

THE WORSHIPFUL COMPANY OF WATER CONSERVATORS
BRIEFING ON THE RESPONSE TO THE DEFRA CONSULTATION ON
NEW PENALTIES FOR WATER COMPANY OFFENCES

NOVEMBER 2025

1 The Worshipful Company of Water Conservators ('WCWC') is a City of London Livery Company focussed on the long-term health of our water resources and the broader environment. Our members include senior professionals from water, environmental and related industries and regulators, along with others who share our concern for water and the environment. Our experience and knowledge ranges from the complexities of environmental sciences, through the application of engineering to deliver the goals identified by those sciences, and the subsequent management of the assets created. The WCWC's purpose is *promoting a diverse and sustainable environment*.

2 As part of that purpose, the WCWC has been responding to relevant consultations particularly on matters relating to water conservation. These are archived on its website over the last three years.

<https://waterconservators.org/policies-and-practices/>

3 Defra consulted on new penalties as part of the implementation of the Water Special Measures Act 2025 by introducing:

- powers for the EA to impose penalties (VMPs and FMPs) to the civil standard of proof ('on the balance of probabilities'): this means the EA will be able to impose penalties when satisfied that it is more likely than not that an offence has been committed. This will enable minor to moderate offences to be enforced more quickly, cost effectively and proportionately.
- automatic penalties, where the EA must impose FMPs in specific circumstances: this will streamline the penalty process for offences that can be identified and evidenced quickly.

<https://www.legislation.gov.uk/ukpga/2025/5/contents>

4 The Consultation made proposals to make it easier for the Environment Agency (EA) to take action for breaches of permits. The proposed changes were :

- allowing the EA to impose variable monetary penalties to the civil standard of proof for a range of permit and licence breaches, as well as other permitting, abstraction, impounding and drought offences
- setting a cap for variable monetary penalties (VMPs) imposed to the civil standard
- introducing new automatic penalties that are designed to streamline enforcement for offences that can be identified and evidenced quickly
- setting a value for the new automatic penalty

<https://www.gov.uk/government/consultations/new-penalties-for-water-company-offences>

Consultation on strengthening penalties for water company offences - Defra - Citizen Space

5 The WCWC recognised this response to the public concerns about environmental water quality and the impact of sewage discharges. The WCWC did not offer any comments on the political optics or the size of the penalties or the exact legalities of what is proposed and restricted its contribution to the broader context and the technical implications of these proposed changes. To aid the readership of a wider audience the WCWC sets out some background information already well known to Defra.

SUMMARY

6 The WCWC did not offer any comments on the 'political optics' or the size of the penalties, or the exact legalities of what is proposed, and restricts its contribution to the broader context and the technical implications of the proposed changes. To aid the readership of a wider audience, the WCWC set out some background information already well known to Defra.

7 It does understand the drive for greater accountability of water companies for non-compliance with permit conditions, and the need to streamline the process for the Environment Agency. Once more the WCWC noted the silo approach to regulatory change and advocated a more holistic approach. To use a colloquial expression ..'we are where we are'. And these proposals set out the consequences of the special measures in the Act of February 2025

8 The WCWC was concerned about practicalities. There are many aspects of these proposals which need a great deal of attention before new Permitting Regulations can be drafted. And the WCWC has highlighted several points.

- The Consultation focusses on Storm and Emergency Overflow, but the amendment to the relevant current Regulations to allow new penalties appears to be generic. So, what will be the consequences for other permitted water company activities?
- The WCWC suggested strongly that a more symmetrical approach to permitting, recognition be given to regulating the external causes of discharge failure and that Defra itself can contribute, examples being to bring in Regulations for Mandatory Sustainable Drainage Systems, further revisions of Building Regulations and further restrictions on the sale and disposal of sanitary and hygiene products .Whilst the WCWC has heard the arguments about the 'nanny state' and regulation' it did suggest that if the drive is to hold the water companies to even more accountability, that statutory responsibility must be extended elsewhere
- In not understanding the broader nature of permitting, it does not make any reference to the difference of Standard Rules and Bespoke Permits
- The WCWC was concerned that there is no hint of a similar approach being used for other kinds of discharge
- The submission gave examples of reasons for non-compliance, the distinction of trivial, minor and major non-compliance and how these are reflected in the regulatory regime and asked how much needs to go into permits per se, and how much goes into accompanying statutory guidance. Such legal matters are rarely 'black and white' It suggested that it could be appropriate to have a Code of Practice somewhat similar to that used in waste management.

- And determination of action by the EA will require expert skills sets on the operational issues of sewerage and sewage treatment assets and not rely on desk algorithmic evaluation of data sets
- In particular, the WCWC was concerned about future liabilities for past underinvestment determined by Ofwat
- The WCWC is also concerned about the proposals for Appeal processes which need to be clarified.
- An urgent need to be much clearer about the definition of a dry weather discharge and how it is monitored
- And all this must be taken into account in the proposed amendments to the EA Regulatory Enforcement and Sanctions Policy
- And there are significant implications for the skill sets of EA staff ..

9 It also took advantage to repeat its suggestion for a new integrated discharge quality assurance system, which would embrace the issues of operator self-monitoring and reporting, which could be included in permits.

10 It also takes the opportunity of suggesting again that a new revised integrated Water Regulatory Position Statement is needed into which this set of proposals could be fitted (when eventually formulated into Regulations).

11 The WCWC recognised that in the context of the political and media focus on water quality and these concepts, particularly concerning triviality, will require careful messaging by all parties concerned.

12 The WCWC stands ready to assist the development of the suggestions it is making.