

Allianz Engineering Inspection Services Ltd

# In service inspection of plant and machinery

Inspection Contract



**Allianz** 

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Allianz Engineering  
Head Office  
Haslemere Road  
Liphook  
Hampshire  
GU30 7UN  
UK

### Important

The Inspection Service provided by this Contract may be varied by clauses printed in the Schedule.

Please read all the pages of this Contract and Schedules carefully to ensure that your Inspection requirements are met.



# Inspection Contract

Allianz Engineering Inspection Services Limited (referred to as 'the Inspection Company') will carry out Inspections for the Client named in the Schedule in accordance with and subject to the terms of this Contract.

Please read all the pages of this Contract and Schedule carefully to ensure that your Inspection requirements are met.

For Allianz Engineering Inspection Services Limited

A handwritten signature in black ink, appearing to be 'SMG', with a horizontal line extending to the right.

Simon McGinn  
Director



# Inspection Service Definitions

The following words and expressions have been given the specific meaning set out below and shall have the same meaning wherever they appear in the Contract unless the context states otherwise:

## Client

The person or persons named in the Schedule.

## Competent Person

The Inspection Company and/or any engineer surveyor, standards engineer, special service engineer, principal engineer or other such appropriately qualified person authorised and employed or sub-contracted by the Inspection Company to perform the Inspection Service (as the context may require).

## Contract

The Contract between the Client and the Inspection Company for the Inspection Service which includes these conditions together with the Schedule and (where agreed between the parties) any proposal made by the Client to the Inspection Company. In the event of any conflict between the Client's proposal and these conditions, these conditions shall prevail.

## Contract Period

The period of the Contract shown in the Schedule.

## Force Majeure Event

An event outside the reasonable control of a party including without limitation: riot; civil unrest; military action or terrorism; damage to or destruction of premises, equipment or data; earthquake, storm, flood, or other natural disaster; severe weather; industrial action, strikes or lock-outs by employees of third parties; inability to obtain supplies of power, fuel, or transport; and/or exercise of emergency powers by any governmental authority whether national, regional or local.

## Group

In relation to the Inspection Company, the Inspection Company, any subsidiary or any holding company from time to time of the Inspection Company, and any subsidiary from time to time of a holding company of the Inspection Company (with "subsidiary" and "holding company" defined as per section 1159 of the Companies Act 2006).

## Inspection

An examination or inspection of Plant or equipment on behalf of the Client of a type required by legislation or regulation (or as otherwise agreed between the Inspection Company and the Client). Certain regulations require thorough examinations to be undertaken whilst others require inspections. For the purpose of this Contract, the two expressions are synonymous and the generic expression used throughout is "Inspection".

## Inspection Company

Allianz Engineering Inspection Services Limited trading as Allianz Engineering.

## Inspection Service

An Inspection of Plant by a Competent Person and (where applicable) in accordance with the requirements of such statutory requirements as apply to the Plant and the provision of a report of the Inspection by electronic mail or paper copy (as agreed with the Client).

## Normal Working Hours

8.00 am to 6.00 pm Monday to Friday excluding public bank and local holidays.

## Plant

The machinery and equipment shown or summarised in the Schedule.

## Schedule

The Schedule attached to these conditions and forming part of the Contract.

## Sites

The locations shown in the Schedule.

## Territorial Limits

Great Britain, Northern Ireland, The Isle of Man, the Channel Islands and Republic of Ireland.

# The Contract

The Inspection Company shall during the Contract Period subject to earlier termination provide the Client with an Inspection Service for Plant within Normal Working Hours at the Sites within the Territorial Limits.

