

ENFORCEMENT

South Gloucestershire Council as the Lead Local Flood Authority has powers under the Land Drainage Act 1991 to take enforcement action in relation to watercourses outside of Internal Drainage Board (IDB) areas and where they are not Environment Agency designated main rivers.

Enforcement action may be taken by the regulating authority to rectify any unlawful, damaging or potentially damaging works on an ordinary watercourse. The Lead Local Flood Authority will take a risk-based and proportionate approach to enforcement action, taking into account a number of factors.

What enforcement powers does the Council have?

The Lead Local Flood Authority has powers under Section 21, 24 and 25 of the Land Drainage Act 1991 to serve notice on individuals who have caused contraventions. These powers are permissive, meaning that it remains the decision of the authority as to whether it carries out enforcement action or not.

Why use enforcement action?

- The aim of using enforcement action is to:
- Ensure the proper flow of water in a watercourse and over the floodplain
- Rectify any unlawful, damaging or potentially damaging works to an ordinary watercourse and,
- To control water levels and the security of existing assets through proper repair and maintenance works

When does the council use these powers?

The Lead Local Flood Authority may use its enforcement powers when:

- A watercourse or feature is in need of maintenance
- Un-consented works have been carried out on a watercourse
- Impediments to the proper flow of water are identified and require rectifying

Enforcement action may also be taken where consented works have been undertaken in a manner contravening the consent.

Enforcement Process

Where the Lead Local Flood Authority believes or is made aware of breaches to the legislation it will open up an enforcement case against individuals/owners.

Every effort will be made by the Lead Local Flood Authority to resolve the situation by means of negotiation with the person responsible and obtain compliance with a request to satisfactorily undertake the work required.

When it is considered that further action is required the following steps will be taken:

- Contact will be made with the responsible party explaining the problem and detailing the remedial action required. This will be provided in writing by letter from the Lead Local Flood Authority.
- For straightforward matters the aim will be to ensure that remedial action is carried out within the timeframe set out in the letter.

Once this has been completed to a satisfactory standard then the enforcement case will be closed.

Serving notices under the Land Drainage Act 1991

If a positive response to correspondence from the Lead Local Flood Authority is not received within the timescale specified and/or no works have been undertaken to rectify the matter then a notice under the relevant section of the Land Drainage Act 1991 will be prepared.

In issuing a notice the Lead Local Flood Authority may set out the works required to resolve the contravention to an acceptable standard and the date by which the works should be completed.

If the works are not completed by the date set out in the notice, the Lead Local Flood Authority may take action to remedy the effect of the contravention or failure and seek to recover the costs incurred, as well as pursue any necessary prosecution.

Advice

Landowners with a watercourse running through or adjacent to their land have certain rights and responsibilities as a 'Riparian Owner' to manage and maintain these watercourses. More information on 'Riparian Ownership' and the rights and responsibilities can be found on our website [HERE](#).

It is highly recommended that initial advice is sought from the Lead Local Flood Authority before undertaking works on ordinary watercourses, to ensure that landowners do not contravene ordinary watercourse regulation requirements.

At this point we would also like to highlight the fact that the Drainage & Flood Risk Management team will not get involved in any neighbourly disputes. Any issues of 'land grabbing' will need to be taken up with your solicitors. More information on how to deal with neighbourly disputes can be found [HERE](#)