

Natural England Board



Meeting: 11
Date: 25 June 2008

Paper No: **NEB PU11 04**

Title: **Natural England's Regulatory and Enforcement Strategies and Enforcement Policy**

Sponsor: **Andrew Wood, Executive Director Operations**

1. Purpose

1.1 To seek the Board's agreement to our proposed regulatory and enforcement strategies.

2. Recommendations

2.1. It is recommended that the Board:

- a) agree the Regulatory Strategy;
- b) agree the Enforcement Strategy; and
- c) agree that the draft Enforcement Policy should go to public consultation.

3. Background

3.1 Natural England has inherited a variety of regulatory roles and responsibilities and different cultural approaches to its regulatory and enforcement work from the founding bodies.

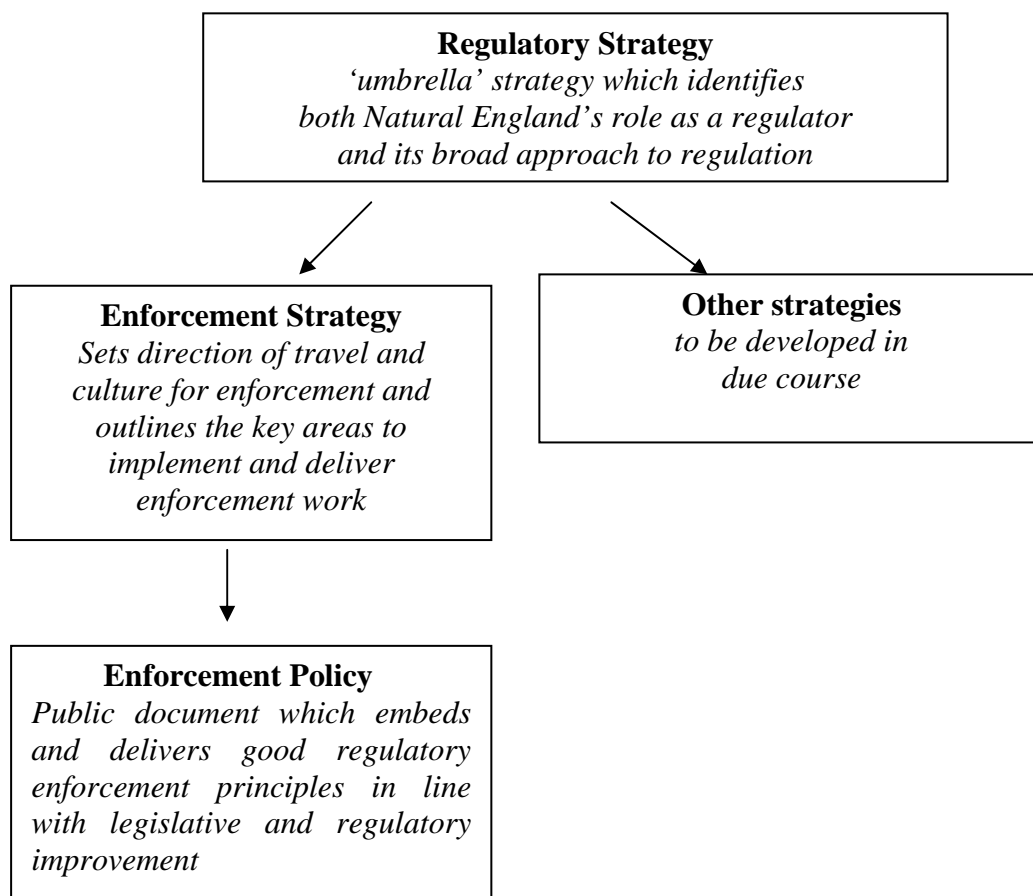
In order to meet our strategic objective to be a distinctive public body whilst complying with other drivers such as the government-wide Hampton better regulation agenda, the need to use regulation to achieve the SSSI PSA target and wider environmental outcomes it is clear that Natural England needs a regulatory strategy which allow us to promote new ways of working and embed an effective and appropriate regulatory culture within Natural England.

3.2 A Regulatory Strategy has been developed to meet this requirement. It is a broad strategy which identifies both Natural England's role as a regulator and its approach to regulation. This 'umbrella' strategy is very high level and underneath it will sit a number of other strategies which will adopt and follow its general principles.