For the avoidance of doubt the Client acknowledges that:

- i** Statutory regulations made under the Health and Safety at Work Act 1974 require the Client to have the Plant inspected. The provision of the Inspection Service does not relieve the Client of this responsibility. The Client acknowledges that it is the Client's legal responsibility to have the Plant inspected in accordance with all applicable legislation and the Inspection Company shall have no liability to the Client for any fines or other penalties incurred by the Client in this regard (including without limitation any fees for intervention levied against the Client by the Health and Safety Executive);
- ii** the Inspection Service will not include any services not specifically detailed within the Contract including without limitation the following services (although such services may be available subject to additional charges and the conclusion of a separate agreement between the parties):
  - 1** preparation of a Written Scheme of Examination (as defined within the Pressure Systems Safety Regulations 2000);
  - 2** tagging systems for Plant (Tagcheck);
  - 3** non destructive testing of Plant;
  - 4** consultancy services;
  - 5** specialist Inspections;
  - 6** additional and/or one off Inspections of Plant; and
  - 7** revisiting and re-inspecting an item of Plant where the company has identified that the item of Plant is a danger to persons;
- iii** it is responsible (at its own cost) for the care, custody maintenance, repair and control of the Plant at all times;
- iv** the purpose of the Inspection Service is only to identify and assess defects in the workings of the Plant and where required by regulation the deterioration that affects the safety of the Plant, but not defects in existing designs or in any proposed design changes;
- v** it is solely their obligation to ensure that the design of its Plant and any part of it is fit for purpose and reasonably safe, both by:
  - 1** arranging such analysis of its design as may be found necessary; and
  - 2** promptly rectifying any design defects of which they are or ought to be aware, including:
    - a** any design defects to which any Competent Person may, without obligation, draw attention; and/or
    - b** by taking the Plant out of service until these matters have been attended to;
- vi** unless agreed in writing between the Inspection Company and the Client, the Inspection Company will not undertake the approval or the verification of the fitness for purpose of any design or design features of the Plant or any part of the Plant and observations and recommendations made by the Competent Person on aspects of a design that affects safety, shall not imply that the Inspection Company accepts any responsibility for the fitness for purpose of the design;
- vii** unless agreed in writing between the Inspection Company and the Client, the Inspection Company shall not:
  - 1** carry out any witnessing of ultrasonic, radiographic or other tests of a non-routine nature or any proof load, load, stability, anchorage or similar tests; and/or
  - 2** specify, re-inspect, verify or approve repairs unless agreed in writing between the Inspection Company and the Client or unless required to do so by a regulation;
- viii** the Inspection Company has and accepts no responsibility for damage sustained by the Plant as a result of the failure of the Plant to withstand a test applied as part of the Inspection Service; and
- ix** in providing the Inspection Service, the Inspection Company follows the SAFed Health and Safety Passport Scheme. Any requirement or request by the Client for the provision of the Inspection Service to meet the standards of any other passport or similar scheme shall be the subject of a separate, written agreement and may involve payment of an adjusted Fee.

# Inspection Service Conditions

## 1 The Inspection Company shall:

- 1.1** carry out the Inspection Service with all due care in a safe manner;
- 1.2** comply with the Client's safe systems of work as notified to the Competent Person;
- 1.3** provide the Inspection Service within Normal Working Hours;
- 1.4** give the Client reasonable prior notice of its intention to attend Sites and where applicable, advise the Client of the need to prepare the Plant for Inspection; and
- 1.5** produce a report as soon as is reasonably practicable and in any event not later than fourteen (14) calendar days following completion of an Inspection.

## 2 The Inspection Company:

- 2.1** may appoint sub-contractors to carry out the whole or any part of the Inspection Service, provided that it uses appropriately qualified and accredited sub-contractors and remains responsible at all times for their acts and omissions;
- 2.2** may decline to carry out an Inspection if:
  - i** in its opinion, to do so would pose a risk to the health, safety or welfare of the Competent Person or to the Client or to any other person who may be affected; or
  - ii** the Client or any employee, agent, contractor or other such person associated with the Client behaves in a threatening or abusive manner towards the Competent Person or any other employee, agent or contractor of the Inspection Company (and any such threatening or abusive behaviour shall constitute a material breach of the Contract on the part of the Client for the purpose of Clause 5.3 i);
- 2.3** will make a charge in addition to the Fee shown in the Schedule if:
  - i** the Client requests and the Inspection Company agrees to carry out an Inspection outside Normal Working Hours;
  - ii** for safety reasons more than one Competent Person is necessary to carry out the Inspection;

