

Response form

Consultation on changes to the enforcement and sanctions policy – including implementing new water and waste enforcement powers

Privacy notice

We would like to keep you informed about the outcomes of the consultation. After the consultation closes, we will publish our response to the consultation on GOV.UK.

We will email you about the consultation if you provide your email address. Your details will only be used for this purpose.

We will not share your details without consent, unless required to do so by law. By giving us your email address, you consent for us to email you about the consultation.

You can withdraw your consent to receive these emails at any time by contacting us at: enquiries@environment-agency.gov.uk

The Environment Agency is the data controller for the personal data you provide. For more information on how we deal with your personal data please see our [personal information charter](#) on GOV.UK.

You can email our Data Protection team at: dataprotection@environment-agency.gov.uk

How we will use your information

We may publish responses received by us unless you have specifically requested that we keep your response confidential.

We will not publish names of individuals or identifiable details. We will publish the name of the organisation for those responses made on behalf of organisations except for sole traders or partnerships.

Once the consultation has closed, we will publish our response to the consultation on GOV.UK. If you have requested updates, we will notify you when it is available and how to access it.

Under the Freedom of Information Act 2000, we may need to share your response, we will not include personal details. If you have requested your response to be kept confidential, we may need to provide a summary of it.

Consultation principles

We're running this consultation in accordance with the guidance set out in the government's consultation principles.

If you believe the consultation has not been run in accordance with these principles, please email consultation.enquiries@environment-agency.gov.uk

Otherwise, for all other queries relating to this consultation please email enquiries@environment-agency.gov.uk

Responding to this consultation

This consultation runs for 8 weeks from 10 August 2026 until 11:59pm on the 4 October 2026. You can view the consultation and supporting documents on our consultation website – [Citizen Space](#)

We will consider all responses received by the closing date before finalising our proposals.

Returning your response

Your response to this consultation needs to be returned by 11:59pm on the 4 October 2026.

We would like you to use this form if you are not submitting your response online.

Please email your completed Response form with the subject header of 'Consultation on the Environment Agency's enforcement and sanctions policy' to enquiries@environment-agency.gov.uk

Ask for a printed version of the consultation document

If you use assistive technology (such as a screen reader) and need a version of this document or the Response form in a more accessible format, you can contact our National Customer Contact Centre. It will help us if you say what assistive technology you use.

Email: enquiries@environment-agency.gov.uk

Telephone: 03708 506 506 ((Monday to Friday, 8am to 6pm)

About you or your organisation

To help us when we come to analyse the consultation responses, we would like you to answer a few questions about you, or where relevant, about your organisation.

It would be helpful for us to know who you are responding on behalf of.

Please choose one of the following:

- ☐ Individual response
- ☒ Response on behalf of an organisation or group (for example, business, charity, not-for-profit organisation, trade association)
- ☐ Other

If you're responding on behalf of an organisation or group, what is the name of the organisation or group:

The Rivers Trust _____

If you select other, please explain your area of interest:

We would like to keep you informed about the outcomes of this consultation. Please tell us if you would like to:

- ☒ Receive an email telling you when we have published our response to the consultation.

If you have ticked the box above, please provide your email address.

Email:

Pierrick.Roger@theriverstrust.org _____

Can we publish your response? We will not include personal information.

This is a required question.

Please select one of the following:

- ☒ Yes
- ☐ No

If you answered 'no', please tell us why as we will need to understand this when responding to any Freedom of Information requests.

Please tell us how you found out about the consultation on changes to the enforcement and sanctions policy.

- ☒ From the Environment Agency
 - ☐ From another organisation
 - ☐ Through the organisation you're a member of
 - ☐ Press article
 - ☐ Through a trade association
 - ☐ Other (please specify)
-

We welcome your views on the following questions

1. General Principles

Consistency guidelines for enforcement undertakings

Question 1.1: In section 8, we set out our approach and updates to the "consistency guidelines" for enforcement undertakings. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☒ Changes are needed – please provide details below

The Rivers Trust broadly supports and welcomes the revised consistency guidelines. We recommend three clarifications:

1. Environmental benefit should be demonstrably additional. Section 8.2 states that an undertaking may include payment to an environmental charity or third party to restore harm or achieve equivalent benefit. We recommend clarifying that any environmental benefit funded through an undertaking should, so far as reasonably practicable, be additional to work that is already required, committed to or otherwise expected to be undertaken. This would help ensure that an undertaking delivers a genuine environmental benefit rather than funding basic/legally required compliance.
2. Give greater prominence to appropriateness of location. We recognise that equivalent benefit may sometimes need to be delivered elsewhere. However, where practical, the policy should encourage restoration or compensatory environmental benefit that is connected to the affected catchment or ecosystem, particularly where communities and ecosystems have experienced localised harm. This would avoid undertakings being treated as offsets rather than being a true remedial tool to environmental harm. We do, however, recognise that it may not always be practical to do so, such as where receiving organisations do not have capacity to deliver or where geography is rather large.
3. Section 8.1 should be amended to say 'We will not consider an enforcement undertaking to be the appropriate regulatory response where: an incident or breach has been classified under the CCS or CICS as category 1 or, the offending or breach was deliberate or persistent' rather than 'We are unlikely to consider [...]'. We believe this would provide clarity that enforcement undertakings will not be accepted for the most serious incidents or breaches, ensuring that the policy is applied consistently and that these cases are met with a suitably robust regulatory response.

