

Land Drainage Act – Enforcement & Consent Concordat



A group of four independent statutory Land Drainage, water levels and Flood Risk Management Authorities working collectively under a partnership agreement in accordance with section 11(5) of the Land Drainage Act (1991).

Four Independent Boards:

- *Witham First District Internal Drainage Boards*
- *Witham Third District Internal Drainage Boards*
- *Upper Witham Internal Drainage Boards*
- *North East Lindsey Internal Drainage Boards*

Version: 02

Date of policy: November 2024

Review due on or before: December 2029

Date of Approval by Joint Services Committee (JSC) on behalf of North East Lindsey (NEL), Upper Witham (UW), Witham First District (W1) and Witham Third District (W3) IDBs: 09th December 2024

Policy Owner: Director of Finance and Governance (RFO)

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1.0 - Introduction

The Internal Drainage Boards within Lincolnshire, both under their own powers and on behalf of Lincolnshire County Council, have a commitment to protect and enhance the environment for the benefit of all residents and visitors to the area. The Internal Drainage Board within the district on its own behalf and on behalf of Lincolnshire County Council outside its district seeks to achieve this aim by the direct delivery of its consent and enforcement services. The Memorandum of Understanding with Lincolnshire County Council gives effect to this. Any enforcement will be undertaken in consultation with Lincolnshire Legal Services with the approval of Lincolnshire County Council in relation to land outside the district and inside the extended area.

1.1 – Equality, Diversity and Inclusion (EDI):

This Policy document is written to meet the legal requirement for retirement within England, at the time of the writing.

It does not discriminate against persons based on age, disability, family status, gender reassignment, race, religion or belief, sex or sexual orientation, as defined as protected characteristics within the Equalities Act 2010. It is applied to meet the laws within England at the time of writing.

2.0 – Enforcement Policy

2.1 – General Enforcement Policy

This document sets out what businesses, individuals and the community as a whole can expect from the Internal Drainage Board. The policy is based on the Government’s ‘Enforcement Concordat Principles of Good Enforcement’. Internal Drainage Boards are empowered under legislation and the Memorandum of Understanding with Lincolnshire County Council to issue consents and investigate and prepare the necessary documents for enforcement action. Internal Drainage Boards also safeguard the interests of the public in relation to:

- Enforcement of the Land Drainage Act within the District
- Enforcement of the Land Drainage Act for Lincolnshire County Council outside the District
- Consent as required by the Land Drainage Act within the District
- Consent as required by the Land Drainage Act for Lincolnshire County Council outside the District

The effectiveness of legislation in protecting businesses, individuals and the community depends on the compliance of those regulated. The Internal Drainage Board recognises that most businesses and individuals want to comply with the law. It will therefore take

care to help businesses and the public to meet their legal obligations without unnecessary expense, while taking appropriate action against those who breach the law.

2.1.2 – Standards:

The Internal Drainage Board is committed to consultation with businesses and the public. It will draw up clear standards setting out the level of service and performance that businesses and the public can expect to receive.

2.1.3 – Openness:

The Internal Drainage Boards will provide information and advice in plain language on the legislation it enforces and will disseminate this as widely as possible. The Internal Drainage Boards will be open about how it carries out its work, including the charges it applies. Where these charges are set out in statute, this will be highlighted. Where the charges are set by the Internal Drainage Board, their basis will be explained when requested.

2.1.4 – Partnership

The Internal Drainage Board is committed to work with the community on compliance with Regulations on the basis that prevention is better than cure, and to ensure that its efforts are coordinated with other enforcement agencies within and outside the Board's area.

2.1.5 – Helpfulness

The Internal Drainage Board will provide a courteous and efficient service and its staff will identify themselves by name. The Board will provide a contact point for further dealings and encourage businesses and the public to seek advice/information from its officers. The Board will ensure that, whenever practicable, the enforcement services are effectively coordinated to minimise overlaps and delays.

2.1.6 – Complaints about the Service

Complaints will follow the Internal Drainage Board's formal complaints procedure. The complaints procedure explains the rights of complainant and appeal, including the timescales likely to be involved.

2.1.7 – Proportionality

The Internal Drainage Board will minimise the cost of compliance by ensuring that any action required is proportionate to the risks as far as the law allows, and will consider each case individually taking into account the circumstances of the case.

