Blueprint for Water response: Environment Agency consultation on changes to the enforcement and sanctions policy

2nd October 2026

This response is on behalf of Blueprint for Water, part of nature and animal welfare coalition Wildlife and Countryside Link (Link).

This response is supported by Angling Trust, Friends of the Earth, Institute of Fisheries Management, The Rivers Trust, The Wildlife Trusts,

---

Blueprint for Water welcomes the opportunity to respond to this consultation on changes to the Environment Agency's enforcement and sanctions policy.

The wording of the policy is generally clear and easy to understand. However, in our response we question several elements of the policy. Concerns with the policy as written include that it is not explicitly stated that repeat breaches and Category 2 incidents will not be applicable for Enforcement Undertakings, and that the significance of environmental harm is not included as a factor when calculating civil Variable Monetary Penalties.

Furthermore, we remain concerned that a robust escalation mechanism has not been clearly defined within the policy, that the cap on civil Variable Monetary Penalties remains at £500,000, and that the process by which companies can discharge their liability for civil Fixed Monetary Penalties is not fully explained. These concerns were expressed in our response to the December 2025 consultation on new penalties for water company offences. The ultimate purpose of enforcement must be to deter non-compliance, drive improved performance, and prevent harm from happening in the first place; companies must not be able to simply absorb the cost of penalties as a 'business as usual' cost, nor should penalties be repeatedly issued without escalation and a requirement to fix the root cause.

We would also welcome further clarity as to where the funds from penalties issued under the new policy will be channeled. For example, whether these funds will be ringfenced for environmental protection and restoration under the commitment made by Government in June 2025.

We would be pleased to discuss any of the points raised in this response further.

Questions

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

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

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

Blueprint for Water, part of Wildlife and Countryside Link

We would like to keep you informed about the outcomes of this consultation. Please provide your email address.

eleanor@wcl.org.uk

Can we publish your response?

Yes.

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

Press article

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**

It is welcome that the Agency states that enforcement undertakings will not be accepted if the incident is classified as Category 1, or if the breach or offending is deliberate or persistent. However, this latter point should be amended to clarify that enforcement undertakings will not be accepted if this is a *repeat* breach or offending. Repeat offences must incur a more significant penalty, given the likely cumulative impact of harms caused, and that a repeat suggests that reason for the breach or offence happening in the first place has not been adequately resolved. As the consultation document itself states, enforcement undertakings must specify 'action to secure that the particular offence or breach **does not continue or recur'**.

The ultimate purpose of enforcement action must be to deter non-compliance and to prevent harm from happening in the first place. An escalation mechanism must be clearly defined within the enforcement and sanctions policy, to ensure that this is the case in practice.

We also question why only Category 1 incidents are named as unlikely to be appropriate for enforcement undertakings, given that Annex 5 states that Category 2 incidents will also 'normally' result in criminal prosecution or a criminal VMP. The approach should be updated to state that enforcement undertakings will not be accepted for incidents classified as Category 1 or 2.

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 document does not explain whether the policy includes 'the environment' as a victim. This should be clarified; for example, whether the victim's right to review extends to local communities, environmental organisations, or others speaking on behalf of the environment as a victim.

Whilst the right to review applies to those persons or entities directly harmed by the breach, we suggest that it should also apply to those speaking on behalf of the environment that has suffered as a result of the impacts of the incident in question.

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

The public interest factors set out in Section 6 seem sensible, and it is welcome that environmental effect (harm/impact) is included early in the list. When the severity of the environmental effect is assessed, this should consider both the impact of the incident itself, and any cumulative impact of the incident.

Additionally, we note that 'Public Interest factors' and 'Additional factors and considerations' are both labelled as s6.2, so section numbering will need to be updated to avoid confusion.

2. Civil penalties for the water industry

Civil variable monetary penalties

The consultation questions in this section focus primarily on whether the wording is clear and easy to understand, and we have provided answers accordingly. However, the wording and focus of the questions does not always track clearly across to which section of Annex 5 is being referenced. In future consultations, it would be useful to have questions refer to specific numbered sections and/or paragraphs of the consultation document, so that stakeholders can be certain that their comments are being captured correctly.

