



# AXE BRUE, PARRETT & NORTH SOMERSET LEVELS INTERNAL DRAINAGE BOARDS

## ENFORCEMENT POLICY

Version 3

Approved by the Boards:		
Axe Brue IDB	24 March 2026	<i>W.C. Whelan</i> Vice Chairman
Parrett IDB	24 March 2026	<i>Neil Bedford</i> Chairman
North Somerset Levels IDB	24 March 2026	<i>PCB</i> Chairman

To be reviewed every 5 years

## **ENFORCEMENT POLICY**

### **1.0. INTRODUCTION**

1.1. This document sets out the Axe Brue, Parrett and North Somerset Levels Internal Drainage Boards' Enforcement Policy (operating within the Somerset Drainage Boards Consortium (SDBC)).

1.2. The Policy applies to the areas of operation of the SDBC Boards ('the Boards') which are available for review on the SDBC website.

1.3. The SDBC consists of IDBs which are public bodies responsible for the management of water levels for the protection of people, property, land and the environment. As part of this work, the Boards are responsible for enforcing laws that protect and regulate these areas.

1.4. The Boards derive their powers of enforcement from the Land Drainage Act 1991 (Sections 23-26, 53,54 and 66) and will always aim to use those powers efficiently and effectively to secure compliance which is in the public interest.

1.5. This document will explain:

- a. The results we want to achieve
- b. The principles we uphold
- c. The enforcement and sanction options available to us
- d. How we make enforcement decisions

1.6 In adopting this policy the Boards authorise the Clerk to the Boards to prepare and authorise Enforcement Procedures.

### **2.0. OUTCOME - FOCUSED ENFORCEMENT**

2.1. Our enforcement approach is based on ensuring, wherever possible, the right outcome for the public.

2.2. We will seek to:

- a. Stop illegal activity from occurring or continuing.
- b. Use our enforcement powers to manage drainage and flood risk proportionately.
- c. Ensure that any damage to the watercourse is restored.
- d. Prevent any harm recurring.
- e. Ensure that the management of the area is done so in compliance with the law.
- f. Obtain an outcome which is proportionate to the nature of the issue.
- g. Remove any gain (financial or otherwise) from offenders.
- h. Deter offending by taking appropriate action against those breaching the law.

2.3. To obtain these outcomes, we will use the full range of enforcement options available to us.

### **3.0. ENFORCEMENT PRINCIPLES**

3.1. The Regulators' Code is a framework for how Regulators should engage with those they regulate. We believe in firm but fair enforcement. We apply the following principles from the Regulators' Code (2014) enacted under Section 21 of the Legislative and Regulatory Reform Act 2006 when we carry out enforcement activities.

Use the following link to see the statutory guidance [Regulators' Code - GOV.UK](#)

#### **3.2.1 PROPORTIONALITY**

a. We will act proportionately when we apply the law. We will take account of and balance the:

- i. Risk posed to people, businesses and the watercourse.
- ii. Seriousness of the issue.
- iii. Actual impact on the watercourse, people and businesses.
- iv. Cost of taking enforcement action against the benefit of taking it.
- v. Impact on economic growth and to the public interest.

#### **3.2.2 CONSISTENCY**

a. We will take a similar approach in similar circumstances with the aim of achieving similar ends.

b. We will aim to be consistent in what advice we give, how we respond to issues, and how we use our Enforcement Powers.

c. Every enforcement decision on what action to take will not be exactly the same. Each circumstance will be different and our staff will use their best judgement.

#### **3.2.3 TRANSPARENCY**

a. We recognise our obligations arising from the Freedom of Information Act (FOIA) and the UK GDPR and Data Protection Act (DPA) and will make clear to people and businesses we regulate:

- i. What they should do to comply with the law.
- ii. What breach or offence we think has been or is being committed.
- iii. What steps they should take to deal with any breach.
- iv. Why we intend to take or have taken enforcement action.
- v. Their right to legal advice, to make representations or to appeal any decision.

b. We will respond to any Freedom of Information Act or General Data Protection Regulations request in a timely and proportionate manner, normally within 20 working days.

### **3.2.4 TARGETING ACTION**

- a. We will mainly direct our effort where activities cause or could cause the greatest risk of serious damage, or where risks are least well controlled.
- b. We will also direct our efforts where there has been repeated or deliberate breaches of the law, or where no action has been taken to resolve a breach within a reasonable time.
- c. We will take action against law breakers, those who are directly responsible for risk, or those who are best placed to control it.
- d. We will not tolerate any aggressive behaviour or threats of violence against SDBC staff members in the course of investigation.
- e. We will use our enforcement powers to take any necessary action to protect the watercourse where the seriousness of the risk requires, and where other avenues (i.e. voluntary remediation by a landowner) have been reasonably exhausted.

## **4.0. ACCOUNTABILITY**

4.1. We will be responsible for each enforcement decision and action we take and will explain it where appropriate.

## **5.0. SUPPORTING BUSINESS**

5.1. . We will follow the Regulators Code in relation to its duty to consider growth and will have regard to the growth duty and guidance in our Land Drainage Consenting activity. Any decisions to refuse consent under Land Drainage Byelaws is subject to arbitration procedure at which compliance with the growth duty may be challenged. We will only take action when we need to and in a proportionate way

5.2. We will make sure our enforcement action supports rather than hinders legitimate business wherever possible. We will not allow businesses to pursue economic growth at the expense of people, other businesses and the watercourse. Failing to take enforcement action can disrupt competition and act as a disincentive to comply in an attempt to save costs.