- iii** the Client requires non-standard Inspection reports in paper form or requires a special reporting regime;
- iv** the Client requires the Inspection Company to use and/or interface with the Client's electronic systems (including without limitation any asset management system) in connection with provision of the Inspection Service;
- v** the Client requires the Competent Person to undertake induction sessions, training or to comply with permit to work or other risk assessment regimes or procedures specific to the Client's own health, safety and welfare procedures of which the Inspection Company was not made aware when the Contract was established or renewed;
- vi** the Client fails to prepare or make the Plant available to the Competent Person in accordance with these conditions on an agreed pre-appointed date and time;
- vii** the Competent Person is delayed from commencing an Inspection by more than fifteen (15) minutes because the Client has failed to comply with their obligations under Section 3 of this Contract; and/or
- viii** the Competent Person is delayed from leaving the Sites by more than fifteen (15) minutes because of the Client's requirements for services including but not limited to on-site meetings, verbal or written reports that are additional to the Contract.

## 3 The Client shall:

- 3.1** ensure that all documentation (including lists and/or details of Plant) provided to the Inspection Company is true, complete and accurate in all respects;
- 3.2** provide the Competent Person with:
  - i** safe access to and egress from the Sites;
  - ii** a safe working environment on the Sites;
  - iii** a safe physical means by which to gain access to carry out the Inspection of the Plant; and
  - iv** suitable rescue arrangements (including but not limited to standby men) should the Competent Person be required to work at heights and/or in confined spaces;

# Inspection Service Conditions *continued*

- 3.3** properly prepare, clean, cool, decommission and dismantle the Plant as necessary to enable the Competent Person to carry out the Inspection;
- 3.4** reassemble the Plant following completion of the Inspection;
- 3.5** co-operate with and upon request provide the Competent Person with such information and data relating to the Plant as he requires to conduct the Inspection Service;
- 3.6** inform the Inspection Company if the Competent Person or other such person associated with the Inspection Company behaves in a threatening or abusive manner towards the Client or any other employee, agent or contractor of the Client;
- 3.7** provide the Inspection Company with a minimum of two (2) working days notice in writing of the intention to cancel or postpone a planned Inspection. When such notice is not provided, the Inspection Company shall be entitled to charge for its wasted costs and the cost of resources it is unable to reallocate; and
- 3.8** notify the Inspection Company either on or before the renewal date of the Contract of its intention to renew such Contract. In the event that the Client decides to allow the Contract to lapse but fails to notify the Inspection Company prior to any Inspection Service being undertaken, the Client shall be liable to pay for the Inspection Company's fee in respect of such Inspection Service.
- 4.3** where the parties have agreed that an item of Plant will not have an Inspection at least annually, the Inspection Company may agree to apportion the Fee for the Inspection Services for that Plant over subsequent Contract Periods;
- 4.4** where the Plant is not made available by or on behalf of the client in accordance with the terms of the Contract for an Inspection, the Inspection Company will issue a "Plant Not Available" notice and will seek to rearrange a time to carry out the Inspection. The Fees will remain payable in respect of the initial Inspection and additional Fees will be charged for any return visits required as a result of the Plant not being made available. The provisions of Clause **9.4** will also apply;
- 4.5** the Fee may be adjusted after the Inspection is undertaken should:
  - i** the details of the Plant notified to the Inspection Company for the purposes of calculating the Fee differ from the Plant on Site requiring an Inspection Service; or
  - ii** anything beyond the reasonable control of the Inspection Company (including without limitation a change in applicable legislation) increase the cost to the Inspection Company of provision of the Inspection Service;
- 4.6** the Client may add or delete individual items of Plant from the categories of Plant shown in the Schedule during the Contract Period;
- 4.7** the Fee may be adjusted at any time during the Contract Period to take account of any Plant added during the Contract Period;
- 4.8** the Client will pay or the Inspection Company will refund the difference between the Fee and the adjusted Fee as the case may be;
- 4.9** the Inspection Company will be entitled to charge reasonable expenses and disbursements incurred in performing the Inspections, including without limitation for work carried out outside of Normal Working Hours;
- 4.10** the Client must pay all undisputed invoices without any deduction, withholding, counterclaim or set-off;

