

Rt Hon Philip Dunne MP
Chair, Environmental Audit Committee
House of Commons
London
SW1A 0AA

13th March 2023

Sent by email

Dear Philip,

Environmental Audit Committee session

Thank you for inviting me to attend the session of the Environmental Audit Committee last month. We were grateful for the opportunity to update the committee on our work on enforcement and compliance. I am writing to respond formally on several points that were raised by you and other members of the committee during that session in relation to the work of the Environment Agency.

The committee asked us to respond in writing about the number of recommended prosecutions in the last reporting period, as well as the number of enforcement undertakings (EU). In addition, the committee asked about the number of times that a prosecution has been recommended and then downgraded, and about the mechanism that is in place to downgrade it to an EU.

According to our records, there were 991 initial recommendations made in 2022 for prosecution and 61 recommendations to accept or reject an EU. In 2022, we accepted 4 EUs for cases which had originally been approved for prosecution – on the basis of new or improved EUs offering better outcomes for the environment and communities.

The mechanism for this in terms of our enforcement governance process (covering reviews and decision-making) is that when a new or improved EU has been received following a case being approved for prosecution, it is reviewed by the Lead Investigator and a recommendation is made to the relevant Area or National Enforcement Governance Group. It is then approved by the Area Director or Deputy Director National Services and once the case lawyer has added their recommendation, it is reviewed by the National Civil Sanctions & Penalties Panel (NCSPP) or Civil Sanctions Implementation Team (CSIT) Sub-Group. It is then forwarded to a Senior Managing Lawyer for their approval and a formal acceptance letter is sent to the offeror. The converse of this is that in many cases we are offered an EU which we do not wish to accept. In such cases, once criminal proceedings have been authorised, the decision lies with the lawyer with conduct of the case.

Second, the committee asked about our incident response work. We assign each incident

[REDACTED]

<http://www.gov.uk/environment-agency>

reported to us into one of four categories:

Category 1 – major, serious, persistent and/or extensive impact or effect on the environment, people and/or property or on our operations

Category 2 – significant impact or effect on the environment, people and/or property or on our operations

Category 3 – minor or minimal impact or effect on the environment, people and/or property or on our operations

Category 4 – substantiated incident with no impact.

We never attend all potential category 3 or 4 incidents, and we have to prioritise the incidents that we do respond to. We will respond to all serious incidents, or potentially serious ones to reduce the risk to the environment. We do not have the resource to respond to every incident report we receive, but all of the roughly 100, 000 incident reports we receive each year are assessed. We use the information from all reports to target our compliance, regulation and enforcement work.

Finally, the committee discussed the topic of innovation and you asked about an Environment Agency point of contact for queries on supporting innovation. In response, the following email account has been set up and is now live:

innovationandregulation@environment-agency.gov.uk. As I mentioned during the committee session, the Environment Agency is open to any sensible suggestions of ways that we can continue to be more innovative in our regulatory approach.

I hope this reply is helpful. Please do not hesitate to contact me if you have any follow-up questions.

Yours sincerely,

A handwritten signature in black ink that reads "J.D. Bevan". The signature is written in a cursive, slightly stylized font. Below the signature is a long, thin horizontal line that extends across the width of the signature.

Sir James Bevan KCMG

Chief Executive, Environment Agency