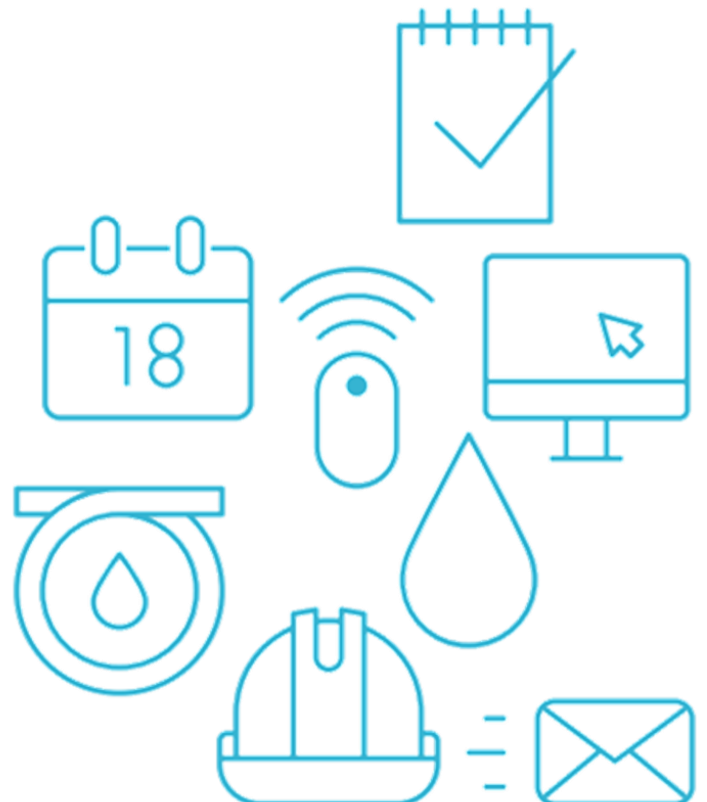




TEMPORARY USE BAN ENFORCEMENT POLICY

INDEPENDENT WATER NETWORKS LTD.
June 2023



1. INTRODUCTION

Independent Water Networks Limited (IWNL) is a statutory water appointed by Ofwat, on a site-by-site basis, to provide water and/or wastewater services; this is known as a New Appointment and Variation (NAV). IWNL own and operate the water and wastewater network in these areas, providing services to customers including supply of water, wastewater services, metering, and billing. Maps showing the regions for which IWNL is appointed to act as the statutory water undertaker is shown in this document as Appendix 1. This area is referred to within this document as “the IWNL region”.

On the dates and in the supply areas below, in parallel with the upstream bulk supplier incumbent water company and in accordance with its Drought Plan, IWNL imposed a temporary prohibition on the use of water for a number of specified categories of use.

Date of Prohibition	Incumbent Supply Area / IWNL site name
25 th May 2023	<u>South West Water – Devon and Cornwall Region:</u> Land off Townsend Road (EX19), Nadder Lane (EX36), Higher Trenant Road (PL27), Chivenor Cross (EX31), Sawmill (TQ9), Hampton Mill (EX20), Long Rock (TR20), Hatfield Road (TQ1), Nansledan (TR8), Brixham Road (TQ4)
26 th June 2023	<u>South East Water – Kent and Sussex Region:</u> Chilmington Green (TN23), Cockering Road (CT1), Turners Hill Road (RH19), Sutton Road (ME17), Sportsman's Farm (ME19), Thanet Way (CT5), Willingdon (Phase 3) (BN22), Wateringbury Way (BN23), Cuckoo Fields and Ersham Park (BN27), Marshfoot Lane (BN27), Land North of Mackie Avenue (BN6), Broad Oak Farm (CT2), Greenhill Road (West) (CT6), Church Road, Otham (ME15), Ashford Road (TN26)

These categories of use are in accordance with section 76 of the Water Industry Act 1991. This is referred to as the Temporary Use Ban or TUB. The TUB was imposed because of the serious deficiency of water available for distribution and its terms are set out in the statutory notice attached to this document as Appendix 2.

Under the terms of section 76(5) of the Water Industry Act 1991, if any person fails to comply with the terms of the TUB that person shall be guilty of an offence and liable on conviction in the Magistrates' Court to a fine of up to £1000.

