

# Water Regulations Enforcement Policy

10/11/15

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Blueprint for Yorkshire



YorkshireWater

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# Introduction

Yorkshire Water is committed to ensuring everyone has safe, great tasting drinking water and we have a legal duty to the government for the enforcement of The Water Supply (Water Fittings) Regulations 1999. These Regulations are designed to prevent the contamination, waste, misuse, undue consumption and the erroneous measurement of water.

Owners and occupiers of premises that are, or will be, connected to the public water supply, and anyone who installs plumbing systems or water fittings have a legal duty to ensure that their water systems comply with the requirements of the Regulations.

New and existing installations are inspected by Yorkshire Water's Regulations Inspectors who are authorised to enter premises and check that the Regulations are being complied with.

The purpose of this document is to set out Yorkshire Water's commitments to the effective enforcement of the Water Fittings Regulations. It describes the principles that we will follow in ensuring compliance and how we will work with organisations and stakeholders to achieve these outcomes. This document is intended as an overarching policy and will be reviewed every year.

## Aim of this policy

This policy sets out the general principles which the Company intends to follow in relation to enforcement and prosecution. The aims of this policy are:

- To ensure a consistent approach to enforcement of the Water Fittings Regulations within the supply area of Yorkshire Water;
- To provide all staff who take enforcement decisions with guidelines to enable them to make decisions in the field, consistent with current government advice and best practice;
- To inform duty holders and the public of the principles by which enforcement action is taken.

## Purpose and method of enforcement

If someone is found in breach of the Regulations, Yorkshire Water must decide what steps to take. The purpose of enforcement is to ensure that preventative or remedial action is taken to secure compliance with the Regulations so as to:

- Ensure the safety of the public water supply
- Reduce the risks to health from contaminated water (both within premises and in the wider water supply network)
- Minimise the wastage of water within premises and promote efficient water use
- Protect company assets
- Preserve valuable water resources; and comply with our statutory obligations.

# Principles of enforcement

Yorkshire Water believes in firm but fair enforcement of the Regulations and recognises that the best way to achieve compliance is to ensure, by adopting an educative approach and discussing the requirements, that duty holders understand the nature and extent of their responsibilities and comply voluntarily.

To ensure the Regulations are enforced fairly, Yorkshire Water has adopted the following principles:

## Proportionality

When considering the most appropriate course of action, the circumstances of the case and the attitude of the duty holder will be taken into account, and action taken will always be proportionate to the seriousness and persistence of any contraventions.

Yorkshire Water recognises that most individuals and businesses want to comply with the law. Therefore in most situations the proportionate response will be a partnership approach, whereby the Company will co-operate with duty holders to achieve compliance by being open and helpful, offering informal advice and providing the opportunity to discuss compliance issues.

## Consistency

This means taking a similar approach in similar circumstances to achieve similar ends. The Company seeks to achieve consistency in advice tendered, the response to incidents, the use of powers and decisions on whether to prosecute but the Company recognises that this does not mean simple uniformity.

Yorkshire Water employees are expected to exercise judgement in individual cases and in practice are faced with many variables, including the attitude and competence of duty holders, the seriousness of the breach, the degree of risk, and the compliancy history of the duty holder. Yorkshire Water therefore recognises that in practice consistency is not a simple matter and has arrangements in place to promote consistency, including ongoing professional development training and liaison with other water companies, enforcement agencies and interest groups.

## Targeting

Regulatory and enforcement effort will be applied according to a prioritising system based on the principles of risk assessment, with attention being focused on those whose activities give rise to the most serious risks, or where potential hazards are least well controlled. Action will be primarily focused on duty holders or those directly responsible for the risk and who are best placed to control it.

## Transparency

Transparency is important so that those being regulated understand what is expected of them and what they should expect from the Company. It also means making clear why the Company intends to take, or has taken, enforcement action.

