Blueprint for Water response: Consultation on New Penalties for Water Company Offences

3rd December 2025

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, Amphibian and Reptile Conservation, Froglife, Institute of Fisheries Management, Paddle UK, and Surfers Against Sewage.

Blueprint for Water welcomes the opportunity to respond to this consultation on strengthening penalties for water company offences.

We welcome the introduction of civil standards of proof for enforcement, and automatic penalties for certain offences. These reforms will help to address barriers preventing the Environment Agency from taking the necessary enforcement action in the case of minor and moderate offences. Blueprint for Water has previously raised concerns regarding the criminal standard of proof and the impact this has on the Agency's ability to take enforcement action, for example in our responses to previous consultations on lifting the cap on Variable Monetary Penalties.[1]

However, care must be taken to ensure that 'automated' approaches to enforcement do not mean reduced scrutiny, or that enforcement becomes simply concerned with setting fines. The purpose of enforcement action, including penalties, must ultimately be to deter non-compliance, to drive better performance, and to prevent environmental harm from happening in the first place.

The consultation document states that automatic penalties should be used in scenarios that are straightforward, and 'easy to prove'. This seems a sensible approach. However, there is a risk that such 'easy to prove' offences are then always captured by automatic penalties and that therefore these incidents consistently escape further scrutiny. We are also concerned that under the proposed system, it appears that a company could repeatedly receive relatively small automatic penalties for repeated 'small' incidents, and could therefore simply treat this as a business cost without ever being required to fix the issue and prevent further harm from happening in the first place. To mitigate this risk, companies must be required to demonstrate how they will address the cause of the fine and make measurable

[1] For reference, these responses can be read here:
WCL_Blueprint_Response_Consultation_Strengthening_Environmental_Civil_Sanctions_May_2023.pdf &
WCL_Blueprint_Response_Extending_Civil_Sanction_VMP_Powers_October_2023.pdf

improvements, for example as is already required in the case of Voluntary Enforcement Undertakings. An escalation mechanism should also be added, such that repeat offences incur a more significant penalty in line with consequential loss suffered from serious and repeat offences causing ongoing harms such as fish kills.

The issuing of these automatic penalties must also be transparently and accessibly communicated to stakeholders, including consumers and eNGOs, to ensure that water companies are held to account for their performance. This information should be made available on water company websites, or through a collated live dashboard showing real-time information, similar to the National Storm Overflow Hub. This must include the penalties resolved through discharge liability payments, in addition to those paid in full, for complete transparency.

There is risk that the thresholds set for automatic penalties to be applied become, in practice, the new 'accepted' standards for water company performance. For example, in the case of EDM operational uptime, where the document states that whilst companies should still be aiming for 100% operational uptime, penalties will only be imposed if this falls below 90%. It is welcome that the Agency states that this 90% is 'not a target for compliance'. However, it is unclear how this will be enforced, if automatic penalties are set to a lower threshold.

The costs of automatic penalties must not be passed onto customers. Furthermore, money from these new penalties should be ring fenced for environmental recovery via the Water Restoration Fund.

The proposed changes to lower the burden of proof and to introduce automatic penalties will help to address barriers that are in part due to capacity and resource gaps within the Environment Agency. These changes must not be considered a substitute for proper staffing and funding. The Government has signalled that it intends to drive significant regulatory reform concerning water, including the creation of a new 'super regulator'. This new regulator, and current regulatory bodies including the Environment Agency, must be appropriately funded and resourced in order to deliver a comprehensive and robust advisory, monitoring and enforcement function.[2] Without this, the impact of reforms such as these proposed new penalties for wildlife and water users will be undermined.

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

[2] Blueprint for Water. (2025). WCL_Briefing_Priorities_Water_Reform_Bill_Nov_2025.pdf

Questions

Question 1: Would you like your response to be confidential? (required)

No.

Question 2: Provide your full name. If you are representing an organisation or group, you will be asked its name later (required)

Eleanor Ward

Question 3: Provide your email address (required)

Eleanor@wcl.org.uk

Question 4: In what capacity are you completing this consultation? (required)

As a representative of a non-governmental organisation (NGO) or other nonprofit public interest group

Question 5: If responding on behalf of an organisation, what is the name of your organisation? (required)

Blueprint for Water, part of Wildlife and Countryside Link

Question 6: Where are you, or the organisation you are representing, located? (this consultation is for proposals that apply in England) (required)

England

Question 7: Do you support the offences proposed to be enforceable by civil standard VMPs? (required)

Yes.

Question 8: What is your preferred cap amount? (required)

Do not know.

We understand that the suggested cap of £500,000 moves outside the range of the Sentencing Council Guidelines (from £350,000 to £500,000), and agree with the Agency's argument that this is appropriately proportionate given that water companies are 'very large organisations'. However, we question whether the suggested £500,000 is sufficient to reflect this.

According to the document, a large organisation is defined as having a turnover of £50 million. The upper bound for a penalty imposed on a large organisation is set at £350,000. The document also states that a water company, as a very large company, may have a turnover of £250 million. This is five times the turnover of a large company. Yet the suggested penalty cap of £500,000 for water companies is only 1.5 times larger than that imposed on large companies.

We question whether this is sufficient to ensure that penalties act as a deterrent to very large organisations such as water companies, and cannot simply be incorporated into expected business costs. We ask whether, given that water companies have turnovers five times larger than large organisations, the cap on penalties should also be five times larger.

Question 9: Do you agree with the proposal to introduce civil standard FMP powers for permit and licence breaches? (required)

Yes.