Victims

Question 1.2: In the main policy document, we have set out our approach and updates regarding victims. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

☐ No changes needed

☐ No opinion

☒ Changes are needed – please provide details below

The Rivers Trust welcomes the explicit addition of a requirement to consider victim and third parties whose interests have been negatively affected by an environmental incident. We would recommend clarifying how this principle will operate in environmental cases where harm is diffuse, affects a community collectively, or where there is no readily identifiable individual victim. Additional detail would ensure that the principle is applied consistently, transparently and proportionately.

Public interest factors

Question 1.3: In section 6 we have set out our revised approach to the public interest factors. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Additional comments

If you would like to provide any additional information that has not been covered elsewhere please provide it here:

The Rivers Trust would like to make the following additional comments on Sections 3 to 5 of the proposed Enforcement & Sanctions Policy:

- **Section 3.1.1:** When considering the impact on economic growth of taking a decision to enforce or not, the impact of continuing environmental harm on economic growth should also be considered, particularly when one considers the deterrent effect of enforcement on other offenders, and the cumulative impact of multiple pollutions driven by the understanding that a blind eye will be turned to infringements. An example of this is the widespread – almost endemic – non-compliance with farming regulations that is causing very serious pollution at a national scale that has huge costs for the rest of the economy.
- **Section 3.1.4:** Targeting enforcement action on the most serious crimes is an obvious response to limited resources for enforcement. However, the problem with that is that minor offences are very common. As a result, many thousands of minor incidents do not get addressed with enforcement action and their cumulative impact is often greater than the impact of the serious incidents against which the EA holds itself to account. This is what leads to the death of rivers by a thousand cuts. By conspicuously excluding minor offences from regulatory effort, it becomes known by offenders that these will not lead to a sanction and so they become acceptable, routine practice. Clearly, it would not be feasible for all minor offences to be prosecuted, but not prosecuting any of them has serious implications for the environment, that causes significant costs to the rest of society. The introduction of civil sanctions is an opportunity to address these minor pollutions.
- **Section 3.1.5:** The EA does not currently explain its reasons for agreeing to Enforcement Undertakings and how it came to the decision to do so. It merely states that it did so in accordance with its sanctions policy. We would welcome a requirement within the policy for the EA to publish the reasoning behind its decisions to agree an Enforcement Undertaking as a way to bolster transparency of its processes. This would also bring clarity to the organisation receiving the undertaking, as without it, the organisations are often left without any explanation to provide to the communities they are based in and inadvertently risks bringing enforcement undertakings into disrepute. A requirement to agree joined-up communications with receiving organisations would be a welcome addition to the policy. We would also recommend the inclusion of the timescales within which the Agency will determine Enforcement Undertakings, and that the time it takes to determine an Undertaking should be greatly reduced on the current situation whereby they can take years to be determined.
- **Section 3.2:** It is very important that decisions about prosecutions are not subject to the growth duty. The Rivers Trust welcomes this statement.
- **Section 4.3:** If “the Crown” includes government agencies, then we question whether this is appropriate. Pollution incidents are routinely caused by outfalls from highways managed by the Highways Agency, for example, but no regulatory action is taken. This creates asymmetric regulation when compared with other sectors (e.g. water companies).

- **Section 5:** The policy should expressly clarify that Enforcement Undertakings can be offered and considered as an alternative to the imposition of the new Civil Variable Monetary Penalties (VMP). Without such clarification, there is a risk of uncertainty regarding the continued role and practical availability of EUs within the enforcement framework.
- **Section 5.2.4:** “Our acceptance of an enforcement undertaking does not affect the ability of any third party to bring a civil claim against the offeror or any other person.” We welcome this statement, but it could go further to say “and any payment made under an enforcement undertaking must not be used by the offeror as mitigation in any civil claim by a third party.”
- **Section 5.4:** This section appears to say that formal cautions are worthless in future court cases because they are spent as soon as they are issued, which calls into question their utility.

2. Civil penalties for the water industry

Civil variable monetary penalties

Question 2.1: In Annex 5 we set out when we have the power to issue a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 2.2: In Annex 5 we set out how we will use a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 2.3: In Annex 5 we set out our approach for applying a civil variable monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

How we calculate Water (Special Measures) Act civil variable monetary penalties

Question 2.4: In Annex 5 we set out how we will calculate a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☒ Changes are needed – please provide details below

The Rivers Trust supports the use of a stepped methodology based on the Sentencing Council's environmental offences guideline. We recommend two changes. Firstly, it appears that in paragraph 3.3 of Annex 5, links intended to point to the Sentencing Council's Definite Guideline is incorrect and leads to an error page. Secondly, there appears to be a potential source of confusion between the penalty cap referred to in paragraph 3.3 for civil VMP (maximum £500,000) and starting points for larger organisation in paragraph 3.3 Step 1 (starting at £1 million, up to £3 million). We understand from the text explains the tariff scale in the Sentencing Council Guideline. Without clarification, a reader could reasonably find the two provisions contradictory.