3.3 One of the key activities of a regulatory body, where it is appropriate and necessary as a proportionate response, is to undertake enforcement action. An Enforcement Strategy which identifies Natural England's broad approach and the key areas it needs to focus to be an effective enforcer on has been developed.

- 3.4 One of the key tools identified in the Enforcement strategy that Natural England needs if it is to undertake an effective, firm but fair approach to enforcement is an enforcement policy which clearly and publicly sets out its approach to enforcement. A draft Policy for Natural England has been developed.
- 3.5 We have set out below in diagrammatic form (Diagram 1) how these strategies and policy fit together.

Diagram 1



- 3.6 Attached to this paper are Natural England's:
- Regulatory Strategy – Annex 1;
 - Enforcement Strategy – Annex 2;
 - Enforcement Policy – Annex 3.
- 3.7 The Regulatory and Enforcement Strategies have been informed by discussions across Natural England (including a secondee from the police service to Natural England).

4. Issues

4.1 A Regulatory Strategy for Natural England

- 4.1.1 Natural England's principle focus for regulation is the protection and enhancement of England's natural environment, securing better environmental outcomes for the benefit of present and future generations.
- 4.1.2 Regulation is one of the five primary levers (along with advocacy, advice, incentives and direct delivery) that Natural England has at its disposal to secure outcomes.
- 4.1.3 The Regulatory Strategy is necessarily broad. It focuses on the Hampton and better regulation agenda and sets out some proposed 'next steps' that will guide the integration of the core regulatory business and drive service improvements.
- 4.1.4 Natural England must ensure that its regulatory activity:
- functions within the context of Natural England's statutory purpose;
 - delivers better environmental outcomes;
 - is consistent, proportionate, transparent, targeted and accountable (i.e. complies with the statutory Regulators' Compliance Code¹ – derived from Hampton principles and better regulation principles);
 - is part of a package that encourages our customers to comply with legislation and focuses our efforts on those that fail to comply;
 - where practicable, will reduce the administrative burden on customers and realise internal efficiencies and savings.
- 4.1.5. The Regulatory Strategy and the documents and projects that underpin it, will enable the business and customers that we regulate to broadly understand the objectives and basis for regulation within Natural England.

4.2 An Enforcement Strategy for Natural England

- 4.2.1 Natural England is responsible for the regulatory stewardship and enforcement of offences relating to:
- Sites of Special Scientific Interest (SSSIs);
 - illegal burning of heathland and grassland;
 - agricultural work which affects uncultivated land or semi-natural areas (EIA (Agriculture) Regulations); and
 - breaches of wildlife licences and notices that we issue.
- 4.2.2 In addition, Natural England:

¹ The Code came in to effect on 6th April 2008.

- as 'Wildlife Inspectors' (appointed by the Secretary of State) has the power to enter land, take samples etc, to ensure compliance with the licences that we issue under various pieces of wildlife legislation;
- has an obligation to advise and assist the Police, Defra Wildlife Inspectors and HM Revenue & Customs with enforcement of the Wildlife and Countryside Act 1981;
- works under contract to Pesticides Safety Division to investigate cases of death or injury of wildlife, companion animals and beneficial invertebrates from suspected pesticide poisoning.

4.2.3 There is an expectation from Parliament, Defra and stakeholders that we will use our enforcement powers in a proportionate way, when required and when it is in the public interest do to so, to protect the natural environment of England.

4.2.4. Natural England's Enforcement Strategy follows the principles set out in Natural England's overarching Regulatory Strategy. It outlines the key areas that we need to focus on to implement and deliver our enforcement work.

4.3 An Enforcement Policy for Natural England

4.3.1. Natural England's Enforcement Policy will embed and deliver good regulatory enforcement principles in line with legislative and regulatory improvement by ensuring that we carry out our enforcement work in a consistent, proportionate, transparent, targeted and accountable manner. If Natural England wishes to appear consistent as well as firm but fair in its enforcement activities it must have a coherent Enforcement Policy that is compliant with the Hampton principles.

4.3.2 The draft Enforcement Policy will be subject to a 12 week public consultation process over the summer in line with Government recommendations. Once the consultation is complete and any necessary changes made the Policy will be published. It will be for both internal and external use.

Annex 1

NATURAL ENGLAND'S REGULATORY STRATEGY

1. Introduction

Natural England's principle focus for regulation is the protection and enhancement of England's natural environment, securing better environmental outcomes for the benefit of present and future generations.