5.3. The decision to start a prosecution and any decisions made during proceedings are not subject to the growth duty.

## **6.0. ENFORCEMENT OPTIONS**

6.1. In the first instance, we will attempt to support those who have committed (or are likely to commit) offences by providing advice and guidance. That guidance may be written or verbal.

6.2. We will also send written warnings where we consider an offence has been committed. We will set out in writing:

- a. What offence we believe has been committed.
- b. What action we expect you to take.
- c. When we expect that action to be taken. This will normally be 14 or 28 days depending on the severity of the risk to people, property or land.
- d. What might happen next if action is not taken.

6.3. We will use advice, guidance and written warnings in an attempt to help prevent non-compliance, or to help you return to compliance.

6.4. We may choose to take further enforcement action even where we have provided advice and guidance, or a written warning. Continued breaches of the law after receiving advice, guidance or a written warning will influence how we proceed with enforcement action.

6.5. In serious cases requiring an urgent response, we may use our Enforcement Powers without first providing advice, guidance or written warnings.

6.6. The regime we enforce contains powers to serve specific enforcement notices. These notices may require the recipient to stop committing an offence, or to remediate the problems they have caused. Failing to comply with the Notice may in itself be a criminal offence. We will consider serving Notices where they are appropriate. Service of a notice does not mean that further regulator action will not be taken.

6.7 In some circumstances, particularly where there is imminent flood risk to people or property, such as where the owner or occupier cannot be contacted or shows a flagrant disregard for the flood risk created then the Board will take immediate action to reduce the risk and seek to recover costs from the owner or occupier.

6.8 Notices served for infringement under Section 25 of the LDA 1991 can be appealed to the Magistrates Court within 21 days of the date on which the notice is served.

6.9. We can prosecute cases where we believe a criminal offence has been committed. The decision to prosecute will be taken seriously. We will take into account all the circumstances of a case before deciding to prosecute.

## **7.0. COMMENCING A PROSECUTION**

7.1. Before commencing a prosecution, we will ensure that the Code for Crown Prosecutors' (2018) public interest test is met. This means:

- a. We must be satisfied that the evidence available means there is a realistic prospect of securing a conviction.
- b. We must be satisfied that it is in the public interest to proceed with a prosecution.

7.2. In relation to the public interest in bringing a prosecution, we will consider the following:

- a. The intent of the offender.

- b. The foreseeability of risk.
- c. The likely effect of the offence on the watercourse, people and the wider environment.
- d. The financial impact of the offence.
- e. Whether prosecution will have a deterrent effect.
- f. The personal circumstances of the offender, including whether they have co-operated with (or obstructed) an investigation, complied or failed to comply with any notice, their compliance history more generally, and their attitude to the offending.

7.3. We will consider the consequences of a prosecution fully before starting proceedings, and will only begin a prosecution where those consequences are proportionate. We will ensure that the decision to prosecute is taken independently, and for the SDBC Boards that will mean the matter being referred to the Board under advice from external legal advice.7.4 There will be a sign off process by the CEO and Board Chair.

## **8.0. MEDIA AND RECORDS**

8.1. We may choose to publish details of the enforcement action we take where we consider it will advance the enforcement aims of SDBC. We will not publish details of ongoing action where it is likely to compromise our investigation.

8.2. We will comply with the law in relation to data protection.

8.3. We will keep records of our enforcement processes, including:

- a. How decisions have been made.
- b. What advice and guidance has been provided.
- c. What written warnings have been given.
- d. What compliance notices have been served.
- e. Why we consider prosecution is appropriate, the details of criminal prosecutions started, and their outcomes.
- f. The enforcement file will be retained for at least 7 years.

8.4 The decision to publish details of the enforcement action will be based on the following protocol.

- a. The convicted offender pleaded not guilty.
- b. There is widespread public interest.
- c. There were no mitigating circumstances
- d. The offender is not considered vulnerable.

## ANNEXE

### 1.0 Growth Duty Compliance

The Board recognises its obligations under section 108 of the Deregulation Act 2015 to have regard to the desirability of promoting economic growth when exercising its regulatory functions. In meeting this duty, the Board will:

- **Act proportionately**, ensuring that regulatory action is targeted at cases where non-compliance presents a genuine risk to flood management, watercourse integrity, or public safety.
- **Avoid imposing unnecessary burdens** on landowners, occupiers, developers, and businesses, while ensuring that statutory requirements are met.
- **Provide clarity and certainty** by publishing clear guidance on consent requirements, byelaw controls, and enforcement processes.
- **Support sustainable development**, working constructively with applicants to identify solutions that enable economic activity without compromising watercourse access, maintenance requirements, or flood-risk management.
- **Ensure decisions are evidence-based**, consistent, and transparent, with clear reasoning recorded for all enforcement actions.
- **Engage early with developers and landowners**, offering pre-application advice to help avoid avoidable delays, costs, or enforcement action.

The Board will review its approach from time to time to ensure that it continues to meet the Growth Duty while fulfilling its statutory responsibilities for land drainage and flood-risk management.

### 2.0 Growth Duty Regulation

Internal Drainage Boards are treated as regulators for the purposes of the Growth Duty because they exercise statutory regulatory functions under the Land Drainage Act 1991, including consenting works in watercourses, enforcing byelaws, and issuing notices to remedy obstructions or unlawful activities. Although the Growth Duty statutory guidance does not publish a list of individual regulators, the Better Regulation Executive has confirmed that the duty applies to all bodies exercising regulatory functions within the meaning of section 108 of the Deregulation Act 2015.