



Compliance and Enforcement Position

December 2011

Introduction

1. Natural England was established to conserve our wildlife, landscapes and seas; to restore our natural assets and to work with people so that they can enjoy all the benefits the natural world offers. Our priorities are to reconnect people with nature, protect our natural assets and maximise the opportunities offered by a greener economy. To achieve this we use advice, incentives, practical action and regulation.
2. In our regulatory work we aim to provide a clear, simple and effective regulatory service. We will work increasingly closely with other regulators such as the Environment Agency and Forestry Commission to deliver consistent, risk based consenting and licensing. We use class and organisational licences as part of a modern approach to regulation that achieves benefits for biodiversity and prevents harm. We aim to be responsive to legislation and policy and improve our regulatory effectiveness year-on-year through better targeting and partnership with industry. Natural England is committed to reducing the costs to those we regulate as part of an ongoing programme.
3. Our regulatory role involves helping people to comply with laws that protect wildlife and the natural environment. As a last resort we also take enforcement action when these laws are broken. This document explains our general approach to both compliance and enforcement.

Compliance

4. Our key focus is on helping people to comply, whereas enforcement action is seen as a last resort. We help people, communities and business to comply in many ways, including:
 - Enabling people to understand the long term options for their local places and natural environment, the amenity benefits they bring for local communities and the economic benefits they bring to businesses
 - Providing expert advice and guidance in a variety of written and verbal formats to individuals, communities, businesses and specialist working groups
 - Encouraging businesses to put the environment first and to integrate good environmental practices into their normal working practices
 - Supporting the development of market mechanisms to enable businesses to contribute to investments in and management of the natural environment
 - Seeking opportunities to co-regulate in partnership with business
 - Helping farming and fishing communities to deliver the Government's priorities and aspirations for the natural environment as part of commercially successful business sectors
 - Deploying our own resources, especially agri-environment schemes, to provide funding for positive land management in a business friendly way
 - Developing a better understanding of our customers' needs through local engagement and dialogue, market research, reply-paid feedback cards, and customer panels such as our compliance and enforcement stakeholders group

Enforcement

5. We see enforcement action as a last resort, however it is sometimes essential to ensure that the natural environment is adequately protected. In general our enforcement work will comply with the following established principles of good regulation:
- **Consistent.** This means taking a similar approach in similar circumstances to achieve similar ends. We do this by adopting a standard approach to classifying offences, based on the environmental impact of the offence and the behaviour of the offender. Consistency does not mean uniformity. All incidents must be considered individually as they will always contain certain unique factors.
 - **Proportionate.** This means considering the costs of protecting the environment against the risks and impact of harm resulting from non-compliance. We will decide upon a proportionate enforcement approach taking account of the damage to the environment, the behaviour of the offender, the outcomes enforcement will achieve and whether it is in the public interest to pursue.
 - **Transparent.** This means helping people understand what is expected of them and what they can expect from us, and being able to justify our actions. Enforcement action will be carried out in an open manner and any enforcement decision, remedial action or rights of appeal will be clearly explained in writing. Legal requirements will be distinguished from voluntary actions and best practice advice.
 - **Targeted.** This means taking a risk-based approach to inspections and enforcement. We will target offenders who cause serious environmental damage, those who deliberately breach legal obligations, or where the offence, although not serious in itself, is widespread in the area or community where it was committed. Targeting needs to respond rapidly to emerging trends, gaps and issues; and in line with shifts in priority and resource.
 - **Accountable.** This means taking responsibility for our decisions and being able to justify them when challenged. We do this through monitoring and reporting on the action we take, and evaluating it with Ministers, Defra, our own Compliance and Enforcement Project Board and our Compliance and Enforcement Stakeholders Group. This allows us to identify priorities and allocate resources to key issues.
6. When offences are committed our first step will normally be to offer advice on how to achieve compliance. If the breach was accidental and has had no or very little environmental impact we are unlikely to do anything else. However if the offender's behaviour or the environmental impact is of concern we may impose a sanction.

7. We have access to a range of proportionate sanctions that secure the right level of environmental protection without getting in the way of growth. Most notably the use of enforcement undertakings provides an opportunity for offenders to rectify damage or to return to compliance without the need for us to take further enforcement action. Where sanctions are imposed they will comply with the following established principles that sanctions should:
- aim to change the behaviour of the offender;
 - aim to eliminate any financial gain or benefit from non-compliance;
 - be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
 - be proportionate to the nature of the offence and the harm caused;
 - aim to restore the harm caused by the regulatory non-compliance, where appropriate; and
 - aim to deter future non-compliance.

Partnership working

8. Much of our compliance and enforcement work is delivered in partnership with other agencies, including the Police, and Crown Prosecution Service (CPS), Chemicals Regulation Directorate, Environment Agency, Forestry Commission and the Rural Payments Agency. We will reduce burdens on business by developing data sharing agreements with our key partners.
9. At a national level partnership working is aided through the Partnership for Action Against Wildlife Crime¹. We also provide evidence to the Wildlife Crime Law Enforcement Working Group to allow the determination of UK wildlife crime priorities, and we support partnership initiatives to priorities such as bat and raptor crime. We exchange intelligence with the National Wildlife Crime Unit² and support them in producing a range of impact assessments to be used at sentencing by the CPS and other prosecuting agencies.
10. At a local level we chair local wildlife crime networks of those we work in partnership with. We support these and other agencies in investigating or enforcing any wildlife crime as far as our resources and expertise allows, and in keeping with signed Memorandums of Understanding.

Further information

11. Best practice guidance on how to comply with all our regulatory responsibilities is available in one place on our website³. Further guidance on enforcement is also available on our website⁴.

¹ <http://www.defra.gov.uk/paw/>

² <http://www.north-wales.police.uk/nwcu/home.asp>

³ <http://www.naturalengland.org.uk/ourwork/regulation/default.aspx>

⁴ <http://www.naturalengland.org.uk/ourwork/regulation/enforcement/default.aspx>