



HOUSE OF COMMONS

LONDON SW1A 0AA

Environment Agency
Horizon House, Deanery Road,
Bristol
BS1 5AH

By email: futureregcompliance@environment-agency.gov.uk

Our reference: BS28261

7 October 2023

Dear Sir/Madam,

RE: Consultation on implementing changes to the variable monetary penalties regime

I write, as MP for Runnymede and Weybridge, in response to the Environment Agency's above-referenced consultation.

My constituency is a great place to live, with a beautiful natural environment, thriving towns and excellent transport links. It is also an area of relatively high population density, flood risk and road usage significantly above the national average. Areas of Runnymede and Weybridge are topographically and environmentally complex, with the Wey, Thames, and Bourne Rivers flowing through the constituency, alongside lakes and large areas of flood plain.

These factors lead to environmental challenges as a result of increased pressure on infrastructure such as housing, roads, and drainage and sewerage systems. The geographic constraints also mean development is restricted and often industrial development, including quarries and incinerators, are located in close proximity to residential areas. A strong environmental enforcement regime will help us to tackle these challenges.

Against this background, I would like to express my strong support for the decision of the Department for the Environment, Food and Rural Affairs – further to its consultation which concluded in May 2023 - to remove the current £250,000 cap on variable monetary penalties for environmental infringements and make the amount unlimited.

I welcome that the EA is now consulting on, amongst other matters, whether the method for calculating civil monetary penalties is sufficiently clear and whether the proposed amendments to the calculation guidance will lead to proportionate and fair variable monetary penalties.

The environmental position of Runnymede and Weybridge

Several areas of my constituency are prone to frequent flooding, including sewage flooding, which is particularly distressing and expensive for residents to deal with.

I am working proactively with local flood groups, the EA, Thames Water, Affinity Water, National Highways and other stakeholders to tackle systemic causes and improve responses for the benefit of those residents affected by this issue. Protecting our natural environment is a key part of my local plan, which can be found here: www.drben Spencer.org.uk/campaigns/Clean%20Up%20Our%20Waterways%20and%20Protect%20Our%20Natural%20Environment

While I therefore welcome work to strengthen enforcement penalties, these will only succeed

if risks are measured and monitored, and reports of breaches and environmental risk are responded to swiftly. There are a number of risks within my constituency where this has been an issue to date.

Maintenance of waterways

Unfortunately, an issue which arises fairly frequently in my constituency is pollution and blockages of our waterways by unlawful dumping of larger items, such as construction waste, white goods and even abandoned boats. Unrestricted growth of vegetation can also inhibit the flow of waterways to the detriment of wildlife. This has been particularly problematic, given the current system of riparian ownership – where the landowner is responsible for maintenance of the waterways on their property - and the lack of enforcement action by the EA to date.

I have written to the EA previously to raise the detrimental effect that such blockages are having on the flow of the Abbey River, which has caused concern to many residents in the Chertsey area. I was also able to raise this matter with the Secretary of State for Defra, Therese Coffey, as part of a recent meeting on expediting the progress of the River Thames Scheme.

I am grateful that the EA has confirmed in response to my correspondence that it will look at using its permissive powers as one of a range of options for addressing the problem and restoring the Abbey River to its former state.

Incinerators

I have also worked to ensure proposals for quarries and incinerators in suburban areas do not have a detrimental impact on the natural environment or local residents. Where there is clear risk of this occurring, I have worked to oppose schemes which have the potential to increase pollution and affect residents' enjoyment of our local environment.

Concerns with these proposals include the risk of pollution and smells from such sites. I have repeatedly called for increased monitoring of the risks, and I remain concerned at the delay or lack of priority apparently assigned to reports of environment damage or licence breaches from such sites.

Proposed changes to the EA's civil penalties regime

Alongside strong policy measures, an effective enforcement regime is an essential tool in tackling environmental pollution and securing better outcomes for our natural environment and our communities, I am therefore supportive of Defra's decision to remove the cap on variable monetary penalties for environmental offences and make the amount unlimited.

When to impose fines

The consultation seeks feedback on whether the existing methodology for determining whether a monetary penalty should be applied is sufficiently clear. Given the potential for larger fines as a result of the removal of the cap, it is correct that the methodology is scrutinised to ensure it remains fit for purpose.

The fact that the EA follow the test laid down in the Code for Crown Prosecutors when deciding whether the evidence is sufficient to proceed with imposing fines is useful for promoting public confidence.

The high-level principles that fines should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain from commission of the offence remain highly relevant. I strongly agree with the principle expressed in the Sentencing Guidelines that it should not be cheaper to offend than to take the appropriate precautions.

When enforcement action is taken in a proactive fashion, the freedom to impose larger fines which take into account gains from failing to stop pollution from occurring, has the potential to act as an effective deterrent. By way of example, the situation with our aging drainage and

sewerage systems is complex and enormous investment is required to tackle the problem, and the costs of remedial measures would have far outweighed the possible penalties for inaction. Nonetheless, there is no doubt in my mind that water companies have avoided cost, and enhanced profit, by failing to invest in sewerage infrastructure which would have alleviated the impact of sewage flooding on residents of Runnymede and Weybridge and across the country. A previous lack of effective enforcement and significant penalties may have been one contributing factor in this.

I have consistently called for action from Government, the water companies and our enforcement agencies to take a concerted approach to dealing with this ongoing problem, which has such a detrimental effect on areas of my constituency. I hope that the changes being brought in by the EA means that the agency will step up its enforcement regime to protect the environment and residents affected by polluters.

Calculating fines

I welcome that the EA will continue to use the Sentencing Council's Guidelines for Environmental Offences for determining the amount of a variable money penalty, albeit that there is now no cap on this amount. This will promote consistency and transparency in the EA's approach to enforcement.

I am supportive of the EA continuing to consider what steps polluters have taken to compensate victims who have sustained loss and damage as a result of environmental infringements in assessing whether a variable money penalty should be reduced. I would call on the EA to go further and introduce consideration of whether a polluter has (when within their capability to do so) provided fast, practical assistance to victims as a mitigating or aggravating factor in the size of the penalty issued. The Sentencing Council's Guidelines already suggest evidence of steps taken to remedy problems as a should be taken account of as a mitigating factor, but the speed at which help is provided is also crucial.

In Runnymede and Weybridge, I have seen first hand the difficult in getting a timely response from water companies, even when residents are affected by flooding and sewage spills. Water companies and other agencies often appear reluctant to admit ownership of the problem, or there is confusion over which organisation has the responsibility to take action. Time is often of the essence in these situations; the longer problems go unaddressed, the greater the extent of the environmental and health risk, as well as the damage caused to homes.

I continue to call for a local flood control centre to be established so responses to incidents such as this can be co-ordinated, and residents can have a single point of contact to report and receive updates on local flooding issues. However, the situation is unlikely to improve substantially unless those with responsibility are forced to take action. I believe that introducing early assistance to victims as a factor mitigating the size of a penalty could act as a powerful tool in incentivising polluters to act as quickly as possible to remedy damage caused by environmental incidents.

I remain absolutely committed to working with residents and stakeholders to tackle instances and risks of environmental harm in Runnymede and Weybridge. If you have any questions regarding the issues I have raised, please do not hesitate to contact me.

Yours faithfully,



Dr Ben Spencer MP
Runnymede and Weybridge

CC: Therese Coffey, Secretary of State for Environment, Food and Rural Affairs