

Case Reference Number: [REDACTED]  
FMP Reference Number: FMP-2022-9013  
Payment Reference Number: FMP-2022-9013

**SCOTTISH ENVIRONMENT PROTECTION AGENCY**

**THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) ORDER 2015  
("the Order")**

**FIXED MONETARY PENALTY NOTICE**

To: **Janice Gallagher**  
[REDACTED]  
**Newarthill**  
**ML1 [REDACTED]**

The Scottish Environment Protection Agency ("SEPA"), hereby notifies you, that you are liable to a Fixed Monetary Penalty (FMP) because SEPA is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under Section 110(2)(a) of the Environment Act 1995 ("the Act").

**Grounds for imposing the penalty:**

SEPA is satisfied that on the date and at the location specified below you, Janice Gallagher, failed to comply with a requirement imposed by an authorised person under Section 108 of the Act. No reasonable excuse was provided for the failure to comply with the requirement.

Section 110(2)(a) of the Act provides that it is an offence for a person, without reasonable excuse, to fail to comply with any requirement imposed by an authorised person under Section 108 of the Act.

Section 110(6) of the Act provides that "authorised person" means a person authorised under Section 108. Section 108 allows SEPA, as an enforcing authority, to authorise persons who appear suitable to it to exercise certain powers. The two officers referred to below are so authorised and accordingly are authorised persons.

The powers of an authorised person are set out at Section 108(4) of the Act. This includes the power under Section 108(4)(c) of the Act to make such examination and investigation as may in any circumstances be necessary, and the power under Section 108(4)(j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under Section 108(4)(c) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of their answers.

During an investigation by authorised SEPA Officers under Section 108(4)(c) of the Act you, Janice Gallagher, were identified as a person whom the authorised Officers had reasonable cause to believe was able to give information relevant to that investigation. As such, on 14 January 2022, a letter was posted by recorded delivery to you at the above address requiring you, in terms of Section 108(4)(j) of the Act, to attend at SEPA Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ on 27 January 2022 to answer questions and sign a declaration of truth as to your answers.

[REDACTED]

On 27 January 2022 you attended the specified place at the time required, with a person nominated by you to be present, to answer questions. You were advised that the questions asked and answers given would be audio recorded. It was explained to you by an authorised SEPA Officer, in the presence of a second authorised SEPA Officer, that under Section 108(4)(j) of the Act, a person authorised by SEPA under Section 108 of that Act has the power to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under section 108(4)(c) of that Act to answer such questions as the authorising person thinks fit to ask and to sign a declaration of the truth to these answers. You confirmed your understanding of this. It was further explained to you that no answer given by a person in pursuance of a requirement imposed under section 108(4)(j) of the Act, is admissible in evidence against that person in any criminal proceedings, except in certain stated circumstances, which were explained to you. The authorised SEPA Officer confirmed that, at that stage, you were not a suspect, but a witness in the enquiry. You confirmed your understanding of this. It was further explained that any failure to comply with a requirement imposed under Section 108(4)(j), without reasonable excuse, would be an offence under Section 110(2)(a) of the Act. You confirmed your understanding of this.

The authorised SEPA Officer then proceeded to ask you questions relevant to the ongoing investigation however you failed to answer the questions, instead responding "I don't consent to these questions" to each question asked. You were advised on a number of occasions that responding in this way would be treated as a failure to comply with the requirement imposed on you under Section 108(4)(j). No reasonable excuse was provided for the failure to comply with the requirement imposed. An audio recording of the questions asked and responses given is held by SEPA.

SEPA is satisfied, based on the above, that you failed to comply with a requirement imposed under Section 108, namely a requirement made under Section 108(4)(j), which is an offence under Section 110(2)(a) of the Act.

**Date of offence:** 27 January 2022

**Location of offence:** SEPA Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ

**The amount of the FMP is £300.**

You are required to pay the sum in full within 56 days beginning with the day this notice is served on you.

Details of how to pay, what will happen if you do not pay and how to appeal against this Notice are provided overleaf.

Signed: [REDACTED]  
Authorised to sign on behalf of  
The Scottish Environment Protection Agency

Date: 21 July 2022

[REDACTED]

## Amount of Penalty and effect of payment

The penalty has been set in accordance with the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Order”).

## How to Pay a Fixed Monetary Penalty

Acceptable payment methods are: Personal or Company Cheques, Debit Card, Credit Card, Postal Orders, and BACS.

Card payments can be made via the SEPA “Pay My Account” Service at [www.sepa.org.uk/payments](http://www.sepa.org.uk/payments). You should quote the FMP Reference Number and Payment Reference Number as detailed on the front of this Notice in all communications with SEPA.

To make a BACS payment please email [invoices@sepa.org.uk](mailto:invoices@sepa.org.uk) or call 07388 371 621 for our bank account details or queries.

Cheques and Postal Orders should be made payable to: Scottish Environment Protection Agency and sent to FMP Unit, SEPA, Strathallan House, Castle Business Park, Stirling, FK9 4TZ

## Late payment and Non-payment

If you do not pay the full amount owed within 56 days beginning with the day this notice is served on you, the amount due will be increased by 40% in accordance with the Order. SEPA can recover sums due but not paid in full as a civil debt.

## Appeals

You can appeal against this Notice to the Scottish Land Court within 28 days beginning with the date of service of this Notice on the grounds that:

- The decision was based on an error of fact
- The decision was wrong in Law
- The decision was unreasonable
- any other reason, (with the exception that the Order states that it is not a valid ground of appeal that SEPA failed to comply with the Guidance issued to it by the Lord Advocate under the Act).

You should submit your Appeal to The Scottish Land Court, George House, 126 George Street, Edinburgh, EH2 4HH. An application form for an appeal can be obtained by contacting the Court on 0131 271 4360 or from the Court’s website at <http://www.scottish-land-court.org.uk/using/making-an-application>. It would be helpful if you also sent a copy of your appeal documentation to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ.

The bringing of an appeal will have the effect of suspending payment of the penalty until after the appeal has been determined or withdrawn.

## Queries

Any queries about this Notice should be addressed to The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ or by email to [registry@sepa.org.uk](mailto:registry@sepa.org.uk). Please note that entering into correspondence does not alter the timescale for submission of an appeal or payment being due.

### **The Data Protection Act 2018**

Any personal data, provided in connection with this Notice, will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to Scottish Government and other public bodies. We may also pass it on to our agents/representatives to act on our behalf in connection with this Notice. Please address any questions, comments and requests regarding our data processing practices to [dataprotection@sepa.org.uk](mailto:dataprotection@sepa.org.uk)

Additional information about how we use personal information in the context of monetary penalties is available in the relevant SEPA Privacy Notice, which can be accessed from our website [www.sepa.org.uk/help/privacy-policy/privacy-notices](http://www.sepa.org.uk/help/privacy-policy/privacy-notices)

Information in relation to penalties will be published and publicised in accordance with SEPA's Policy on Communicating Penalties and Undertakings, which can be accessed from our website.

Please address any questions, comments and requests regarding our data processing practices to [dataprotection@sepa.org.uk](mailto:dataprotection@sepa.org.uk).