

Anglian Water

Enforcement
Policy

Trade Effluent

Introduction

1. Anglian Water Services Limited is the statutory water and sewerage undertaker for the Anglian Region. The company's statutory duties include the provision of essential water supplies and the collection, treatment and disposal of used water for approximately 5.6 million customers. The company has regulatory powers including the powers of enforcement and prosecution that are essential for ensuring:
 - the health and safety of employees and the public
 - the protection of the environment
 - the protection of company assets
 - the conservation of water supplies
 - the protection of drinking water quality
 - the company complies with its own statutory and regulatory obligations

Trade Effluent discharges to sewers are controlled by Anglian Water. Traders are not allowed to discharge trade effluent to the sewer without the company's permission, which is granted in the form of a Consent to Discharge. Traders are required to comply with the conditions of the Consent to Discharge at all times.

The company works with its traders to achieve compliance. Where necessary this may involve formal enforcement action under the provisions of the Water Industry Act 1991.

2. Primarily the company seeks to secure compliance by offering information and support to those it regulates. It encourages traders to adopt best practice into normal working methods.
3. This policy sets out the general principles the company intends to follow for enforcement and prosecution.

Purpose and Methods of Enforcement

4. The purpose of enforcement is to ensure that preventative or remedial action is taken to secure compliance with the law. The need for enforcement may arise from any unconsented activity, any breach of a consent condition or from some other form of illegal activity. The company expects full compliance with relevant legislative requirements and consents. Enforcement powers will be used by the company to ensure full compliance.
5. Where a criminal offence has been committed, the company will consider initiating a prosecution, administering a caution or issuing a warning to secure compliance with the law and to ensure a proportionate response to the criminal offence committed. These enforcement methods are distinct from other legal remedies which

may be available to the company such as a civil action for damages and/or an injunction.

Principles of Enforcement

6. The underlying principles of this enforcement policy are:
 - proportionality in the application of the law and in securing compliance
 - consistency of approach
 - transparency in how the company operates
 - accountability
 - targeting of enforcement action

Proportionality

7. The principle of proportionality seeks to achieve a balance of action to protect company assets and preserve essential services against risks and costs.
8. Some incidents or breaches of regulatory requirements cause or have the potential to cause serious damage to the company's assets and/or serious interruption to the company's activities. The company's first response is to prevent such consequences occurring or continuing. The enforcement action taken by the company will be proportionate to the risks posed and to the seriousness of any breach of the law (including actual harm and the potential for harm).

Consistency

9. The company seeks to achieve consistency in information and support tendered and recommendations made, its response to incidents, the use of powers and enforcement decisions.
10. It is to be recognised that this does not mean simple uniformity. The company needs to take into account many factors, including but not limited to, the scale of any consequences, the attitude and actions of management and the history of compliance. Decisions on enforcement are a matter of professional judgment and the company will exercise discretion and appropriate methods to secure compliance with the law.

Transparency

11. The company through this policy, the training of its staff and the review and development of its procedures seeks to ensure that:
 - Traders understand how enforcement action is taken.
 - Where remedial action is required, it is clearly explained (in writing, if requested) why the action is necessary and when it must be carried out; The company aims to distinguish clearly between best practice information and legal requirements.

- Opportunity is provided to discuss what is required to comply with the law.
- Where urgent action is required, a written explanation of the reasons is provided as soon as practicable.
- The company will always notify traders of a non-compliance with its Consent to Discharge.

Accountability

12. Regulators are accountable to the public for their actions and therefore must have policies and procedures against which they can be assessed.

Targeting

13. The company seeks to ensure that regulatory effort is directed primarily but not exhaustively to those whose activities give rise to serious consequences, where risks and/or hazards are least well controlled or against deliberate pollution or organised crime.

Enforcement Options

Prosecution

Purpose

14. The use of the criminal process to initiate a prosecution is an important part of enforcement. It aims to punish wrongdoing, to avoid a reoccurrence and to act as a deterrent to others. It may be appropriate to use prosecution in conjunction with other remedies available to the company. Prosecutions without previous warnings may be pursued where the circumstances warrant it provided the criteria below are met.

15. A decision to prosecute will be taken after full consideration of the implications and consequences. Decisions to prosecute will take account of the Code for Crown Prosecutors.

Sufficiency of Evidence

16. A prosecution will not be commenced or continued by the company unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction.

Public Interest Factors

17. In addition to the evidential test, the company will consider the following factors in deciding whether or not to prosecute:

- Effect of the offence
- Foreseeability of the offence and the circumstances leading up to it
- Intent of the offender

- Past compliance record
- Attitude of the offender
- Deterrent effect of a prosecution both on the offender and others
- Financial implications of the offending behaviour
- Personal circumstances of the offender
- Willingness to co-operate

18. The factors listed above will be considered in making an overall assessment. There may be additional factors taken into consideration depending on the circumstances.

Companies and Individuals

19. Criminal proceedings will be taken against those responsible for the offence.

Choice of Court

20. In cases of sufficient gravity, where circumstances allow, consideration will be given to recommending to the Magistrates that the case be referred to the Crown Court. The same factors as those listed at paragraph 17 above will be used, in addition to consideration of the sentencing powers in the Magistrates' Court.

Penalties

21. The existing law gives the courts considerable scope to punish offenders and deter others. Unlimited fines and/or imprisonment may be imposed by the higher courts. The company will continue to raise the awareness of the courts to the gravity of some offences and will encourage them to make full use of their sentencing powers.

22. The company will always seek to recover the costs of investigation and Court proceedings.

Presumption of Prosecution

23. Where there is sufficient evidence the company will normally prosecute in any of the following circumstances:

- Incidents or breaches which have significant consequences or which have the potential for such consequences
- Failure to comply, or to comply adequately, with formal remedial requirements
- Reckless disregard for management or quality standards
- Failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information
- Obstruction of the company's employees in carrying out their duties
- Impersonating the company's employees

Alternatives to Prosecution

24. In cases where prosecution is not the most appropriate course of action, the alternatives of a caution or warning will be considered, the choice depending on the factors listed above.
25. A caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought. The caution will be brought to the court's attention if the offender is convicted of a subsequent offence.
26. A warning is a written notification that the company believes that an offence has been committed. It will be recorded and may be referred to in any subsequent enforcement proceedings.
27. Additional or alternative remedies e.g. civil actions may be pursued for loss/damage which has occurred as a result of the illegal activity/incident.

Working with other Regulators

28. Where the company and another enforcement body both have the power to prosecute, the company will liaise with that other body to ensure effective co-ordination.

Getting in touch

If you have questions about the service we have provided or how we have treated you we would encourage you to take this up initially with your local Catchment Quality Scientist.

If you wish to make a complaint this can be done by email to anglianwatercustomerservices@anglianwater.co.uk

or in writing to;
Anglian Water Customer Services
PO Box 10642
Harlow
CM20 9HA