This enforcement policy sets out the standards and guidance that will be applied by IWNL when undertaking its enforcement role within the provisions of the Water Industry Act 1991.

Where infringements and contraventions are found, IWNL will respond in a manner commensurate with the need to safeguard the availability of water available for distribution. Wherever possible, IWNL will offer advice to those who may have contravened the prohibition in a bid to remedy infringements in a timely and cost-effective manner. However, in some cases, offenders may face prosecution.

The purpose of this enforcement policy is to seek to ensure that when enforcement action is required, it is pursued in a consistent, balanced and fair manner.

2. OVERALL AIM

It is intended that this policy will seek to ensure compliance with the TUB within the IWNL region(s), in an attempt to conserve water, in a fair, open and consistent manner having regard, where appropriate, to the circumstances of each individual case and the extent to which the terms of the TUB have been contravened.

3. GUIDING PRINCIPLES

Whilst undertaking its regulatory and enforcement role in connection with the TUB, IWNL will have regard to the following Guiding Principles:

- Any decision regarding enforcement action will be impartial and objective, and will not be affected by race, politics, gender, sexual orientation or the religious beliefs of any alleged offender, victim or witness.
- IWNL will use as its starting position when considering enforcement of the TUB the belief that the vast majority of persons wish to comply with the terms of the TUB and should be assisted in doing so by IWNL following the Investigational Phase process set out in Appendix 3 below (“the Investigational Phase”), if reasonably practicable.
- There will be a consistent approach to enforcement whilst recognising individual circumstances.
- Prosecution for an offence under the Water Industry Act 1991 will be considered in all cases, but particularly where a serious, severe, persistent and/or blatant breach of the relevant legislation has taken place or where alternative methods of resolution have failed.

4. STANDARDS

IWNL will try to meet the highest standards of service whilst undertaking its regulatory and enforcement function in connection with the TUB. The following specific level of service standards will be applied in connection with the TUB: -

- Matters relating to enforcement of the TUB will be dealt with promptly with written enquiries and complaints receiving a response or acknowledgement within ten working days.
- Employees of IWNL employed to monitor compliance with the TUB will announce themselves on arrival at any premises and promptly show credentials/identification unless they are already known to the person or persons on such premises.
- Employees of IWNL who are expected to monitor compliance with the TUB will provide their name and a IWNL contact telephone number to those persons with whom they are in written contact concerning enforcement of the TUB.
- Complaints relating to persons failing to comply with the TUB will be dealt with promptly, though we will always request the name and address of the complainant.

Any such identification will be treated in confidence but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or persons to which the complaint relates. Anonymous complaints, however, will still be investigated.

- IWNL will be professional, courteous and helpful in their enforcement of the TUB and wherever possible will seek to work with persons towards compliance using the Investigational Phase.
- In accordance with the Investigational Phase at the onset of considering enforcement action IWNL will provide the person(s) believed to be contravening the TUB in writing with full details of the manner in which it is alleged the TUB has been breached and the steps that are required to be undertaken and by when to avoid enforcement action being taken.

5. CONSISTENT ENFORCEMENT

Consistent enforcement action is desirable, but absolute uniformity would be unfair by failing to recognise individual circumstances that may modify action to be taken where it is permissible. Consistency of approach whilst allowing a degree of discretion will be encouraged by:

- Appropriate training and supervision of those IWNL employees who are expected to monitor and enforce compliance with the TUB. Amongst other things, they will be made fully conversant with the terms of this Enforcement Policy and its Appendices
- Ensuring there is compliance with the standards set out in this policy by IWNL.
- Recognition that it may not be in the interests of justice to prosecute a person found to be breaching the terms of the TUB in those cases where there is only sufficient evidence to prove a minor infringement.
- The final decision whether or not to prosecute will be taken by the IWNL Board of Directors, who will be aware that each case is unique and must be treated on its own merits.