## 4 Fees

The Inspection Company and the Client agree that:

- 4.1** the Client will pay the amount shown in the Schedule (the Fee) in cleared funds to a bank account nominated in writing by the Inspection Company, or at the Inspection Company's discretion by the Client's insurance broker on behalf of the Inspection Company, in each case within thirty (30) calendar days of the date of the Inspection Company's invoice or, if different, such period as is specified on the insurance broker's invoice;
- 4.2** the Fee is calculated on Plant as notified to the Inspection Company by the Client at the start of the Contract Period;

# Inspection Service Conditions *continued*

- 4.11** the Inspection Company may set-off any amount owing to it by the Client against any amount it owes to the Client;
  - 4.12** all Fees shall be subject to value added tax at the appropriate rate;
  - 4.13** if the Client disputes any item of an invoice it must notify the Inspection Company in writing within twenty-one (21) calendar days of receipt of such invoice, after which time the invoice shall be deemed accepted; and
  - 4.14** should any undisputed invoice remain unpaid for a further twenty-one (21) calendar days following receipt by the Client of a notice from the Inspection Company that payment has become overdue, the Inspection Company will be entitled to suspend all Inspections until such time as the invoice is settled in full, with the Inspection Company providing no guarantee that Plant will be able to be inspected following resumption of Inspections in time for it to not become overdue. It is the Client's responsibility to rearrange Inspection of such Plant or take it out of service and the Inspection Company will have no liability to the Client in such circumstances should the Plant become overdue for Inspection.
- ii** goes into liquidation, has a receiver, administrative receiver or similar office appointed over any of its assets, makes a voluntary arrangement with its creditors, becomes subject to an administration order, has an administrator appointed, or anything analogous to these events occurs in relation to the other party; or
  - iii** in the case of an individual or partnership, the individual or individuals become(s) bankrupt.
- 5.4** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect following termination or expiry.
  - 5.5** Following termination or expiry of the Contract:
    - i** any Fees for work carried out up to the date of such termination or expiry will remain payable by the Client (including without limitation any additional charges payable in accordance with the terms of the Contract); and
    - ii** the Inspection Company will consider in good faith any request to assist with transfer of the Inspections to a new provider, provided that the Inspection Company may make reasonable charges for the provision of such assistance.

## 5 Termination of Contract

- 5.1** The Inspection Company may terminate the Contract on thirty (30) calendar days notice. If the Client has paid the Fee in full the Client shall be entitled to a refund of the Fees in respect of Inspections outstanding.
- 5.2** The Inspection Company may terminate the Contract with immediate effect should the Client breach (or the Inspection Company have reasonable grounds to suspect the Client is in breach of) any anti-bribery legislation including without limitation the Bribery Act 2010.
- 5.3** Either the Client or the Inspection Company may terminate the Contract by giving written notice to the other if the other:
  - i** commits any material breach of the Contract and (where the breach is capable of remedy) fails to remedy the breach within thirty (30) calendar days after being required to do so;

## 6 Anti-Bribery

- 6.1** Both parties:
  - i** shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 (regardless of where such activity, practice, or conduct is carried out);
  - ii** shall not offer or give, or agree to give, to any employee, agent, servant or representative of the other party any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Contract or any other contract, or for showing or refraining from showing favour or disfavour to any person in relation to this Contract or any such contract;



# Inspection Service Conditions *continued*

- iii shall have in place adequate procedures designed to prevent persons employed by or associated with them from bribing another person;
- iv shall promptly report to the other party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Contract; and
- v warrant that they have not paid commission or agreed to pay any commission to any employee or representative of the other party.