Where contraventions are identified by the Regulations Inspectors and improvements are required, Yorkshire Water will provide clear and simple explanations of why any remedial action is needed and by when. Recommendations may also be made to advise duty holders on how they can go beyond the minimum legal requirements and comply with current best practice. Additional written advice will be provided on request and will clearly distinguish between legal obligation and best practice advice. If immediate action is needed, Inspectors will explain why and provide written confirmation.

## Accountability

As a regulatory body, Yorkshire Water is accountable for its actions. This means that Yorkshire Water must have policies and standards (such as the enforcement principles outlined in this document) against which it can be judged, and have an effective and easily accessible mechanism for dealing with comments and handling complaints.

The way the company deals with comments and complaints are set out in our codes of practice, which are available on our website.

<https://www.yorkshirewater.com/sites/default/files/Code%20of%20Practice%20Customer%20Charter%202015.pdf>

## Enforcement options

There are a range of options available to Yorkshire Water to make sure the Regulations are followed.

### Informal approach

Our standard procedure is to follow an inspection with a report, explaining what the problem is, what should be done about it and by when. This approach will be used as long as it is believed that this will achieve compliance with the Regulations within a timescale that will protect public health, minimise excessive wastage and ensure the above aims are met. A revisit will be carried out to determine progress towards compliance and, if work is not done, then more serious action is likely to follow.

### Warning letters

In situations where Yorkshire Water has good reason to believe that infringements exist, an informal approach has proved unsuccessful and neither prosecution nor a simple caution is deemed appropriate, a warning letter may be issued. A record that a warning letter has been issued will be kept by the Company and this will comprise part of the compliance record of the business or duty holder.

### Enforcement notices

Where serious and/or widespread infringements exist and an informal approach has proven unsuccessful, or is otherwise deemed inappropriate, Yorkshire Water may serve Notice on the duty holder formally requiring them to take steps or carry out works as specified in the notice as necessary to ensure compliance with the Regulations within a specified timescale. Failure to comply with the Notice is taken seriously and is likely to result in one or more of the following actions being taken.

### Disconnection of the supply

Where serious infringements exist and the case is deemed so severe as to constitute an emergency it may be deemed necessary by Yorkshire Water to disconnect the service pipe or otherwise cut off the supply of water to premises. The supply of water to premises may also be disconnected on expiry of an Enforcement Notice where the specified actions or works have not been complied and the premises appear to be unoccupied.

### Works in default

If a duty holder fails to carry out the actions or works specified in an Enforcement Notice within the specified timescale, Yorkshire Water may carry out such actions or works on behalf of the duty holder and is legally entitled to recover any expenses reasonably incurred from the person or company on whom the Notice was served.

## Simple cautions

Under some circumstances a simple caution may be used as an alternative to prosecution. It is not a form of sentence (which only a court can impose), nor is it a criminal conviction. It is, however, an admission of a failure to comply with the Regulations, and may influence how that individual or business is dealt with, should they commit subsequent offences and it may also be cited in court in any subsequent proceedings.

The aims of the simple caution are to:

- deal quickly and simply with less serious cases where the duty holder has admitted a failure to comply with the Regulations;
- divert less serious offences from the criminal courts;
- record an individual's failure to comply with the Regulations for possible reference in future criminal proceedings or relevant security checks; and
- reduce the likelihood of re-offending.

## Prosecution

Prosecution will generally be reserved for the most serious cases when the duty holder has failed to respond to an informal approach, or where there are frequent, less serious breaches, and will only be initiated following careful consideration. Before initiating prosecution procedures Yorkshire Water will apply the evidence test and the public interest test as described in the Crown Prosecution Service Code for Crown Prosecutors. The following factors will be considered prior to initiating prosecution procedures:

- The seriousness of the alleged offence;
- The severity and scale of potential or actual harm;
- Any explanation offered by the duty holder;
- The willingness of the duty holder to prevent a recurrence of the contravention;
- The previous compliance history of the duty holder;
- The likelihood that a defence could be established;
- The strength and admissibility of the evidence;
- The probable public benefit of a prosecution and the importance of the case in establishing a precedent; and
- Whether other action would be more appropriate or effective.

