

FORTH PORTS LIMITED

POLICY STATEMENT ON ENFORCEMENT

1 About Forth Ports Limited

Forth Ports Limited ("Forth Ports") operates eight ports - Dundee on the Tay Estuary, Tilbury on the Thames and six on the Forth Estuary - Leith, Grangemouth, Granton, Methil, Burntisland, and Rosyth.

Within and around the Forth and Tay Estuaries, Forth Ports manages and operates an area of 280 square miles of navigable waters, including two specialised marine terminals for oil and gas export, provides other marine services, such as towage and conservancies, and is involved in property, letting and development.

Forth Ports provides a comprehensive range of facilities in order to ensure the safe movements of shipping. These include a vessel traffic system (VTS), pilotage and navigational aids such as lighthouses, shore marks and buoys. Playing an integral role is the Grangemouth-based Forth & Tay Navigation Service ("FTNS") which, manned by qualified Assistant Harbour Masters and VTS Operators, provides VHF radio and radar coverage of the area 24 hours a day.

The FTNS/Forth Ports duties also include enforcement of the Forth Byelaws and General Directions for Navigation and the Byelaws for the Port of Dundee. Forth Ports aim to ensure a safe and speedy passage of all commercial and naval shipping from sea to port and back to sea again.

With approximately 40 million tonnes of cargo transiting the Firth of Forth and Firth of Tay every year, of which 31 million tonnes is oil related and 3.4 million tonnes is liquefied gas, safety and environmental protection is of paramount importance to Forth Ports.

Two plans are exercised annually to deal with any incidents on the Firth of Forth – 'Emergency Forth' designed to deal with shipping related incidents and 'Clearwater Forth' which is a co-ordinated response to waterborne oil pollution incidents. Liaison and safety committees meet regularly, attended by representatives of all interested parties, and procedures are under constant review.

This Enforcement Policy sets out the general principles, which Forth Ports will follow when taking enforcement decisions.

2 Aims of the Enforcement Policy

The aims of this Enforcement Policy are:

- to ensure compliance with legislation, byelaws or regulations that may affect the proper operation of Forth Port's functions
- to ensure that a consistent approach to enforcement is adopted throughout Forth Ports;
- to achieve consistent treatment of offenders;
- to promote understanding of Forth Ports' attitude to enforcement issues.

This Policy applies to all enforcement action taken by Forth Ports. Enforcement in this context means any action taken to ensure compliance with legislation, byelaws or regulations.

Forth Ports will take action to protect, conserve or enhance the environment and safety and prevent or punish breaches of legislation, byelaws or regulations. Enforcement action can include:

- discussions;
- meetings;
- warning letters
- reporting a case to the Procurator Fiscal for prosecution.

3 Principles of Enforcement

Forth Ports' Enforcement Policy reflects the 'principles of good regulation', which are also employed by the Government when enforcing regulation.

3.1 Proportionality

Forth Ports will ensure that any enforcement action taken is proportional to the risks posed by the breach of legislation, byelaws or regulation and the seriousness of the offence. As far as the law allows, Forth Ports will take into account the circumstances of the case and the attitude of the offender when considering action.

3.2 Consistency

Forth Ports will be fair, equitable and consistent in its enforcement. Forth Ports will promote a similar approach to enforcement in similar circumstances to achieve similar ends throughout the organisation and will develop and maintain effective liaison with other enforcing authorities. Forth Ports will treat all people equally.

3.3 Openness

Forth Ports will provide clear information and advice on the rules it applies and make it widely available. Forth Port will be open about how it sets about its work, and will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

3.4 Targeting

Forth Ports' efforts in relation to enforcement will be concentrated on those activities, which cause the greatest environmental damage, pose the greatest threats to the environment and safety or undermine regulatory regimes, which have been created to protect and improve the environment and safety and prevent harm to human health. Action is focused on those who break the law or those directly responsible for serious environmental and safety damage or risk.

4 Prosecution

The objective of enforcement is to ensure that preventative or remedial steps are taken to protect the environment and the safety and to prevent or minimise, and make harmless, releases that can cause pollution/deter, prevent or minimise future breaches of legislation/byelaws/regulations. Prosecution of offences under relevant legislation is one of the ways of achieving that objective.

Forth Ports, as a specialist reporting agency, can report cases to the Procurator Fiscal. Cases will be reported where justified in order to punish offenders, to avoid recurrence and to encourage general compliance.

Where the circumstances warrant, a case may be reported to the Procurator Fiscal without prior warning or recourse to alternative methods of enforcement.

Companies, as well as individuals within a company, such as directors or senior managers, may be reported for prosecution. Individuals may be reported where it can be shown that the offence was committed with their express or implied consent, or was due to their negligence.

5 Overarching Principles

- Forth Ports will not ignore any knowingly criminal or negligent act by any person or company which damages or threatens the environment or which flouts the law.
- Persistent breach of legislation/byelaws/regulations will not be tolerated. Required action may be phased in over a reasonable but binding timescale depending upon its importance to the environment and regard to safety and the attitude of the offender.
- Whatever the timescale and urgency of enforcement action, it will be fair, reasonable and open.
- Where practical, the person or company against whom action is proposed will be informed of the action. Notwithstanding any remedial action taken, no relief from criminal proceedings will be offered as an inducement or reward.
- All enforcement action taken will be recorded and put on file. Records of meetings will be kept. Actions will be recorded. Warning letters will be clear, simple, unambiguous and signed by the appropriate person.
- If a final warning is given it will be that and the failure to comply with the final warning that will be followed by enforcement action.
- The full facts will be gathered and there will be no unnecessary delay.
- Appropriate action will be taken against those who intentionally obstruct any person in the exercise of their duties under this Policy or any other legislation/byelaw/regulation.