



## OFFER OF ENFORCEMENT UNDERTAKING

Regulatory Reform (Scotland) Act 2014 and the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Order”)

When you have fully completed this form and signed the statement that follows section 12, please send the form to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ, alternatively you can email your completed form to us at [registry@sepa.org.uk](mailto:registry@sepa.org.uk).

### The Data Protection Act 1998

The Scottish Environment Protection Agency (SEPA) is responsible for protecting and improving the environment (including managing natural resources in a sustainable way). SEPA also has a duty (except where it would be inconsistent with protecting and improving the environment) to contribute to improving the health and wellbeing of the people of Scotland and contribute to achieving sustainable economic growth.

The information, including any personal data, provided will be processed by the Scottish Environment Protection Agency in connection with this undertaking, including any subsequent investigation and subsequent action, and may also be processed and/or disclosed in relation to the following:

- consulting with the public (including community groups and community councils), public bodies and other organisations (e.g. Scottish Government, Crown Office, Revenue Scotland) about the matters set out in this undertaking
- disclosing information to government or other public bodies about this undertaking
- if accepted by us, this undertaking will be published (with personal data removed) in accordance with our policy on publication of penalties and undertakings
- improving our service

Data Protection Registration Number: Z6161946

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

You should ensure that any persons named on this form are informed of the contents of this Data Protection Notice.

## Section 1

<b>Details of person making this Offer</b>			
Full name of person making offer: <b>George Leslie Ltd</b>			
Are you:			
An individual		A partnership	
A limited company	<b>x</b>	A limited liability partnership	
Public Body		Other	
If 'Other', please specify:			
Address and full Postcode: <b>Blackbyres Road, Barrhead, Glasgow, G78 1DU.</b>			
Registered office Address (if different from above):			
Registration Number (if a company or an LLP): <b>251886</b>			
Contact Telephone Number: <b>0141 881 9131</b>			
Email Address: <a href="mailto:mail@georgeleslie.co.uk">mail@georgeleslie.co.uk</a>			
<p>If the Offer is made by a partnership, a limited company, a limited liability partnership, a public body or another entity, please give us the contact details of a person we can contact about the offer (e.g. this could be a managing partner, a company director or a Head of Service).</p> <p>Full Name: ██████████</p> <p>Address (if different from above):</p> <p>Contact Telephone Number: 0141 881 9131</p> <p>Email address: ██████@georgeleslie.co.uk</p>			

Section 2

**Tell us about the act or omission that has led you to make this offer. Please give the location of the offending behaviour, include a National Grid Reference (NGR) if you can.**

What happened or failed to happen? How did it happen? When did it happen?

**A water pollution event took place on 11<sup>th</sup> June 21, whilst making repairs to a weir sewer pipe crossing the River Ayr, close to Catrineholme WwTW.**

**George Leslie Ltd (GL) were employed to carry out an emergency repair to remove the imminent risk of an undermined sewer pipe having a catastrophic failure and contaminating the River Ayr. Although the repair job was successfully completed and the risk of contaminating the River Ayr with sewage was removed, GL take full responsibility for a pollution incident that occurred during the works (specific details below).**

#### **SPECIFIC DETAILS OF INCIDENT**

**A section of riverbed supporting the sewer pipe had been scoured/washed out. An upstream dam was constructed, using 1t gravel bags & visqueen, to enable the pipe to be inspected and infill repair works to be carried out. Due to the environment, flows, access, depth and riverbed profile, the dam at the downstream side of the sewer pipe, was extremely problematic to install and divers were engaged to assist in an alternative construction solution. With the assistance of the divers, an underwater shutter was created using grout bags beneath and around the existing sewer.**

**Two days prior to the pollution incident, on Wednesday 9<sup>th</sup> June, very low water flows allowed the first chance to fully view and assess the severity of the undermining, which was worse than expected. Dewatering the shuttered area was proving difficult to achieve and we were unable to prevent water ingress to the shutter so the concrete mix design was changed from a conventional mix to an underwater specification. A bad weather forecast for the week-end gave the site team significant concerns that the working area could be flooded out and there was a risk that the temporary works, and the sewer pipe, could have been washed away. Following engagement with SEPA the planned works were accelerated so they could be completed on Friday 11<sup>th</sup> June 2021 in advance of the expected heavy rainfall, using a skip to place the concrete.**