6. ASSESSING APPROPRIATE ACTION (IN CASES OF INFRINGEMENT)

The Investigational Phase that will be undertaken by IWNL sets out the detailed steps that will be taken by IWNL before enforcement action is taken against a customer found to be contravening the TUB. IWNL will ensure that the process identified in the Investigational Phase, attached below as Appendix 3. The process applies to each individual case and will be followed to allow a customer sufficient time to demonstrate compliance with the terms of the TUB before enforcement action will be taken.

Prosecution will normally be only considered where one or more of the following criteria are satisfied: -

- There is a need to protect the public interest and the interests of the environment, health, safety and such other interests.

- Informal approaches have failed.
- The persons concerned have ignored requests for compliance with the TUB.
- There has been a serious and/or deliberate contravention

IWNL accepts that the decision to institute criminal proceedings against a person or persons who fail to comply with the terms of the TUB is a serious one that should only be taken after full consideration of all the facts.

IWNL is not bound by, but chooses to accept, the provisions of the Code for Crown Prosecutors. As such, IWNL will only institute criminal proceedings when it is satisfied that both the Evidential Test and the Public Interest Test have been met.

The Evidential Test is passed when there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. A realistic prospect of conviction means that a bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

The Public Interest Test is applied by balancing public interest factors for and against prosecution. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

Both the Evidential and Public Interest Tests will be considered fairly and objectively by IWNL.

The terms of this enforcement policy were authorised and adopted on behalf of Independent Water Networks Limited by its Board of Directors:

Charlie Thackeray

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Director

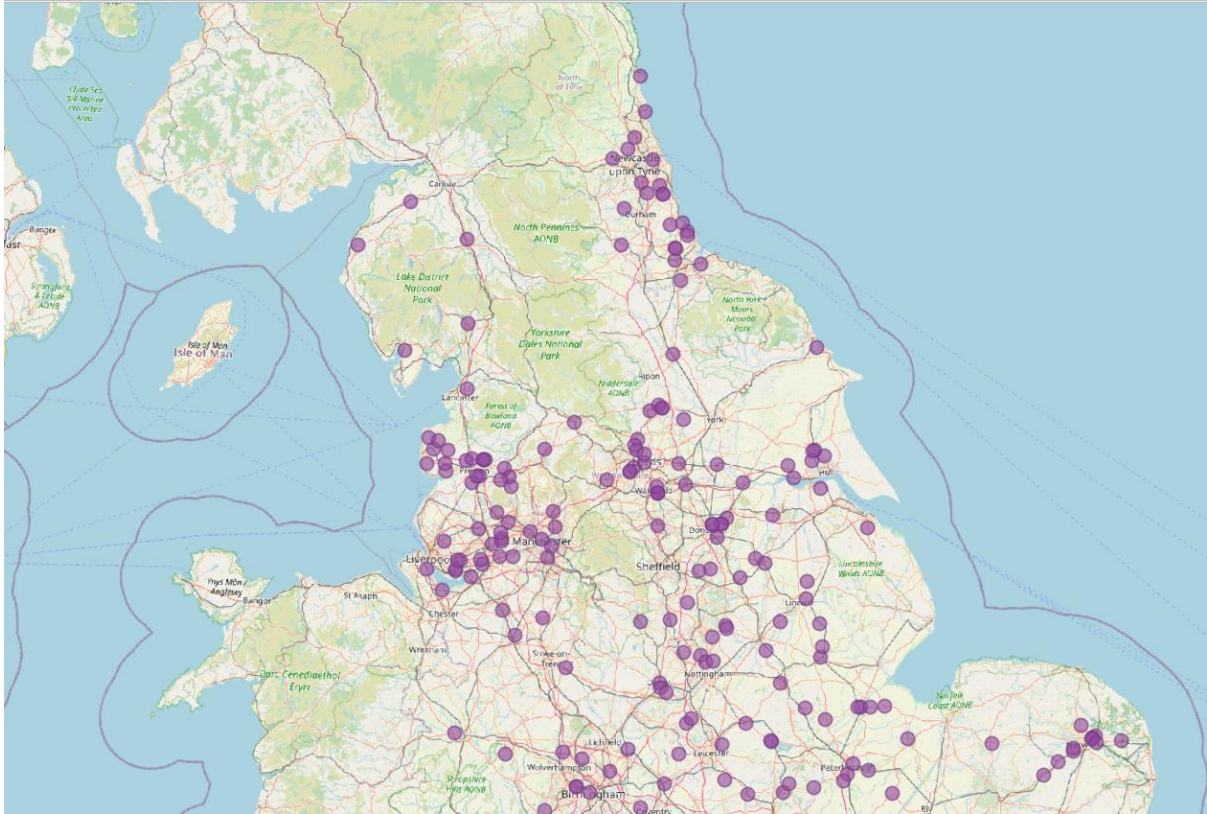
Dated

Twenty Sixth Day of June 2023.

