



Enforcement Policy

Approval date: 20/04/2026	Approved by: Clerk
Applies to: Board Members, officers and employees of the Board.	Linked Documents: Culverting Policy Watercourse Maintenance Policy.
Frequency of review: 5 years	Next review date: April 2031

1. Introduction

- 1.1 Under the Land Drainage Act 1991, Internal Drainage Boards exercise a general power of supervision in relation to land drainage within their Internal Drainage District. In exercising that role, the North Kent Marshes Water Level Management Board (the “Board”) has powers to regulate certain activities affecting ordinary watercourses, including powers to require the removal of obstructions, to secure the proper flow of water, and to take action in respect of unconsented works.
- 1.2 The Land Drainage Act 1991 defines an *ordinary watercourse* as any river, stream, ditch, drain, cut, culvert, dyke, sluice, sewer (other than a public sewer) or passage through which water flows, that is not designated as a [main river](#)¹. This includes channels that are dry except during periods of rainfall. This policy, therefore, does not apply to Main Rivers, which are regulated by the Environment Agency.
- 1.3 This policy applies to ordinary watercourses and relevant works within the Board’s Internal Drainage District where the Board is the relevant regulatory authority. It does not apply where another authority is responsible for consenting or enforcement in relation to ordinary watercourses (for example, the Lead Local Flood Authority outside the Board’s Internal Drainage District), or where the Environment Agency is the relevant authority for Main Rivers.
- 1.4 This policy sets out how the Board will apply its enforcement powers in relation to ordinary watercourses and unconsented works. It clarifies the circumstances in which the Board may take informal or formal enforcement action and the approach it will follow, to ensure that enforcement activity is transparent, proportionate, and consistent.

2. Background

Riparian responsibility

- 2.1 Riparian owners (those who own land adjoining a watercourse, or through which a watercourse flows) are responsible for the maintenance of the watercourse on their land. This includes a duty to allow the free flow of water without pollution, obstruction, or diversion that would adversely affect the rights of others, and to maintain the beds and banks of the watercourse, including trees and shrubs growing on the banks.
- 2.2 Riparian owners are also responsible for keeping any structures within the watercourse, such as culverts, trash screens, weirs, and mill gates, clear of debris. They must accept the passage of flood flows through their land, even where this is influenced by downstream constraints. However, a riparian owner has no duty in common law to improve the drainage capacity of a watercourse beyond its existing condition.

Land Drainage Consent

¹ Main rivers are usually larger rivers and streams, designated as such, and shown on the [Main River Map](#). The Environment Agency carries out maintenance, improvement, or construction work on main rivers to manage flood risk.



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- 2.3 Under Section 23 of the Land Drainage Act 1991 (as amended by the Flood and Water Management Act 2010), written consent must be obtained from the Board before carrying out any temporary or permanent works that may obstruct or affect the flow of an ordinary watercourse within the Board's Internal Drainage District. Such works may include, but are not limited to:
- the erection, alteration or removal of any mill, dam, weir, outfall or similar obstruction;
 - the construction of a culvert;
 - the alteration or diversion of a culvert or watercourse that would affect flow;
 - bank revetment or channel works; and
 - temporary works within a watercourse, such as scaffolding or damming.
- 2.4 Application forms and guidance for applying for land drainage consent are available on the Board's website.
- 2.5 The Board maintains a strong presumption against the culverting of ordinary watercourses due to the potential impacts on flood risk, maintenance, hydraulic capacity and the environment. Applications proposing culverting will therefore only be considered where the applicant can demonstrate a clear and justified need, such as for access, and where no reasonable alternative is available.
- 2.6 Failure to comply with riparian responsibilities or to obtain the necessary consent may result in enforcement action in accordance with this policy.

3. Legislation

- 3.1 Legislation associated with land drainage includes the Land Drainage Act 1991, Flood and Water Management Act 2010 and The Highways Act 1980. A description of the relevant sections is included below;

Key enforcement powers under the Land Drainage Act 1991

Section 24 – Obstructions and unauthorised works

Where an obstruction or culvert is erected or altered without the required consent under Section 23, this constitutes a statutory nuisance. The Board may serve a notice requiring the person responsible, or with the power to remove the obstruction, to abate the nuisance.

Section 25 – Powers to require remedial works

Where the condition of an ordinary watercourse impedes the proper flow of water, the Board may serve notice on the person responsible (including the owner, occupier, or person whose act or default caused the condition) requiring that condition to be remedied.

Works in default and cost recovery

Where a notice is not complied with, the Board may carry out the required works itself and recover the reasonable costs incurred from the responsible party.

Section 64 – Powers of entry

Authorised officers of the Board may, subject to statutory notice requirements (except in an emergency), enter land at reasonable times for the purposes of inspection, survey and the exercise of the Board's flood-risk and land-drainage functions.



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Flood and Water Management Act 2010 – Information powers (Lead Local Flood Authority)

Section 14 – Power to request information

Under Section 14 of the Flood and Water Management Act 2010, the Lead Local Flood Authority may require a person to provide information reasonably necessary in connection with its flood and coastal erosion risk management functions.

Section 15 – Civil sanctions

Where a person fails to comply with a request for information under Section 14, the Lead Local Flood Authority may serve an enforcement notice. Failure to comply with that notice may result in a civil penalty of up to £1,000.

Relationship to this policy

These powers are exercised by the Lead Local Flood Authority, not by the Board. They are referenced here for completeness and to clarify the wider regulatory context within which flood-risk and land-drainage matters may be investigated.