**Although control measures were in place and agreed with SEPA, there was water discolouration due to concrete washout entering the River Ayr, caused by;**

- A delay of approximately 20 minutes in the site supervisor giving the stop work instruction. During this period the site team continued to place concrete and this contributed to the severity of the pollution incident.**
- The underwater concrete supplied did not perform as expected and there was material loss into the river causing discolouration of the water course.**

**The discoloured water travelled down the river causing the pollution event. It dissipated quickly.**

**A second batch of underwater concrete was required to complete the repair on Tuesday 15<sup>th</sup> June, which performed exactly as expected, with zero loss in the water. The repair job was completed and the risk of catastrophic failure of the undermined pipe contaminating the River Ayr with sewage, was removed.**

Section 3

**If the act or omission was a breach of an environmental authorisation, please provide the authorisation number and tell us what condition or conditions were breached.**

Section 4

**If you know the legislation that has been breached, please refer to it here, giving the name of the Act and section number or the name of the Regulations and regulation number.**

**Regulation 44(1) of the Water Environment (Controlled Activities) (Scotland) Regulations 2011.**

Section 5

**What, if any, environmental impact was caused by the offending behaviour (e.g. any impact on water, air, land, human health or amenity)?**

**We understand there was no evidence of impact to aquatic life or deposits of cementitious material from the water discolouration that took place, "settling" on the river bed. However, for a short while, this had a negative visual impact so there was a loss of amenity to the local community and cause for some concern. This was localised and of short duration.**

Section 6

**What, if any, costs did you avoid, or financial benefit did you make from the offending behaviour?**

**There were no costs avoided only additional costs incurred.**

**The supervisor's stop work instruction meant the first concrete pour was abandoned and a second pour was required to complete the works. This caused additional material costs and a longer duration on site to complete the task. There were also additional internal costs related to management's & environmental personnel's time to investigate and identify the cause of the pollution incident and action to prevent recurrence**

**There was no financial benefit gained by decisions taken at the time.**

Section 7

**How are you going to ensure the offence does not continue or recur and what date/dates will you have achieved that/those action(s) by? Please specify what will be done and the date which it will be done by.**

The week following the pollution event the circumstances of the incident were briefed to all GL Site Managers with the instruction to emphasise the “stop work, seek advice” message, should any polluting event be identified in future. This message has been reinforced at subsequent Site Manager meetings.

The incident was discussed at our monthly Contract Manager’s meeting with key learning points identified and taken away for implementation on site; particularly the responsibility that sits with site manager/supervisor.

Our Safety, Health, Environment & Wellbeing Department refreshed an existing presentation on preventing water pollution, with further emphasis on the “stop work, seek advice” message, should any polluting event be identified.

All Site Managers instructed to conduct a “Stand Down” ensuring all personnel on site receive the refreshed “Protecting the Water Environment During Construction” presentation, reinforcing key messages to prevent a further incident occurring.

All actions were completed in September 2021.

Section 8

**What are you going to do to restore the environment to the state it was in prior to the offence having occurred? OR If restoration is not possible or not a viable option, what alternate actions are you going to do to benefit or improve the environment? What date/dates will you have achieved that/those actions by?**

It is our understanding that there was no long-term impact to the environment.

Section 9

**If you intend to make a financial donation to a third party, tell us the amount, who it will be paid to, why and the date you will make the payment.**

We are looking to work with Ayrshire Rivers Trust (ART) to carry out works that make a positive impact on the habitat they oversee rather than making a financial donation.

Section 10

**What additional commitments are you making to benefit or improve the environment? What date/dates will those commitments be fulfilled by?**

The company is offering to carry out work for Ayrshire Rivers Trust, a charitable organisation, within ART catchment area that would provide environmental improvement to the community.