Question 2.5: In Annex 5 we set out our method for calculating a civil variable monetary penalty. Does the method require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

Civil fixed monetary penalties

Question 2.6: In Annex 5 we set out when we have the power to issue a fixed variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 2.7: In Annex 5 we set out how we will use a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☒ Changes are needed – please provide details below

We believe the guidance is clear and easy to understand. However, there appears to be a typographical error in the guidance at paragraph 3.1(d). We believe this should read '(d) £50,000,000 or more, but not more than £249,999,999, the relevant amount is £14,000;' and not '(d) £50,0000 or more, but not more than £249,999, the relevant amount is £14,000;' which is what the draft annex currently states.

Question 2.8: In Annex 5 we set out our approach for applying a civil fixed monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Automatic penalties and when we will use them

Question 2.9: In Annex 5 we set out when we will issue an automatic penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

When can we choose not to impose an automatic penalty

Question 2.10: In Annex 5 we set out circumstances in which we may apply one of the exceptions to imposing an automatic penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

How we will decide what enforcement option to use

Question 2.11: In Annex 5 we set out how we will consider what enforcement option to use. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☒ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

3. Digital waste tracking

Our approach to using civil sanctions

Question 3.1: In Section 1, Part B of Annex 4 we set out what civil sanctions are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.2: In Section 1, Part B of Annex 4 we set out our approach to using the civil sanctions that are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

How we will apply and calculate fixed monetary penalties

Question 3.3: In Section 2, Part B of Annex 4 we set out when we have the power to issue a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed

- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.4: In Section 2, Part B of Annex 4 we set out how we will use a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.5: In Section 2, Part B of Annex 4 we set out our approach for applying a civil fixed monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

How we will apply and calculate variable monetary penalties

Question 3.6: In Section 3, Part B of Annex 4 we set out when we have the power to issue a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed

- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.7: In Section 3, Part B of Annex 4 we set out how we will use a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.8: In Section 3, Part B of Annex 4 we set out our approach for applying a civil variable monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.9: In Section 3, Part B of Annex 4 we set out how we will calculate a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

Question 3.10: In Section 3, Part B of Annex 4 we set out how we will assess aggravating and mitigating factors together. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.11: In Section 3, Part B of Annex 4 we set out our method for calculating a civil variable monetary penalty. Does the method require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.12: In Section 3, Part B of Annex 4 we set out our approach to assessing aggravating and mitigating factors together. Does the method require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

When we will use compliance notices

Question 3.13: In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.14: In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

When we will use enforcement cost recovery notices

Question 3.15: In Section 4, Part B of Annex 4 we set out when we will issue an Enforcement Cost Recovery Notice. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed

- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 3.16: In Section 5, Part B of Annex 4 we set out our approach for deciding when to issue an Enforcement Cost Recovery Notice. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Appeals against Environment Act 2021 civil sanctions

Question 3.17: In Section 6, Part B of Annex 4 we set out when an appeal of an Environment Act 2021 civil sanction for a breach of the digital waste tracking regulations is available. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

4. Deposit Return Scheme

What Deposit Return Scheme civil sanctions are available

Question 4.1: In Section 1, Annex 4 we set out what civil sanctions are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.2: In Section 1, Annex 4 we set out our approach to using the civil sanctions that are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.3: In Section 2, Annex 4 we set out when we have the power to issue a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.4: In Section 2, Annex 4 we set out how we will use a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

How we calculate Deposit Return Scheme variable monetary penalties

Question 4.5: In Step 2 and 3, Section 2 in Annex 4 we set out how we will calculate a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.6: In Step 3, Section 2 in Annex 4 we set out how we will assess aggravating and mitigating factors together. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.7: In Step 2 and 3, Section 2 in Annex 4 we set out our method for calculating a civil variable monetary penalty. Does the method require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

Question 4.8: In Step 3, Section 2 in Annex 4 we set out our approach to assessing aggravating and mitigating factors together. Does the method require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

When we will use compliance notices

Question 4.9: In Section 1.2 in Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

Question 4.10: In Section 1.2 in Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the approach require any changes to ensure that it is fair and reasonable?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion

☐ Changes are needed – please provide details below

When we will use enforcement cost recovery notices

Question 4.11: In Section 1.4 in Annex 4 we set out when we will issue an Enforcement Cost Recovery Notice. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below

5. Mercury regime

Question 5.1: In Annex 3 we set out how we will assess what enforcement action to pursue. Does the wording require any changes to ensure that it is clear and easy to understand?

Please tick the relevant box

- ☐ No changes needed
- ☐ No opinion
- ☐ Changes are needed – please provide details below