Southern Water Enforcement and Prosecution Policy

Aims and Purpose of Enforcement

1. Southern Water is the statutory undertaker for the southeast of England. We provide high quality water and wastewater services to 4.6 million people who live in our region and to the 400,000 businesses and their employees who work here.
2. Our vision is to create a resilient water future for customers in the South East. As a statutory water and wastewater undertaker, it is our duty to enforce legislation designed to protect the public water supply, human health, the environment and the water supply and drainage network, including:

* the Water Industry Act 1991;
* the Water Supply (Water Fittings) Regulations 1999; and
* the Fire and Rescue Services Act 2004

1. Southern Water is committed to a fair, consistent and proportionate approach to enforcement of relevant legislation to ensure that action is taken to secure compliance with relevant legislation. This policy sets out the methods of enforcement available to us and how decisions about enforcement will be made.
2. We recognise that most individuals and businesses want to comply with the legal requirements they are subject to and we will always offer help and advice to individuals and businesses with the aim of securing compliance with such legislation and avoiding unnecessary enforcement action.
3. Where necessary we will use the full range of enforcement options available to us, in combination if necessary, to achieve the best outcome to safeguard public water supplies and protect human health and the environment.

Principles of enforcement

1. We have a policy of firm but fair regulation and enforcement. Our policy has been developed with due regard to:
2. Proportionality - The level of enforcement taken will reflect the seriousness of the offence and the risk caused to the public and the environment.
3. Consistency - Where circumstances are similar we endeavour to take similar enforcement action, and will seek to be consistent in our response to offences with regard to all the factors. This does not however mean a uniform approach. Where offences are deemed to be more serious due to their circumstances, for instance because there is a history of previous offences, this will be reflected in the enforcement decision.
4. Accountability - We will be accountable to the public for our actions with a clear and effective complaints procedure which can be viewed at www.southernwater.co.uk/our-customers/our-complaints-procedure
5. Transparency - We will ensure that proper advice and guidance is available so those we regulate can understand the standards required of them and what they can expect in return.
6. Targeted enforcement - We will ensure that resources are focussed on those whose activities present a higher risk of harm to the public and or/the environment, those who have profited from their offences and situations where there is deliberate or organised crime or other aggravating factors.

Methods of enforcement

1. Where we suspect that an offence is being committed or may have been committed we may use one or more of the range of enforcement methods set out below.
2. Advice, Guidance and Support - advice and guidance may be given in person or by telephone with a view to securing compliance and preventing further breaches.
3. Inspections - our inspectors may conduct inspections of relevant premises with a view to offering advice and securing compliance. We may also ask to take statements from you or any other relevant individual and we can take samples of water and/or wastewater. We have statutory powers to enter premises for these purposes.
4. Warnings and Warning Letters - We may issue you with a verbal warning at the premises or with a written warning. The warning letter will provide details of the breach believed or confirmed to have been committed and provide advice on what to do to remedy the breach and/or prevent further breaches from occurring. We reserve our right to take further enforcement action against you in the event of further non-compliance.
5. Voluntary Undertakings - We may accept a voluntary undertaking from you that you will immediately take steps to rectify any breach and prevent any further breaches from occurring. We may also require you to meet the cost of any clean up action required as a direct result of your breach.
6. Requests for Action Plans- We may ask you to provide us with an action plan outlining the steps you will immediately take to rectify a breach and prevent any further breaches from occurring together with the dates by which each step will be achieved. As with Voluntary Undertakings, we may also require you to meet the cost of any clean up action required as a direct result of your breach.
7. Costs - We may seek recovery of any clean-up costs incurred by us as a direct result of any breach by you. In such instances an invoice for the costs will be sent to you. In the event that payment is not made by you the debt will be enforced via our debt recovery procedures.
8. Notices - In certain cases, such as waste of water from leaks on private pipework, we have statutory powers to serve a Notice upon you requiring you to take such steps as set out in the Notice to stop a breach. The Notice will give you a timeframe in which action must be taken by you. In the event you do not take the required action we have statutory powers to take the action ourselves and recover the costs of doing so from you
9. Disconnection - In certain circumstances we have the power to immediately disconnect the water supply from your premises. In the event of disconnection, you will be served with a Notice specifying action to be taken by you to enable us to reconnect the supply. In the event you do not take the required action we have statutory powers to take the action ourselves and recover the costs of doing so from you
10. Caution - As an alternative to prosecution, a caution may be given to a person (aged 18 or over) or a company who admits in writing to committing an offence. A caution is intended for low level, first time offences. If you are an individual, it may affect your chances of securing certain types of employment. You have the right to decline to accept a caution. Where a caution is offered and declined we are likely to consider prosecution. Any cautions will be taken into consideration when considering enforcement action for any further breaches of a similar nature.
11. Prosecution - Prosecution is an option for all of the criminal offences that we enforce. In particular, we may prosecute serious or recurrent breaches, or where previous enforcement action has already been taken. Further information on prosecutions is set out below.

Prosecution

1. We recognise that prosecution is a serious matter and we will only consider prosecuting an offence where we are satisfied that we have sufficient evidence to provide a realistic prospect of conviction
2. We use discretion when making this decision and we take account of the evidential stage and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless we find there is sufficient evidence to provide a realistic prospect of conviction and that prosecution is in the public interest.
3. In deciding whether to prosecute we will also have regard to the following factors:

* the seriousness of the offence;
* the risk to public health;
* the risk to the environment, animals and their habitats, air and water and land contamination;
* the previous history of the individual, group or business and where relevant confidence in management;
* the level of culpability of the offender;
* any action taken by the offender to resolve the situation;
* the level of harm or damage caused to Southern Water;
* the impact to the community;
* the course of action that will best serve the community and/or protect the environment;
* whether prosecution is proportionate to the likely outcome;

1. Where a decision is made to prosecute, this decision will be kept under constant review to take into account any new information or circumstances which may come to light.
2. A successful prosecution may lead to disqualification from acting as a company director.
3. We will always seek to recover the costs of investigation and our legal costs relating to the prosecution.

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