



middle level
commissioners

And Administered Internal Drainage Boards

Compliance & Enforcement Policy

The Middle Level Commissioners (MLC) are a statutory drainage and navigation authority with specific regulatory powers and Byelaws. Additionally, we act on behalf of, and administer, numerous Internal Drainage Boards (IDBs) who are regulators with their own Byelaws under the Land Drainage Act 1991.

Where we become aware of breaches of this legislation we *may* investigate and take further action on behalf of the Middle Level Commissioners and/or Internal Drainage Boards. Our regulatory powers are permissive and not a statutory duty.

Any action will be risk-based and proportionate to exercising our regulatory powers and Byelaws, taking into account the nature and impact of any contravention or nuisance caused by, for example:

- The failure to repair or maintain watercourses, bridges, culverts or drainage works,
- Unconsented works including works within the 20 metres (MLC) or 9 metres (IDB) byelaw strip,
- Impediments to the proper flow of water, management of water levels or navigation,
- Unconsented discharges into district(s).
- Breaches in conditions associated with consents, agreements, licenses, or registrations between the MLC and/or IDB and a Third Party.

This approach will consider any current day and future increase in risk and/or other impact of any contraventions and the potential consequences.

Where works are unconsented, we would require the landowner, asset owner or responsible person to prove that the works do not cause a nuisance or increase flood risk, both current day and in the future. If insufficient information is provided there will be a presumption that the unconsented works cause a nuisance and/or flood risk.

Under our permissive powers we may close an enforcement case file and/or take no further action if, for example:

- There is a lack of evidence of increased flood risk or nuisance,
- There is no actual or potential risk to drainage district(s) and MLC/IDB operations,
- The matter is not the cause of a drainage problem,

- The matter is outside the remit of the MLC or IDB under our legislation or powers,
- The matter is trivial in nature (de minimis).

Where no enforcement action is taken, we may inform and advise individuals of their riparian responsibilities by correspondence.

Where we become aware of breaches of other legislation, we may advise the appropriate authorities.

Unconsented Works

The MLC and IDBs have powers to regulate (consent, compliance check and enforce) third party activities affecting watercourses within our districts, IDB infrastructure and operations. The Land Drainage Act 1991 and the MLC and/or IDB Byelaws require applicants to obtain prior written consent before undertaking certain activities.

Where works are undertaken without the MLC and/or IDB's prior written consent we will initially seek to work with those involved to obtain cooperation within a reasonable timescale to remove, amend or regularise the contravention.

If an amicable resolution is not possible or appropriate, we have formal enforcement powers as set out under our Byelaws and in Sections 21,24 and 25 of the Land Drainage Act 1991. These powers are permissive meaning it is at the discretion of the MLC and/or IDB to take further action where we believe it is beneficial or economically viable, but we are not legally obliged to do so.

Ordinary Watercourses within IDB Districts

Within an IDB district some watercourses are "Board drains" meaning that whilst in almost all cases the IDB is not the landowner, they are operated and may be maintained by that IDB for the efficient operation of the district. Riparian responsibilities remain with the relevant landowners.

All other watercourses within an IDB district are classed as "riparian watercourses" meaning they are the sole responsibility of the landowners to maintain, repair and improve as necessary to ensure effective drainage. A riparian owner is a person or organisation who owns land or property adjacent to a watercourse including any which are dry or culverted.

The IDB role as a regulator is to ensure riparian owners undertake any action required to ensure the efficient operation of their drainage system within a reasonable timescale. If a riparian owner refuses to comply voluntarily, the IDB has permissive powers under their Byelaws and the Land Drainage Act Sections 21 and 25 to undertake any necessary action and to recover any expenses incurred from the landowner.

Watercourses within Highland Areas

The MLC and a number of IDB districts have highland areas that form their catchment area and/or boundary. The Lead Local Flood Authority (LLFA) have powers and responsibilities for

watercourses within such areas in some circumstances rather than the MLC and/or relevant IDB.

In addition, Bury Brook, within the MLC's highland catchment is an Environment Agency main river.

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