Smarter Enforcement Strategies

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Outcome Focussed Enforcement

A. To Stop Offending – aim to stop an illegal activity from continuing

B. To Restore and/or Remediate – aim to put right environmental harm or damage

C. To Bring under Regulatory Control – aim to bring an into compliance with the law

D. Punish and/or Deter – to punish an offender and/or deter future offending
Regulatory Activities: Traditional

- Issue Environmental Permits
- Monitor Compliance
- Take Enforcement Action
  - Advice and guidance
  - Issue a warning letter
  - Issue Enforcement Notice
  - Prosecution or Caution
  - Impose Civil Sanction (or accept).
Better Regulation Agenda

- Help business comply with environmental obligations
- Maintain and improve environmental standards
- Reduce unnecessary administrative burdens
  - Environmental Permitting: flexibility
  - Waste protocols
  - Exemptions for low risk activities
- More mature regulation for good performers
- Target enforcement on illegal activity
Smarter Enforcement

- Must be underpinned by Risk Assessment
- Targeting and Profiling: Intelligence!
- Prioritisation
- Retain a formal criminal enforcement route
- Consider diversion from criminal proceedings
  - Alternative methods of managing environmental performance
  - Alternative methods of disposal
Compliance Assurance

- For trusted operators
- Part of good Corporate Social Responsibility
- Hallmark of a professional operator
- Likely to involve full self monitoring
- Supply of regular good quality data
- Good informed decision making by regulator
- Avoid or reduce impact of prosecution
Compliance Assurance

- Less routine visits needed
- Well established relationships
- Self reporting of minor breaches
- Influence regulator assessment
- Properly qualified personnel involved
- Technical skills and know how to put it right
- Underpinned by enforceable commitments
A Serious Incident

- Immediate on site response
- Well qualified personnel dealing
- Established documented process
- Report on causation
- Explanation and mitigation
- Foreseeability
- Evidence of actions to forestall the event
Prosecution

- Secures Legislative Compliance
- Prosecute Offences in a public forum
- Secure Convictions
- Seek Remediation & Compensation
- Removes the Proceeds of Crime
- Deters and Prevents further illegal activity
Diversion from the Criminal Courts

Less serious cases can be dealt with by

- Enforcement Undertaking
- Administrative Penalty
- Stop Notice
- Clean Up Order
- Warning Letter/Advice & Guidance
- Disruption techniques
Imposition of Civil Sanctions

- Apply sanctions more quickly
- Proportionate
- Restores and improves damaged environments
- Stops illegal activity quickly
- Removes financial gain
- Embeds the “polluter pays” principle
- Tangible benefits for people and the environment
- Does not criminalise unnecessarily
Risk Assessment

- Alternative enforcement must be underpinned by good risk assessment.
- Operator performance
- Type of activity
- Sensitivity of local environment/community
- Prioritisation of high risk activities
- Targeting and profiling of offenders