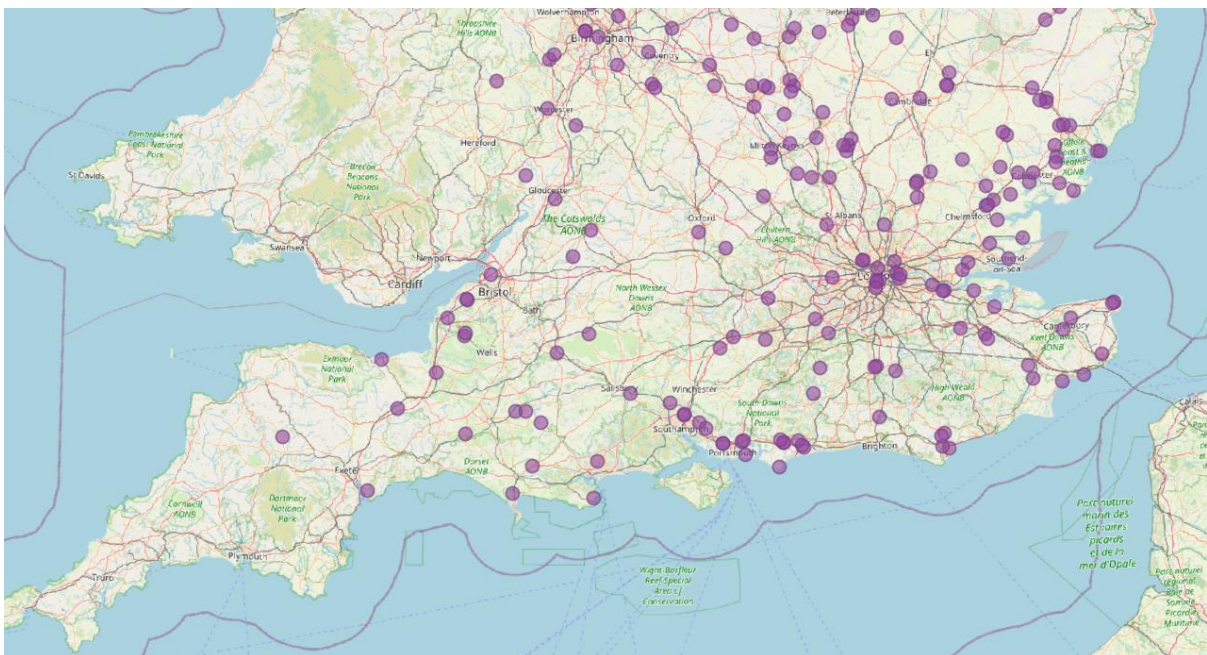
APPENDIX 1 IWNL STATUTORY AREA

Maps indicating the geographical area for which IWNL is appointed as the statutory water undertaker.

Map 1 – Northern Region



Map 2 – Southern Region



APPENDIX 2 STATUTORY NOTICES

Notices published in accordance with section 76 of the Water Industry Act 1991 are published on IWNL's website and can be accessed via the links below:

1. [South West Region - Devon and Cornwall](#)
2. [South East Region - Kent and Sussex](#)

APPENDIX 3 INVESTIGATIONAL PHASE

Unlawful use reported

Stage 1: Outbound phone call to customer

Unlawful use reported / ongoing

Stage 2: First letter to customer

Unlawful use reported / ongoing

Stage 3: Second letter to customer

Unlawful use reported / ongoing

Stage 4: Visit in person to customer

Unlawful use reported / ongoing

Stage 5: Pass to IWNL Board of Directors for approval to prosecute

Stage 6: Pass to Legal team to prosecute.