Furthermore, it is disappointing that the consultation questions in this section are largely limited in focus to whether the wording is clear and easy to understand, without inviting comments or feedback on the detail of the policy itself. Whilst some sections are factual, others represent a policy choice, yet these are not clearly distinguished within the consultation or the draft document. The final document should set out aspects that are policy-driven and how these decisions were reached, e.g. through previous consultation, Ministerial or organisational decisions, etc.

Finally, Annex 5 notes that for civil fixed, automatic and civil variable monetary penalties, a final notice will be issued. The Annex should clarify whether and where these notices will be published, as their content will be of interest to stakeholders.

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**

In the list of 'factors we will assess' to set the final penalty amount, there is no reference to the significance or scale of the harm or impact caused to the environment. If this is not set out in the Sentencing Council's Guidelines, this should added to the list of factors, with more significant environmental harm or impact resulting in a higher penalty amount. As discussed previously, assessment of environmental harm or impact should consider both the current incident, and any cumulative impact.

In our response to the December 2025 consultation on 'New Penalties for Water Company Offences', Blueprint for Water questioned whether the £500,000 cap on civil variable monetary penalties was sufficient, given that water companies – as 'very large companies' – can have a turnover of £250 million. We were concerned that this cap might prevent civil VMPs from being set such that they can meaningfully act as a deterrent, and cannot simply be incorporated into business costs. Given that the £500,000 figure has not been amended between the December 2025 and this consultation, we remain concerned and would welcome the opportunity to discuss further.

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**

In the list of 'factors we will assess' to set the final penalty amount, there is no reference to the significance or scale of the harm or impact caused to the environment. This should be added to the list of factors, with more significant environmental harm or impact resulting in a higher penalty amount. As discussed previously, assessment of environmental harm or impact should consider both the current incident, and any cumulative impact.

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

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**

Further detail is required to explain the process by which companies can discharge their liability for a civil FMP, and how the Agency will ensure that this option does not make the penalty insufficient to act as a deterrent.

In our response to the December 2025 consultation, Blueprint for Water expressed concern that the option to discharge liability (essentially, to pay a lower fine by paying early) must not come at the expense of the company 'fixing' the problem and making good. It must not be cheaper for companies to pay the fine and treat this as a business cost than to take action to remedy the issue, correct any damage caused, and to prevent it from happening again.

Any option to discharge liability must be dependent on the company demonstrating how they intend to fix the problem and any harm caused – this must include clearly defined actions, with timescales. There must also be an escalation mechanism in place, such that the option to discharge liability and therefore pay less is not available for persistent or repeat offences.

All discharge liability payments must be reported to stakeholders including eNGOs and consumers, for full transparency.

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**

The sentence in section 3.2 introducing automatic penalties "...impose a civil FMP in relation to all of the conditions which have been deemed into water company permits and licences by the Regulations" is unclear in its meaning. It could be accompanied by some examples or by a link to the regulations referred to, to make the section clearer to understand. The main Enforcement & Sanctions Policy Document refers to Automatic Penalties 'under the Water (Special Measures) Act 2025', but whilst section 8 of the Act, which relates to automatic penalties, is in force, it is unclear where in regulation the 'specified offences' it refers to are set out, or whether they simply include any offences under section 7(3) of the Act. The text in this section could usefully clarify this.

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**

Section 1 states that exemptions are explained in Section 3.1; they are actually explained in 3.2. This should be amended.

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

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 97 organisations to campaign for nature, climate, animal welfare and a healthy environment for everyone. Wildlife and Countryside Link is a registered charity number 1107460 and a company limited by guarantee registered in England and Wales number 3889519.

For questions or further information please contact:

Ellie Ward, Principal Policy Officer, Wildlife and Countryside Link
E: eleanor@wcl.org.uk

Wildlife & Countryside Link, Vox Studios, 1 – 45 Durham Street, Vauxhall, London, SE11 5JH
www.wcl.org.uk

This response is supported by the following organisations:

- Angling Trust
- Friends of the Earth
- Institute of Fisheries Management
- The Rivers Trust
- The Wildlife Trusts