Highways Act 1980 – Highway drainage and obstruction powers

Section 100 – Drainage of highways

The Highway Authority has powers to drain highways and prevent surface water from flowing onto them, including by constructing, maintaining or cleaning drains and other drainage works. The Highway Authority may enter land adjacent to the highway for these purposes, subject to statutory requirements and compensation where applicable.

Section 130 – Protection of public rights

The Highway Authority has a duty to protect the public right of passage along highways and to remove obstructions. Flooding of the highway may constitute an obstruction for these purposes.

Section 137 – Wilful obstruction of the highway

Where a person wilfully allows water from their land to flow onto the highway so as to obstruct its free passage, enforcement action may be taken by the Highway Authority, including through criminal proceedings.

Section 143 – Removal of structures

The Highway Authority may require the removal of structures unlawfully placed on or over a highway and may carry out removal and recover costs where compliance is not achieved.

Section 163 – Prevention of water flowing onto the highway

The Highway Authority may require the occupier of premises adjoining a highway to construct and maintain channels or drainage works necessary to prevent surface water from falling or flowing onto the footway or highway.

Relationship to this policy

The powers summarised above are exercised by the relevant Highway Authority, not by the Board. They are referenced here to clarify the respective responsibilities of drainage authorities where flooding or obstruction of the public highway is involved.



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- 3.2 The enforcement powers available to the Board under Sections 24 and 25 of the Land Drainage Act 1991 apply only where the issue arises within an ordinary watercourse. Matters relating to flooding or obstruction of the public highway fall within the powers and duties of the relevant Highway Authority under the Highways Act 1980.

Accordingly, this Enforcement Policy applies to non-highway related matters within the Board's remit and does not extend to the enforcement of highway drainage or highway flooding issues.

4. Policy Approach

- 4.1 The Board's approach to enforcement is to prevent or reduce flood risk arising from obstructions, unconsented works or poor condition of ordinary watercourses within its Internal Drainage District. The North Kent Marshes Water Level Management Board will consider taking enforcement action where, in its judgement, the condition of an ordinary watercourse is impeding the proper flow of water and that impediment is causing, or is likely to cause, harm to a receptor.
- 4.2 The Board will take a proportionate, risk-based approach when considering enforcement action. In assessing whether enforcement is appropriate, the Board will consider the nature of the activity, the condition of the watercourse, and the actual or potential risk of harm arising from the works or obstruction.
- 4.3 Where unconsented works are identified that do not present a material flood risk, drainage impact or environmental harm, the Board may record and monitor the situation rather than take immediate enforcement action. Where circumstances change and risk increases, enforcement action may be considered at a later date.
- 4.4 In lower-risk cases, or where issues arise from a lack of awareness of riparian responsibilities, the Board may seek to resolve matters informally through advice, correspondence or the provision of guidance material.
- 4.5 Enforcement action is unlikely to be pursued where an issue is temporary, has ceased, or has not resulted in material flood risk or environmental harm, unless there are wider operational or safety considerations.

5. Procedure for Serving Notice

- 5.1 The Board's preferred approach is to work constructively with landowners and those responsible for works affecting ordinary watercourses to resolve issues informally wherever possible. Formal enforcement action will normally be considered only where informal measures have failed, or where the nature or severity of the issue warrants immediate action. The Board's primary objectives are to manage flood risk, restore proper flow, and bring unauthorised activity under control, while also taking account of environmental and amenity considerations.
- 5.2 Where a potential enforcement issue is identified, the Board will seek to establish contact with the relevant landowner or responsible party as soon as reasonably practicable. In some cases, identifying the correct owner or occupier may take time, and this may affect the timing of initial contact.
- 5.3 Initial contact will normally be made in writing and will set out the nature of the issue identified, the Board's concerns, and the steps required to remedy the situation. The Board may request engagement from the responsible party and, where appropriate,



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arrange a site meeting to discuss the matter and agree an appropriate course of action and timescale.

- 5.4 Where remedial works are agreed, the Board will normally confirm the requirements and any agreed timescales in writing. Where works are completed in accordance with those requirements, the matter will be treated as resolved.
- 5.5 Where informal engagement does not result in satisfactory resolution, or where agreed actions are not undertaken within a reasonable or agreed timeframe, the Board may escalate the matter and take formal enforcement action under the relevant legislation, including the service of a statutory notice.
- 5.6 Where a formal notice is served, the notice will set out the requirements, timescales and any rights of appeal available under the relevant legislation.
- 5.7 The Board will not act as a mediator in private disputes between neighbouring landowners. Disputes relating to riparian responsibilities or drainage rights between private parties should be pursued through the appropriate legal forum, including the Agricultural Land and Drainage Tribunal, where applicable.

6. Regulators Code

- 6.1 In exercising its regulatory and enforcement functions, the Board has regard to the statutory principles set out in the Legislative and Regulatory Reform Act 2006 and the Regulators' Code.
- 6.2 The Board will carry out its enforcement activities in a way that is transparent, accountable, proportionate and consistent, and will target regulatory action only at cases where it is necessary to address risk, non-compliance or harm.
- 6.3 In applying this policy, the Board will seek to support compliance through clear communication, appropriate engagement and the provision of information and guidance, and will base enforcement decisions on an assessment of risk and the circumstances of each case.
- 6.4 This Enforcement Policy has been formulated having regard to the requirements of the Regulators' Code.

7. Review

- 7.1 This policy will be reviewed where there is a significant change in legislation, national or local policy, or where otherwise considered appropriate by the Board. The policy is not intended to be exhaustive and does not limit the Board's ability to take other lawful courses of action within its statutory powers.

Version Control

Version	Date Approved	Summary of Changes
1.0	20/04/2026	Initial policy approved