

Response ID ANON-2K6J-7E3V-2

Submitted to Consultation on changes to the enforcement and sanctions policy - including implementing new water and waste enforcement powers
Submitted on 2026-10-02 15:48:56

Introduction

About you or your organisation

Are you responding as an individual or on behalf of an organisation?

response on behalf of an organisation or group (for example, business, charity, not-for-profit organisation, trade association)

Additional comments:

Renewable Energy Association

What sector do you represent?

other

Other sector:

Renewable energy industry and a range sub-sectors in the waste management industry (organic recycling, EfW, ACT, landfill)

Please tell us how you found out about the consultation on changes to the enforcement and sanctions policy.

from the Environment Agency

Other how you found out about the consultation:

We would like to keep you informed about the outcomes of this consultation. Would you like to receive an email telling you when we have published our response to the consultation?

yes, I would like to receive an email to let me know the consultation response document is published

Email address:

emily@r-e-a.net

Can we publish your response? We will not include personal information.

Yes

No to publish response:

Your Interest

In order to direct you to the relevant consultation questions please answer the questions below.

Digital waste tracking

Digital waste tracking

Our approach to using civil sanctions

In Section 1, Part B of Annex 4 we set out what civil sanctions are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 1, Part B of Annex 4 we set out what civil sanctions are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 1, Part B of Annex 4 we set out our approach to using the civil sanctions that are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 1, Part B of Annex 4 we set out our approach to using the civil sanctions that are available to us. Does the wording require any changes to ensure that it is clear and easy to understand?:

How we will apply and calculate fixed monetary penalties

In Section 2, Part B of Annex 4 we set out when we have the power to issue a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

Changes are needed

In Section 2, Part B of Annex 4 we set out when we have the power to issue a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?:

The EA proposes to charge a Fixed Monetary Penalty (FMP) of £1k per 'low / no culpability' error. The EA 'will issue FMPs for breaches where we consider there is only low / no culpability and:

- the breach causes at most only a risk of harm, not actual harm, to the integrity of the DWT system or to the environment;
- the offence is not linked to actual environmental harm;
- no financial benefit has been accrued'.

There will be some breaches that are operators' administrative/reporting errors, made while they, in good faith, aim to comply with DWT requirements. In our view, a £1k FMP for this kind of error would be disproportionate to risks the EA aims to control under DWT rules. Considering system robustness, if an admin/reporting error were to occur that is linked to a type and quantity of controlled waste that causes actual environmental harm, we infer from the consultation document that a variable monetary penalty (civil standard) would be applied. Such a case would, rightly, not fit the criteria for EA issue of an FMP.

Returning to considering operators' administrative/reporting errors, made while they, in good faith, aim to comply with DWT requirements, we are concerned that at the smallest scales of operation under a permit or license to manage controlled waste, if an operator were to receive multiple FMPs for unintended admin/reporting errors this could cause business bankruptcy. DWT compliance imposes extra staff and systems requirements on within-scope operators, and in a low margin industry such as composting, FMPs at £1k per penalty notice could push some businesses beyond financial viability.

Considering large waste management companies, one has informed us that it produces 6k tickets per day in DWT Phase 1, of which 0.13% are non-compliant due to unintended error. In DWT Phase 2, the company forecasts producing 60k tickets a day, and if their unintended error rate were to be the same as in Phase 1 then the company's FMP total PER DAY would be £78,000!

We call for no FMP for an operator's admin/reporting error, provided the operator is not repeating the same error beyond a reasonable period of time and they are, in good faith, aiming to comply with DWT requirements. The reasonable period of time should take account of when the EA communicated the error to the operator, time needed for further training relevant staff and/or for improving the reporting system (e.g. software, or paper records for those exempt from on-line reporting).

We also ask that:

- FMPs for admin/reporting errors are not issued during the first 6 months after DWT reporting becomes mandatory, nor for the first 6 months after an operator who is new to DWT requirements must begin their reporting, UNLESS the operator does not make reasonable efforts to correct their reporting errors and take other action(s) so they avoid making the same error(s) in future; and
- errors from a SINGLE root cause, such as a software fault or one misconfigured waste code, are treated as ONE breach rather than individually.