**6.2** Where a party or a party's employees, servants, sub-suppliers, suppliers or agents or anyone acting on the party's behalf, engages in conduct prohibited by this clause in relation to this or any other contract between the parties, the other party shall have the right to terminate this Contract immediately and recover from the first party the amount of any loss suffered by that party resulting from such termination; or to recover in full from the first party any other loss sustained by that party in consequence of any breach of this clause, whether or not this Contract has been terminated.

## 7 Confidentiality

**7.1** Unless otherwise agreed, each party shall keep confidential the terms of the Contract and all information of a confidential nature that it may acquire in relation to the business or affairs of the other party (Confidential Information). Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under this Contract, unless otherwise required by law or the Confidential Information has entered the public domain other than through the fault of the party which received such Confidential Information. The obligations in this clause shall continue for a period of three (3) years from the date of expiry or termination of the Contract.

**7.2** The Inspection Company shall in the case of:

- i a merger between two (2) or more Clients or the purchase of one Client by another, make the Confidential Information available to all relevant parties subject to approval in writing from the principal Client or new owner or their appointed Agent; and
- ii a de-merger or sale where all parties remain Inspection Clients, make the Confidential Information available to all relevant parties subject to approval in writing from the organisation holding the original contractual rights.

**7.3** The Inspection Company shall be entitled to:

- i share Confidential Information with other members of its Group; and
- ii retain a copy of any Confidential Information as required for regulatory purposes and/or to show evidence of compliance with this Clause 7.

## 8 Indemnity

The Client indemnifies and shall keep the Inspection Company indemnified in respect of any claims of any nature made against any and all damages, costs and expenses suffered or incurred by the Inspection Company as a result of any third party claim arising out of the Client's failure to comply with its obligations under the Contract.

## 9 Liability

**9.1** In substitution for all rights which the Client would or might have but for the Contracts, the Inspection Company undertakes that if an Inspection is performed in a defective or erroneous manner then the Inspection Company will at its discretion either credit to the Client the Fee paid by the Client and attributable to the Inspection or re-perform the Inspection (save as to the time of performance).

**9.2** The Inspection Company's liability under or in connection with this Contract, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed the sum of ten million pounds (£10,000,000) in the aggregate.

# Inspection Service Conditions *continued*

- 9.3** Neither the Inspection Company nor the Client shall be liable to the other party in contract, tort, negligence, breach of statutory duty or otherwise for any:
- i** loss of profits;
  - ii** economic loss;
  - iii** loss of turnover;
  - iv** loss of business;
  - v** loss of data;
  - vi** loss of goodwill; and/or
  - vii** indirect, special or consequential losses.
- 9.4** The Inspection Company shall have no liability under the Contract for any failure or delay in the provision of an Inspection to the extent that the same is contributed to by the acts or omissions of the Client (including without limitation where Plant is not made available for Inspection), even if the same results in Plant becoming overdue for Inspection and in such circumstances it shall be the Client's responsibility to rearrange Inspection of such Plant or take it out of service.
- 9.5** Where any Plant is overdue for Inspection at the time it is added to the Contract (including at commencement of the Contract), or where Plant becomes overdue for Inspection as a result of the acts and omissions of the Client, the Inspection Company will seek to agree a timetable with the Client for the Inspection of such Plant. However, the Client acknowledges that the Inspection Company shall have no liability in respect of such overdue Plant and the Client indemnifies and shall keep the Inspection Company indemnified in respect of any claims of any nature made against any and all damages, costs and expenses suffered or incurred by the Inspection Company in connection with such Plant being overdue for Inspection.
- 9.6** Nothing in this Contract shall operate to limit or exclude the liability of either party for fraud, fraudulent misrepresentation, death or personal injury caused by its negligence, or any other liability which cannot be limited or excluded by law.