Regulation is one of the five primary levers, along with advocacy, advice, incentives and direct delivery, that Natural England has at its disposal to secure outcomes.

This document is intended as a broad over-arching strategy which sets out Natural England's approach to regulation. It outlines the Hampton and better regulation agenda and sets out some proposed 'next steps' that will guide the integration of the core regulatory business and drive service improvements.

This Strategy, and the documents and projects that underpin it, will enable the business and customers that we regulate to broadly understand the objectives and basis for regulation within Natural England.

2. General principles

Natural England must ensure that our regulation:

- functions within the context of Natural England's statutory purpose;
- delivers better environmental outcomes;
- is consistent, proportionate, transparent, targeted and accountable (i.e. complies with the statutory Regulators' Compliance Code² – derived from Hampton principles and better regulation principles);
- is part of a package that encourages our customers to comply with legislation and focuses our efforts on those that fail to comply;
- where practicable, will reduce the administrative burden on customers and realise internal efficiencies and savings.

Definition of regulation ('regulatory functions'):

Section 32(2) Legislative and Regulatory Reform Act (2006) defines "regulatory function" as:

*"a function under any enactment of imposing requirements, restrictions or conditions, or setting standards or giving guidance, in relation to any activity; or
a function which relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or*

² The Code came in to effect on 6th April 2008.

guidance which under or by virtue of any enactment relate to any activity”.

Whilst this definition (of regulatory functions) is broad, this Regulatory Strategy document is aimed at the core of Natural England’s “regulatory business”: *Wildlife Management and Licensing, Protected Areas and Access*³.

There are other areas of the business, for example land management incentives, that are clearly captured by the definition above and, whilst not ‘*core regulatory business*’, the statutory Regulators’ Compliance Code is still applicable.

3 Natural England’s regulatory framework – a “licence to operate”

Natural England is a Non Departmental Public Body (NDPB) created by the Natural Environment and Rural Communities Act 2006 (“the Act”).

Section 2(1) of the Act sets out Natural England’s general purpose:

“ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development”.

Whilst Natural England is not a ‘regulator’ or ‘inspectorate’ in the way that the Environment Agency and Rural Payments Agency are, Parliament, via the Act and other legislation, has provided Natural England with a range of regulatory powers, duties and functions.

As intended by Parliament, Natural England will use its powers, duties and functions to secure better environmental outcomes for the benefit of present and future generations.

Where it is practicable to do so, our use of regulation will be integrated with other levers (advocacy, advice, incentives and direct delivery) to deliver these outcomes. For example, in cases where one lever is failing to deliver SSSI favourable condition, regulation will be appropriately used to secure the desirable management of the land.

4 Hampton and better regulation principles and the Regulators’ Compliance Code.

The broad purpose of the Government wide Hampton and better regulation initiative is to ensure that regulatory bodies undertake their activities in a ways which are:

- consistent: in the way that regulation is undertaken;
- proportionate: a balanced, tiered approach, will be applied to enforcement incidents;
- transparent: customers should be encouraged to comply with the law, and will understand what action Natural England will take if the law is breached;

³ Including: Sites of Special Scientific Interest, Special Protection Areas, Special Areas of Conservation, heather and grass burning, Environmental Liability Directive, Open Access.

- targeted: risk assessment should be used to concentrate resources in the areas that need them most. Those customers that regularly comply will benefit, from 'light touch' regulation;
- accountable: Natural England will adhere to the principles above and justify its choice of regulatory action, publishing both outputs and outcomes of regulatory action.

In regulating responsibly, 'economic progress' (a key Hampton theme), should be supported and the administrative burden on the customer reduced.

The *Regulators' Compliance Code: Statutory Code of Practice for Regulators* places a statutory duty 'to have regard' to the Code on all bodies with regulatory functions, including Natural England, in effect enshrining adherence to the Hampton and better regulation principles in law.

Operating within the confines of Natural England's statutory purpose, all parts of the business covered by the definition of 'regulatory functions' (see section 2 above) must have regard to the Regulators' Compliance Code and apply the Hampton and better regulation principles to guide the day to day operation of specific activities.

5 Regulatory improvement - next steps

Some work has already commenced and detailed improvement plans and projects are in operation. The matters highlighted below are intended to provide a direction of travel only in order to realise 'regulatory improvements'.

