appendix 4: Periodic Incident Impact Reassessment form**

Establishment: \_\_\_\_\_

Incumbent: \_\_\_\_\_

Date of Incident: \_\_\_\_\_

Current incident status: COMAH relevant incident / COMAH Major Accident / MATTE / EC Reportable COMAH Major Incident / (Delete any which are not applicable)

Current Investigation Status: Routine / Major (Delete as appropriate)

Notes on reassessment:

Initial assessment of incident severity and investigation status reviewed in light of emerging information and original assessment and investigation status confirmed as remaining valid

YES / NO\*

\*Delete as appropriate

If initial assessment is no longer valid in light of emerging information then original assessment signatories shall be informed immediately.

Signed: \_\_\_\_\_

Position: \_\_\_\_\_

Date of assessment review: \_\_\_\_\_

Date of referral to original signatories (if necessary): \_\_\_\_\_