## 10 General

### 10.1 Transfer of Employees

The Inspection Company shall not be obliged to employ any employees of the Client or a previous service provider to the Client in connection with the Contract and the Client indemnifies and shall keep the Inspection Company indemnified against any and all damages, costs and expenses suffered or incurred by the Inspection Company as a result of any claim (including for dismissal) or demand of any nature by any such employee against the Inspection Company.

### 10.2 Force Majeure

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for three (3) months or more the party not affected may terminate the Contract by giving fourteen (14) calendar days written notice to the affected party.

### 10.3 Data Protection

- i** The Inspection Company shall process any personal data it receives from the Client (or obtained from third parties in the course of providing the Inspection) in accordance with applicable data protection laws and only where necessary for the performance of its obligations under the Contract.
- ii** The Inspection Company shall have in place appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction, alteration or disclosure, including the measures prescribed by applicable data protection laws.
- iii** Personal data will not be retained for longer than is necessary.
- iv** Personal data may be transferred to countries outside the EEA but will at all times be held securely.

# Inspection Service Conditions *continued*

## 10.4 Allianz Name, Logo and Reputation

- i Nothing in this Contract shall grant any right or licence to the Client to use the name, logo, or any intellectual property of the Inspection Company without the prior written consent of the Inspection Company.
- ii Without prejudice to Clause 10.4 i the Client shall not make reference to the Inspection Company, or hold itself out as associated with the Inspection Company, in any promotional or marketing documentation without the prior written consent of the Inspection Company.
- iii The Client shall not by its actions or omissions do anything which may harm the reputation, image or goodwill of the Inspection Company or its Group.

## 10.5 Assignment and Subcontracting

The Contract is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Inspection Company (such consent not to be unreasonably withheld or delayed).

## 10.6 Relationship of the parties

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

## 10.7 Variations to the Contract

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## 10.8 Notices

Any notice given to a party under or in connection with this Contract shall be in writing and shall be delivered by hand or sent by recorded delivery or pre-paid first-class post or other next working day delivery service to the address set out in the Schedule or its principal place of business (in any other case) (and in the case of notices to the Company, a copy shall be required to be sent for the attention of the Company Secretary at the same address).

## 10.9 Entire Agreement

- i The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- ii Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

## 10.10 No Waiver

No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## 10.11 Rights of Third Parties

No one other than a party to the Contract shall have any right to enforce any of its terms.

## 10.12 Unenforceable Terms

If any provision in the Contract is held by any competent court to be unenforceable in whole or in part, the validity of the other provisions and the remainder of the provision in question shall not be affected.

## 10.13 Language, Governing Law and Jurisdiction

- i The language of the Contract and all communications relating to it will be in English.
- ii English law shall apply to the Contract and the parties agree to submit to the exclusive jurisdiction of the English Courts in respect of all disputes arising out of or in connection with the Contract (whether of a contractual or tortious nature or otherwise).

# Complaints Procedure

The Inspection Company aim to get it right, first time, every time. If we (the Inspection Company) make a mistake, we will try to put it right promptly.

We will always confirm to you (the Client) the receipt of your complaint within five working days and do our best to resolve the problem within four weeks. If we cannot we will let you know when an answer may be expected.

Should you wish to make a complaint then it should be directed to your Engineer Surveyor or Customer Satisfaction Manager at the Allianz location shown below:

Allianz Engineering  
Head Office  
Haslemere Road  
Liphook  
Hampshire  
GU30 7UN  
UK

**Tel:** 01428 722407

**Fax:** 01428 724824

**E-mail:** [customer.satisfaction@allianz.co.uk](mailto:customer.satisfaction@allianz.co.uk)

Using our complaints procedure does not affect your legal rights.



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ACE1281\_19 10.17