Natural England will strive to deliver continuous service improvement, and so the list, below, cannot be regarded as exhaustive. If certain initiatives, projects or programmes are not listed, this does not mean that they are not important or should not be undertaken.

Business wide (including Core):

- Embed Hampton and better regulation principles within relevant areas of the business – have regard to the statutory Regulators' Compliance Code;
- Continually assess the legislation we use – ensure it is fit for purpose, consider amendments or moving regulation to other bodies. Horizon scan to ensure we are aware of / champions for new legislation;
- Ensure join-up with other regulators (e.g. Rural Payments Agency and Environment Agency) to ensure that the best use is made of their regulation to deliver our environmental outcomes (e.g. Single Farm Payment cross-compliance and protected areas).

Core Business:

- Development of a Natural England Enforcement Policy and Enforcement strategy that integrates founder body enforcement work and introduces new ways of working to ensure that Natural England is a 'firm but fair' regulator focussed on environmental outcomes;

- Where not currently undertaken, build capacity to ensure that core regulatory business is owned and proportionately delivered locally with support from national specialists who set standards, offer support, ensure consistency, and lead on appropriate pieces of casework;
- Ensure more 'regulatory integration' and horizontal working across the business (e.g. ensure effective planning casework/licensing/protected areas join up) to achieve integrated decision making, maximising environmental outcomes and reduce the administrative burden on the customer.
- Investigate, with our business, alternative delivery models e.g. Incentive Scheme Service centres.

May 2008

Annex 2

NATURAL ENGLAND'S ENFORCEMENT STRATEGY

Natural England has identified a number of key areas where it needs to develop either tools, systems or ways of working to ensure that it undertakes enforcement activity in a clear, consistent, fair and proportionate manner in line with Hampton principles.

These key areas are identified in this Strategy together with proposals for what we intend to do to produce the identified tools, systems and ways of working. Also to ensure we deliver the strategy in a timely fashion we have produced a delivery plan. This plan sets out the timeframes and key milestones for each of the areas identified in this strategy.

Significant target dates that we are hoping to achieve include e.g. ensuring the governance principles are in place by the end of 2008 and the new Enforcement Policy is published by the beginning of 2009.

Governance

1. We will review all formal delegations and empowered decision making responsibilities to ensure that they are appropriate and consistent across all enforcement work. This will ensure that any decisions and actions that we take are in a streamlined and expedient manner so to allow for the effective and efficient disposal of action. Formal delegations will be contained within Natural England's Non-financial Scheme of Delegation with empowered decision making lines clearly set out within the functional enforcement guidance. Both documents will be available on our website.
2. A Project Board will lead the strategy to shape Natural England's enforcement work. Its remit will be to monitor, direct and steer our enforcement work. It will set priorities and deploy resources, identify and resolve issues and risks, be accountable for performance reporting and responsible for reviewing, refreshing and monitoring the effectiveness of the strategy. It will also be visionary in its approach to identifying opportunities to further achieve our outcomes through advocacy and engagement and raising awareness of wildlife crime generally.

Operational delivery of enforcement work

3. It is imperative that we have the right resources to do the job. This means getting the most out of our existing resources and extending capacity where needed to deliver this new organisational approach to enforcement and wider regulatory roles.
4. We will adopt a new operational structure which, amongst other benefits, will allow for the effective and proportionate delivery of both re-active and pro-active enforcement action. This will be delivered through Natural England's Regulatory Services & Access Team and our nine Regions around the country.
5. Our Regulatory Services & Access Team will continue to be responsible for a range of enforcement work. This includes leading on significant and or contentious casework; the stewardship of the wildlife management licences;

carrying out field enquiries when it is suspected that wildlife has been poisoned by pesticides; and certain pro-active elements of our work. In practice the work on wildlife licences and pesticides is delivered by Regulatory Services & Access Team officers working in the Regions.

6. A new concept for us will be to have regional enforcement leads based within our nine Regions. These officers will lead on regional enforcement action in relation to protected areas based enforcement. They will deal with all minor offences and regional priorities. This will allow knowledge, skills and experience to be developed acting as a focal point for regional colleagues to call upon when dealing with offences.
7. Regional pilots will be established in at least two regions this year prior to roll-out to all Regions in April 2009 onwards.
8. Additionally and just as important, we recognise that cultural issues need to be tackled within the organisation so that the use of enforcement as a regulatory mechanism is recognised as a lever to achieve outcomes. The fact that the policy and functional guidance will be in the public domain should ensure that enforcement action is taken in a consistent, transparent and accountable manner so that offences are not ignored or that there are no deviations from our policy.