In Section 2, Part B of Annex 4 we set out how we will use a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

Question 3.4: In Section 2, Part B of Annex 4 we set out how we will use a civil fixed monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 2, Part B of Annex 4 we set out our approach for applying a civil fixed monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

Changes are needed

In Section 2, Part B of Annex 4 we set out our approach for applying a civil fixed monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?:

This part of the consultation document includes that 'If the penalty is not paid (and an appeal is not made) within 28 days of receipt of the final notice, the amount of the penalty is increased by 50%.' We are unsure how much time would typically elapse between operator receipt of the EA's initial and final FMP notices. Given the array of regulations with which waste management companies must comply and stretched finances and staffing levels in parts of the sector, we prefer that an FMP is increased by 20 % if it is not paid (and an appeal is not made) within 60 days of receipt of the EA's final notice.

How we will apply and calculate variable monetary penalties

In Annex 4 we set out when we have the power to issue a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Annex 4 we set out when we have the power to issue a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 3, Part B or Annex 4 we set out how we will use a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 3, Part B or Annex 4 we set out how we will use a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 3, Part B of Annex 4 we set out our approach for applying a civil variable monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?

No opinion

In Section 3, Part B of Annex 4 we set out our approach for applying a civil variable monetary penalty. Does the approach require any changes to ensure that it is fair and reasonable?:

In Section 3, Part B of Annex 4 we set out how we will calculate a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 3, Part B of Annex 4 we set out how we will calculate a civil variable monetary penalty. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 3, Part B of Annex 4 we set out how we will assess aggravating and mitigating factors together. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 3, Part B of Annex 4 we set out how we will assess aggravating and mitigating factors together. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 3, Part B of Annex 4 we set out our method for calculating a civil variable monetary penalty. Does the method require any changes to ensure that it is fair and reasonable?

No opinion

In Section 3, Part B of Annex 4 we set out our method for calculating a civil variable monetary penalty. Does the method require any changes to ensure that it is fair and reasonable?:

In Section 3, Part B of Annex 4 we set out our approach to assessing aggravating and mitigating factors together. Does the method require any changes to ensure that it is fair and reasonable?

No opinion

In Section 3, Part B of Annex 4 we set out our approach to assessing aggravating and mitigating factors together. Does the method require any changes to ensure that it is fair and reasonable?:

When we will use compliance notices

In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the approach require any changes to ensure that it is fair and reasonable?

No opinion

In Section 4, Part B of Annex 4 we set out our approach for deciding when to issue a compliance notice. Does the approach require any changes to ensure that it is fair and reasonable?:

When we will use enforcement cost recovery notices

In Section 4, Part B of Annex 4 we set out when we will issue an Enforcement Cost Recovery Notice. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 4, Part B of Annex 4 we set out when we will issue an Enforcement Cost Recovery Notice. Does the wording require any changes to ensure that it is clear and easy to understand?:

In Section 5, Part B of Annex 4 we set out our approach for deciding when to issue an Enforcement Cost Recovery Notice. Does the approach require any changes to ensure that it is fair and reasonable?

No opinion

In Section 5, Part B of Annex 4 we set out our approach for deciding when to issue an Enforcement Cost Recovery Notice. Does the approach require any changes to ensure that it is fair and reasonable?:

Appeals against Environment Act 2021 civil sanctions

In Section 6, Part B of Annex 4 we set out when an appeal of an Environment Act 2021 civil sanction for a breach of the digital waste tracking regulations is available. Does the wording require any changes to ensure that it is clear and easy to understand?

No opinion

In Section 6, Part B of Annex 4 we set out when an appeal of an Environment Act 2021 civil sanction for a breach of the digital waste tracking regulations is available. Does the wording require any changes to ensure that it is clear and easy to understand?:

Additional comments

Additional comments:

You have completed the Digital Waste Tracking section. Please select the next consultation for which you would like to answer questions or submit your response.

Submit your response