# Legal guidance

## Penalties

Failure to comply with the provisions of the Water Supply (Water Fittings) Regulations is an offence and any person or business found guilty of such an offence shall be liable on summary conviction to a fine not exceeding level three on the standard scale. The Company will continue to raise the awareness of the courts to the gravity of some offences and will encourage them to make full use of their powers. The Company will always seek to recover any associated costs of investigation and Court proceedings.

## Defences

The Regulations provide a defence for an owner or occupier charged with an offence which is based on the installation, alteration, repair, connection or disconnection of a water fitting, if they can prove that the work was carried out by an Approved Contractor who certified that the water fitting complied with the requirements of the Regulations.

## Powers of entry

Authorised inspectors have right of entry into any business or domestic premises at a reasonable time, provided (unless in the case of an emergency) that twenty four hours' notice of the intended entry has been given to the occupier. It is an offence to wilfully deny access to an authorised officer and any person found guilty of such an offence shall be liable on summary conviction to a fine not exceeding level three on the standard scale. Should officers be obstructed in the course of their duties, Yorkshire Water may obtain a warrant to enter from the courts. This allows entry to be made by force if necessary.

## Publicity

The use of the criminal process to institute a prosecution is an important part of enforcement. It aims to punish wrongdoing, to avoid a recurrence and to act as a deterrent to others. It follows that Yorkshire Water will consider publicising any conviction which could serve to draw attention to the need to comply with the Regulations, or deter anyone tempted to disregard their duties under the Regulations

## Qualifications and Authorisation of Inspectors

No inspector will carry out inspection and enforcement duties unless suitably trained and experienced and authorised by the company's Water Regulations Manager. Continuing professional development training will be provided for all Inspectors enabling them to keep abreast of changes in legislation and good practice. Inspectors will be fully acquainted with the requirements of this Enforcement Policy upon appointment and with any revisions as they arise.

## Appeals

As a regulatory body, Yorkshire Water is accountable for its actions and will maintain a consistent approach to enforcement. If you have a complaint that this policy has not been followed then you can contact the Water Regulations Manager to discuss the matter. Your complaint will then be investigated and you will be informed of what will be done about it. Most complaints are settled in this way, very often immediately, but if you are still not satisfied you can use the Company's formal complaints procedure. Our website details how your complaint will be handled.

[https://www.yorkshirewater.com/sites/default/files/24338%20Code%20of%20Practice%20Leaflets%202015\\_Compilaints\\_0.pdf](https://www.yorkshirewater.com/sites/default/files/24338%20Code%20of%20Practice%20Leaflets%202015_Compilaints_0.pdf)

## Contact details

Yorkshire Water are committed to ensuring that everyone has safe, great tasting drinking water. Having a well-designed water reuse system ensures the public drinking water supply is protected and helps designers and installers to meet their regulatory requirements.

There is more information on Keeping Water Safe in Premises on our website [www.yorkshirewater.co.uk](http://www.yorkshirewater.co.uk)

Copies of this guide can be downloaded free from our website [www.yorkshirewater.co.uk](http://www.yorkshirewater.co.uk)

### Water Regulations Team

You can contact our **Water regulations** team by post to **Water Regulations, Yorkshire Water Services Ltd, PO Box 52, Bradford BD3 5AY**

Telephone :01274 804851

or by email to [waterregulations@yorkshirewater.co.uk](mailto:waterregulations@yorkshirewater.co.uk).

### Other references

Water Regulations Advisory Scheme (WRAS)

[www.wras.co.uk](http://www.wras.co.uk)

Water Supply (Water Fittings) Regulations

[www.defra.gov.uk/environment/quality/water/indursty/wsregs99/index.htm](http://www.defra.gov.uk/environment/quality/water/indursty/wsregs99/index.htm)

### Version Control

This Enforcement Policy will be reviewed annually or when necessary as a result of changes in legislation or centrally issued guidance. Date of last review Dec 2015.

Version No	Date	Issued by	Summary of change(s)
V1	07/05/2014	Alex Macaskill	
V2	04/01/2016	Alex Macaskill	Added version control as part of recommendations made during NQA audit



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