Policy and guidance

9. We will produce a suite of enforcement documentation which will assist us, those we regulate and others, in conducting our enforcement work. These will consist of:

- **High level public policy document**

This will convey what can be expected of Natural England in its regulatory enforcement role and detail the principles by which we will operate in line with good regulatory principles and characteristics.

- **Functional public policy guidance**

This will provide details on the enforcement mechanisms, approaches and decision making processes. Inevitably each enforcement case will be different dependent on a number of factors relating to the case and whilst an indication can be given as to the likely enforcement action that will result for each offence, this will not be too over-specific so to fetter any discretion when considering the individual circumstances of the case and public interest factors.

The policy and functional guidance will be available on our website.

- **Operational process manual**

This will be produced for Natural England officers covering operational enforcement practices.

Performance measures

10. We will measure and report on our enforcement outputs and the outcomes that such action has had. Our aim is for our reporting to not only be an account of amount and type of enforcement activity but to capture outcomes such as environmental benefits, behavioural changes relating to compliance, deterrent effects and wider community impacts.
11. Not only will reporting enable the evaluation of the effectiveness of our enforcement action in achieving these outcomes it will also provide us with a baseline by which to identify trends, gaps and issues. In turn this will inform and steer our enforcement going forward.
12. An annual report of our enforcement work will be published. This will enable us to justify to the regulated community, public, partners and Government, our actions and give reassurance that non-compliance is dealt with effectively. It will also demonstrate transparency, accountability and effectiveness of Natural England as a regulator in discharging our statutory powers. Conversely it should act as a deterrent to those who may wish to carry out unlawful activities.
13. Reporting will also inform and enable us to work towards adopting a more risk based approach to our work.

Priorities & risk based approach

14. We will introduce a standard classification criteria for offences that we are responsible for enforcing. This will ensure that resources and efforts are prioritised to achieve outcomes. Categorisation levels will be based on a number of factors primarily the environmental impact caused by the offence or threatened by the potential offence. Aggravating, mitigating and public interest factors, such as previous compliance history, attitude of offender, and social impacts of the activity, will also be taken into account when deciding upon the category of the incident and consequential enforcement action.
15. We will also prioritise any obligation or role to advise and assist other enforcement bodies based on the benefit to Natural England's objectives and outcomes. For instance in cases where the habitat or species involved are common or the offences minor and there is no clear benefit to Natural England objectives, the advice will normally be limited to verbal or written advice. In cases where there will be significant benefit for Natural England outcomes (e.g. the habitat or species are of conservation concern) we will consider deploying more resources, for instance to act as an expert witness.

Partnership working and pro-active engagement

16. A number of partnerships currently exist either formal or informally in the enforcement arena either based on statutory obligations or the recognition of those best placed with the skills and experience to deal with particular incidents. Some partnerships are key dependencies to our enforcement work; others are where our input is a dependency for other enforcement bodies. We recognise that partnership working provides many benefits, in particular they provide a basis for cross-fertilisation of knowledge, experience and skills in various areas. We believe that collaborative partnerships should provide added capability to achieve the desired regulatory and environmental outcomes and more widely tackle wildlife crime more effectively.

17. We want to establish, re-energise and maintain partnerships with other enforcement bodies, regulators and partners at both strategic and local level.
18. We will implement a strategic approach to our pro-active work. Pro-active engagement will take a number of forms and will inevitably evolve over time as opportunities are identified but it will be prioritised so that resources are targeted towards the issues and gaps in order to achieve our outcomes. Advocacy will also form part of this engagement by seeking opportunities to change, influence and shape legislation and policies with Government and other partners.

May 2008

Annex 3

ENFORCEMENT POLICY

Introduction

Natural England works for people, places and nature to conserve and enhance biodiversity, landscapes and wildlife in rural, urban, coastal and marine areas. This includes conserving and enhancing the natural environment for its intrinsic value, the wellbeing and enjoyment of people, and the economic prosperity it brings.

