



Enforcement Action

The aims of enforcement action in flood risk management are to ensure the proper flow of water in a watercourse and over the floodplain as well as the control of water levels and protection of existing assets.

To achieve these aims, the Council may use enforcement powers granted under the Land Drainage Act 1991, to rectify unlawful, damaging or potentially damaging work and impediments to flow on an ordinary watercourse, on a risk based approach, in line with our priorities.

Enforcement action may be taken where damaging or potentially damaging works have been undertaken without consent or are in contravention to an issued consent.

Please note in the case of works undertaken without consent, and where the Council deems that consent would have been required, works cannot be retrospectively consented. In these cases we will normally take action to see that the ordinary watercourse is put back to the condition it was in beforehand. Examples of enforcement action include but are not limited to:

- site visits and face to face meetings with parties concerned
- sending advisory letters
- sending warning letters
- using notices to enforce, prohibit or carry out works
- prosecution and reclaiming costs of prosecution
- direct remedial action plus recharge of costs of remedial action

Failure to obtain Ordinary Watercourse Land Drainage Consent prior to carrying out works may be a criminal offence.

Section 21 Enforcement: Under Section 21 of the Land Drainage Act 1991, the Council has the power to require works to be carried out in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise).

If the works are not carried out in the specified time, the Council may serve a notice under Section 21(2) the nuisance to be abated. Where there is non-compliance with the Section 21(2) legal notice, the Council may then use the power under Section 21(4) to carry out the remedial works and recover the costs of the works from the responsible party.



Section 24 Enforcement: Any person acting in contravention of Section 23 of the Land Drainage Act 1991, may be liable, on conviction, to a fine of up to £5,000, and to a further fine of up to £40.00 for every day on which the contravention is continued after conviction. Under Section 24 of the Land Drainage Act 1991, the Council has the power (without prejudice to any other criminal proceedings) to take necessary action in order to remedy the effect of a contravention or failure to obtain consent, and to recover the expenses reasonably incurred by it from the party in default.

Section 25 Enforcement: Under Section 25 of the Land Drainage Act 1991, the Council has the power (without prejudice to any other criminal proceedings) to require works for maintaining flow of watercourse. This power is concerned with ensuring a watercourse is maintained to a level that allows water to flow freely. Any person acting in contravention of Section 25 of the Land Drainage Act 1991, may be liable, on conviction, to a fine of up to £2,500.

Section 64 Power of Entry: There is a general power of entry afforded to authorised officers of the local authority who may at all reasonable times enter land in the exercise of functions permitted under the Land Drainage Act 1991 or to survey land or inspect any drainage works on any land. A person may also take onto the land, such other persons or equipment as may be necessary. It should be noted however that, unless there is an emergency, notice of intended entry has to be given to the occupier and, in the case of residential property or where heavy machinery is to be used this notice should be given not less than 7 days before the entry is required. Obstruction of an officer in pursuance of powers of entry is a criminal offence. If injury, in this instance this includes damage to land resulting in loss of value or pecuniary loss, is caused in the exercise of the powers then compensation is payable.

If you have noticed works to an ordinary watercourse that causes you concern, you can contact us via the email address below to determine whether the works were consented. If the works were not consented then we may take enforcement action as detailed above.