Question 10: For the Section 24 WRA 1991 offence, do you agree with the proposal to replace the existing criminal standard FMP powers, where civil standard FMP powers would apply? (required).

Yes.

Question 11: Do you agree that 4-hours is an appropriate backstop for the reporting of significant pollution incidents? (required)

Do not know.

The 4-hour reporting window seems sensible, in that as the Agency notes, it is already an established expectation in the sector, and that due to advances in technology and monitoring systems, it is considered feasible.

However, it is important that the relationship between the size of reporting window and the environmental impact of the pollution incident is also factored into this decision. We are keen to understand what - if any - assessment has been made of the relationship between

the size of reporting window and the environmental impacts of a pollution incident that could be used to inform this decision. For example, to understand if there is a threshold for the length of time taken to report – and the Agency to respond - beyond which environmental impact significantly worsens.

It would also be helpful to understand the current data on the length of time taken for water companies to report significant pollution incidents, to compare this with the proposed 4-hour window. The reporting window backstop should at least match current practice, and ideally incentivise faster reporting.

We welcome the Agency's assertion in the consultation document that water companies must still report incidents as soon as possible, and that the Agency will still be able to take enforcement action if a company could have reported a serious pollution incident sooner. We would welcome further detail explaining how this will be put into place, to ensure that the 4-hour backstop does not become an excuse to delay reporting.

Question 12: Do you support the proposal for an automatic penalty to be triggered for failing to report a significant pollution incident within 4 hours? (required)

Yes.

Question 13: Do you support the proposal to require all pollution incidents to be reported as soon as reasonably practicable? (required)

Yes.

Question 14: Do you support the proposal for an automatic penalty to be triggered if an EDM device at a storm or emergency overflow fails to be operational for at least 90% of a calendar year? (required)

Yes.

We are pleased that the Agency explicitly acknowledges that this 90% operational target is not a target for compliance, and that water companies should still be aiming for 100% operational uptime for EDM devices.

However, we would welcome further detail from the Agency as to how this will be enforced to avoid the automatic penalty threshold becoming the 'accepted' standard and therefore what companies aim for in practice.

Question 15: Do you agree with standardising EDM requirements in storm overflow permits, including setting the frequency of monitoring as 2 minutes? (required)

Yes.

Question 16: Do you support the proposal for an automatic penalty to be triggered if companies fail to report EDM data to the EA monthly? (required)

Yes.

Question 17: Do you support the proposal for an automatic penalty to be triggered if an emergency overflow discharges more than 3 times a year? (required)

Yes.

We welcome the Agency's clarification in the consultation document that this '3 times a year' threshold will not prevent regulators from investigating and enforcing against any non-compliant or illegal discharges from emergency overflows.

Question 18: Do you support the proposal for an automatic penalty to be triggered for failing to return abstraction data to the EA within 28 days of being requested? (required)

Yes.

Question 19: Do you support the proposal for an automatic penalty to be triggered for failure to have an accurate and reliable monitoring device in place to measure the quantity of water abstracted? (required)

Yes.

Question 20: Do you support the proposal for an automatic penalty to be triggered for failing to provide records related to maintenance and accuracy of monitoring devices to the EA within 28 days of being requested? (required)

Yes.

Question 21: Do you support the procedure proposed above, including the ability to make a payment to discharge liability following the notice of intent? (required)

Yes.

Question 22: Do you support the proposal to prevent companies from appealing the regulator's decision on whether there are exceptional circumstances in place? (required) •

Yes.

Question 23: Do you support the proposal for penalties to vary based on water company turnover? (required)

Yes.

Question 24: Do you support the turnover bandings proposed for classifying water companies? (required)

Yes.

Question 25: What penalty values would you prefer to be set? (required)

Set the penalty values at another amount.

If there is the option for companies to discharge their liability (essentially, to pay their fine early) and therefore pay a reduced amount, this 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.

We would welcome the opportunity to discuss further with the Agency what modelling has been undertaken to explore the proposed range of penalty values, and how it would be ensured that these values are sufficient to deter non-compliance.

If companies are permitted to discharge their liability, this must come with a requirement for the company to set out how they intend to fix the problem – this must include clearly defined actions, with timescales. As stated previously in this response, all discharge liability payments must be reported to stakeholders including eNGOs and consumers, for full transparency.

Question 26: Do you have any comments or feedback on the modelled potential cost of penalties? (not required)

Blueprint for Water firmly agrees that the cost of penalties must be borne by companies, and must not be passed onto customers. The money from these penalties must be ring fenced for environmental recovery, via the Water Restoration Fund, to ensure that the polluter is paying for environmental harm.

We would welcome the opportunity to see any modelling that the Agency has conducted regarding potential costs, and potential impacts on industry activity and the environment.

Question 28: Do you have any comments or feedback on the modelled potential impacts to investor returns? (not required)

Whilst we agree that new penalties must be proportionate, they must also be sufficient to act as a deterrent, encouraging companies to improve their performance and to avoid causing harm in the first place. Companies must be able to invest in necessary infrastructure upgrades, but it must not be profitable to pollute, and companies must not be able to simply absorb the cost of penalties into 'business as usual' without improving performance. Companies should increase investor confidence through being compliant with regulations, and delivering their social and environmental obligations to people and to nature as required.

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 94 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:

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This response is supported by the following organisations:

- Angling Trust
- Amphibian and Reptile Conservation

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- Institute of Fisheries Management
- Paddle UK
- Surfers Against Sewage