This policy statement sets out Natural England's approach to enforcement and the general principles it intends to follow. The implementation and effectiveness of this policy will be monitored.

The appropriate use of enforcement powers, including prosecution, is important, to secure compliance with the law and to ensure that those who cause damage to the natural environment are held accountable for their actions.

Natural England considers itself to be a firm but fair regulator who regulates to secure environmental outcomes using a proportionate approach.

Natural England will also work with and support other enforcement agencies to encourage the use of appropriate enforcement powers. As part of this work, information may be shared with these agencies.

Enforcement role

Natural England has direct enforcement responsibilities for the investigation and enforcement of offences to Sites of Special Scientific Interest (SSSIs), heather and grassland burning, uncultivated land and semi-natural areas and complaints relating to weeds and rabbits.

Natural England also assists other enforcement bodies in their investigation and enforcement work.

Enforcement aims

Natural England aims to prevent harm to the natural environment from occurring or continuing. It will use all its regulatory levers, including providing advice, guidance and land management incentive schemes, to encourage compliance with the law and ensure that the natural environment is protected. However, where the environment is threatened or damaged Natural England will be robust in its enforcement response in order to protect that environment and restore the features.

In applying its enforcement policy Natural England also aims:

- to deter future non-compliance;
- to, so far as possible, eliminate any financial gain or benefit from non-compliance; and

- to change the behaviour of offenders and others.

Enforcement sends a clear message that a minority cannot spoil our natural environmental features for others to enjoy now and in the future.

Principles of enforcement

Natural England will achieve these enforcement aims by being:

Consistent in the way that enforcement action is carried out. All enforcement incidents will be considered individually as each will be unique in either the way it has arisen or the effect that it has had on the environmental features. Similar approaches will be taken in similar cases to achieve similar outcomes by taking into account a number of factors such as, the history of previous non-compliance, attitude of offender and the scale and severity of damage or disturbance that has been caused.

In addition, any offers of restoration or mitigation will be taken into account but offenders will not avoid enforcement action just because they have carried out, or offered to carry out, restoration or mitigation works.

Proportionate yet responsive to the nature of the offence, the harm caused and the offender. Natural England will decide upon a balanced enforcement approach, taking account of the risk to the environment, the seriousness of the breach, the environmental outcomes it will achieve and whether it is in the public interest to pursue.

Transparent in creating an understanding of legal responsibilities so those regulated and others know what is expected of them and what they can expect of Natural England in its enforcement role. Enforcement action will be carried out in an open and transparent manner and any enforcement decision, remedial action or rights of appeal, clearly explained in writing. Legal requirements will be distinguished from voluntary actions and best practice advice.

Targeted yet proportionate in its enforcement approach. This will ensure that enforcement efforts and resources are aimed where they will be most effective to achieve outcomes, such as at those offenders who cause, or risk causing, serious environmental damage, those who deliberately breach legal obligations, or where the offence, although not serious in itself, is widespread in the area where it was committed. Natural England will develop a methodology to enable risks to be assessed to then inform future targeting of resources.

Accountable for enforcement actions and use of public money to achieve aims and outcomes. Natural England will adhere to the four enforcement principles above and justify its choice of enforcement action for all offences, against which it can be expected to be judged. Enforcement action will be followed-up to ensure that aims and outcomes, such as restoration and behaviour towards compliance, have been achieved. Enforcement outputs and outcomes will be measured and published annually, to evaluate performance in order to be responsive to change and to instil confidence in those that are regulated, the public and partners.

Enforcement mechanisms

Natural England uses a range of proportionate enforcement mechanisms to deal with breaches of the legislation. The appropriate mechanism will depend on the circumstances of the offence and one or more mechanisms may be used at different stages of a case. In some cases one level of enforcement action may be appropriate and effective in dealing with the incident; in another case where an earlier enforcement mechanism has been unsuccessful, further enforcement action may be taken.

Investigations

Where there has been a complaint or reports of damage to the environment Natural England will conduct an investigation in order to establish the facts, the severity and scale of the potential or actual harm; the seriousness of any potential breach of the law, the offenders past history and the wider relevance of the incident, including serious public concern. A formal investigation will comply with the legal requirements of the Police and Criminal Evidence Act 1984 and the Codes of Practice made under it.

A number of Natural England officers are designated as Wildlife Inspectors who can exercise powers in relation to certain provisions.