GL will provide a fish pass by way of constructing timber baffles at the Greenock Culvert, Ayrshire, for ART. We will provide plant, materials and labour to a value of £6000. We will require an appropriate “weather window” and carry out the works when flows are low and would anticipate, at the outset, having the work completed within the next 6 months, but would hopefully be much sooner, subject to low flows and the “weather window”. We will inform SEPA as soon as the project is completed.

This project will improve the environment by allowing fish migration onto better spawning grounds.

As detailed in section 7, management meetings/briefings and stand down for site operatives were completed in September 2021.

Section 11

**Has the offending behaviour had an impact on the local community? YES / NO**

**If YES, have you consulted with them regarding this offer? YES / NO**

If so, please provide details of any consultations

We understand the short term discolouration did have a negative impact on the local community, causing some concern, particularly to ART. We have discussed with [REDACTED] of ART a suitable project, as detailed in section 10, that would provide benefit to the local environment.

Section 12

**If you intend to make a contribution towards SEPA’s costs in connection with this offer, tell us the amount and the date you will make the payment. Alternatively, if you have not requested information from SEPA in respect to our costs and intend to make a contribution please state this intent.**

***Please do not submit any payments with this offer. Any payments submitted to SEPA will be returned prior to any decision being made by SEPA in respect to your offer.***

We wish to contribute £1016.00 to SEPA costs.

Known Amount: **£1016**

Date for payment: **30<sup>th</sup> November 2021**

**Statement:**

**I confirm that any financial donation to a third party mentioned in Section 9 is a donation that I will receive no benefit from.**

**This offer of undertaking is made in accordance with Schedule 3 of the Order**

Signature:



Full Name:

Date: 27<sup>th</sup> October 2021

Please be aware that if you are signing this form on behalf of a company, partnership or other corporate body, you are holding yourself out as being an authorised signatory and your signature will bind the company, partnership or other corporate body.

**Information and guidance about making the offer**

We strongly advise you to obtain independent legal advice before making any offer. The offer must be in writing. We encourage you to use this form because it has been designed to capture the information SEPA needs and will make it easier for SEPA to process your offer. If you cannot fit all of the details into any section, please continue on a separate piece of paper and submit that to us with the offer form and sign and date the separate pieces(s) of paper.

We aim to acknowledge receipt of your offer within 10 working days of receiving it and we will give you a contact name for the person who you should correspond with should you have any queries. There is no statutory determination period within which SEPA must decide whether to accept or reject your offer, however, we aim to communicate our decision to you in a timeous fashion.

**When an offer is inappropriate**

In the following circumstances, we will not consider an offer to be an appropriate enforcement action where:

- the offence has caused significant environmental harm (including damage that requires remedial measure to be taken under the Environmental Liability (Scotland) Regulations 2009);
- the offer includes a clause denying liability;
- we believe the responsible person will not comply with the EU offered;
- In addition we cannot accept an EU when we have already decided to:
- impose a fixed monetary penalty or a variable monetary penalty in respect of the

- offence; or
- refer the offence to COPFS for consideration of prosecution.

In addition, there will be circumstances where it is not appropriate to accept an EU. This will be determined when reviewing the circumstances of the non-compliance against our

- enforcement factors and the Lord Advocates Guidelines.

Section 6 – where you have avoided costs (e.g. the costs of obtaining an environmental authorisation) and/or made a financial gain as a result of the offending behaviour, we expect you to make an offer that at least removes that benefit. You should not experience any financial benefit as a result of the offending behaviour.

SEPA can accept or reject your offer; we will inform you in writing of our decision. If your offer is rejected, there is no mechanism to lodge a statutory appeal.

If the offer is rejected you may decide to submit a different offer. Any revised offer should be submitted quickly as we are unable to accept an offer of an EU if we have already taken a formal decision about what other enforcement action we will take.

If we accept your offer and you fail to comply with its terms, we will issue a certificate of non-compliance and may subsequently take any enforcement action against you for the offending behaviour; this can include referring the matter to COPFS for consideration of prosecution.

Further guidance on making a suitable offer can be found in Guidance on the use of Enforcement Action June 2016 <http://www.sepa.org.uk/media/219242/enforcement-guidance.pdf>