Prosecutions

Natural England has a discretionary power, not a duty, to prosecute. The aim of prosecutions is to punish wrongdoing, prevent a recurrence and to act as a deterrent. The decision to prosecute is a serious step. Natural England applies the Code for Crown Prosecutors so that fair and consistent decisions are made about prosecutions. A prosecution will only proceed if there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge and where it is in the public interest to do so. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the defendant.

Public interest factors

Some of the public interest factors that Natural England will consider when deciding whether to prosecute include:

- the impact on the natural environment;
- the foreseeability of the offence and the circumstances leading up to it;
- the intent of the offender;
- the history of the offender;
- the attitude of the offender;
- the deterrent effect of the prosecution;
- the offender's personal circumstances.

This is not an exhaustive list. The extent to which the public interest factors apply will vary in each case and Natural England will look at each case on its own merits before deciding what enforcement action to take.

Alternatives to prosecution

In cases where Natural England consider that a prosecution is not the most appropriate or proportionate enforcement mechanism, a number of alternative enforcement mechanisms may be used.

A caution is a written acceptance by the offender that they have committed an offence. Natural England will only offer a simple caution where there is sufficient evidence for a realistic prospect of conviction and it is in the public interest to do so. Should an offender refuse to accept a caution, Natural England will review the case again to decide whether to prosecute.

A warning is a written notification that, in Natural England's opinion, an offence has been committed.

A prosecution, caution and warning letter or other enforcement action will be recorded and taken into account in deciding on subsequent enforcement action should the offender commit another offence that Natural England is responsible for enforcing.

Court Action

If the environmental damage that has been caused is sufficiently serious then Natural England may consider asking the Magistrates to refer the case to the Crown Court.

During the hearing, in addition to evidence submitted to the court concerning the offence, Natural England will bring to the courts attention any financial benefit that the offender has gained or may gain as a result of the offence. Where practical to do so, Natural England will also ask the court to sanction restoration, mitigation measures or alternative restorative measures in order to achieve enforcement aims and objectives.

Penalties

Legislation provides the courts with the ability to punish those who have not complied with it. Unlimited fines may be imposed by the Crown Court. Examples of penalties presently available to the courts for offences that Natural England is responsible for enforcing are:

- £20,000 per offence in the Magistrates Court;
- unlimited fine in the Crown Court.

Natural England will continue to work with the judiciary to ensure that alternative sanctions are developed which may be used to increase compliance.

Costs

Following a successful prosecution, Natural England, will seek to recover the costs in bringing the prosecution action from the offender.

Publicity

Any convictions will be publicised to draw attention to need to comply with legal responsibilities and to highlight the damage or disturbance caused to environmental features, which should deter others from disregarding their responsibilities and protect the environment.

Enforcement action against businesses, public bodies and individuals

Enforcement action, including prosecution, will be taken against those responsible for the offence. Whilst it will be usual practice to prosecute the business or public body where the offence occurred as a result of their activities, a formal investigation will seek to ascertain the management chain and the role played by individuals within the business or public body. If appropriate Natural England will consider taking enforcement action against those individuals who are clearly responsible for causing harm to the environment.

Civil action

In certain circumstances, where regulating legislation does not provide the power to achieve compliance or prevent damage or disturbance to environmental features, Natural England will have to resort to civil action such as an injunction or possession order.

Other information

This document sets out Natural England's enforcement policy. It is not intended to be a detailed guide to the law (please refer to the relevant legislation and get legal advice if necessary). Copies of legislation can be found on the Office of Public Sector Information website <http://www.opsi.gov.uk>.

Guidance on the enforcement response Natural England will usually take for offences is available on Natural England's website at www.naturalengland.org.uk.

Natural England also has a duty to have regard to the Regulators Compliance Code. The Code reinforces Natural England's approach to enforcement and ensures that regulatory activities are carried out in a way that is transparent, accountable, proportionate and consistent; and that regulatory activities should be targeted only at cases in which action is needed. Natural England has also adopted the Cabinet Office and Local Government Association's Enforcement Concordat which is a voluntary non-statutory code of practice which sets out what businesses and other organisations we regulate can expect in relation to our enforcement work. Both documents are available from the Department for Business, Enterprise and Regulatory Reform website at <http://bre.berr.gov.uk/regulation/index>.

There are more details of our business and contact details on our website.

January 2008