2.1.8 – Consistency

The Internal Drainage Board's staff will exercise judgement in individual cases and there will be arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

The Internal Drainage Board is part of the Lincolnshire Association of Drainage Boards and contributes to the Association's member's wish to ensure consistent interoperation and enforcement across all of the Boards.

The Internal Drainage Boards and Enforcement teams aim is to provide a coordinated and joined up service when dealing with enforcement issues.

2.1.9 – Procedures

All properly made enquiries for enforcement investigation will be registered and acknowledged within 7 working days of receipt. Where unauthorised work exists an application must be entered into the register within 5 working days.

An initial site visit will be carried out within 15 working days of receipt of the enforcement enquiry/complaint, at this stage the case will be assessed for potential enforcement action. Where the process is initiated as a result of a site inspection, this assessment will take place at the time the contravention is discovered.

A response will be made to both the enquirer and the owner/occupier(s) of the site under investigation within 25 working days of the receipt of the enquiry.

Advice from the officer will be put clearly and simply and will be confirmed in writing, explaining why any further investigation, consent issues, or remedial work is necessary and over what timescale. Legal requirements will be clearly distinguished from best practice advice. It must be noted that the Board has no power for retrospective consent but consent may be required for the remedial works to be undertaken.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required. It is expected that, unless immediate action is required, officers will follow the Board's normal procedures and gain appropriate authorisation from the Board, or submit a Concluding Recommendation Report which gives Lincolnshire County Council 28 days to respond to the recommendation, prior to initiating formal enforcement procedures or closing the case.

Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and confirmed in writing within 10 working days.

The enforcement powers the authority has in carrying out their duties are contained in Land Drainage Act 1991.

Rights of appeal against formal action and notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

Formal enforcement action includes the opportunity for works to be undertaken to repair any defect determined by the enforcement investigation and that any expenses reasonably incurred in the exercise of powers conferred to the Internal Drainage Board by the Land Drainage Act may be recovered from the person liable for the repair, and in certain circumstances, may include referral to legal processes where, on conviction, fines may be imposed.

Data Sharing

- The Internal drainage Boards and the Lead Flood Authority can share information in accordance with the Flood and Water Management Act 2010, Section 13 “A relevant authority may share information with another relevant authority for the purpose of discharging its duty under subsection (1).”
- In accordance with any formal agreement drawn up between the parties.

See Annex A for process flowchart

2.1.10 – When do we prosecute:

Factors that are taken into account when considering whether to prosecute will include:

- The ability to prosecute for the offence within the context of the Land Drainage Act
- The seriousness of the offence
- The history of the offender
- The willingness of the business or individual to prevent a recurrence of the problem and co-operate with the Internal Drainage Board
- A consideration as to whether there is enough evidence to provide a realistic prospect of a conviction
- Whether it is in the interests of the public to prosecute
- The views of any complainant and other interested parties in a prosecution
- Application and review of policy

All staff will act in accordance with this policy document, the relevant legislation and guidance procedures applicable.

If timescales set out in the document cannot be achieved the parties involved will be advised of the delay.

This policy will be reviewed and amended to reflect any changes that may occur in operational procedures or to current legislation.

2.1.11 – Works in default

Where the requirements of the notice are not carried out, in certain circumstances the Internal Drainage Board is empowered to do whatever is necessary to remove the obstruction, or otherwise abate the nuisance and recover the costs of doing so from the person responsible. The Internal Drainage Board will generally carry out work in default when:

- The person served with a statutory notice failed to comply with the requirements of the notice and
- There has been no appeal against the terms of the notice or any appeal made has not been upheld and
- The Internal Drainage Board regard the work required to be undertaken in default is necessary regardless of whether or not a prosecution is undertaken.
- The Internal Drainage Board may also carry out work in default on behalf of the person responsible where a written request and an undertaking to pay are received from them.

In deciding whether to carry out work in default, the Internal Drainage Board will consider:

- The urgency of the need to remove the blockage or otherwise rectify the nuisance, to protect people and property.
- The wishes of the person responsible for the problem
- Whether the evidence available to the Board provides a realistic prospect of the person responsible overturning the Internal Drainage Board action in the event that recovery of costs is contested.

All works in default need to follow the requirements and procedures detailed in current Internal Drainage Board Standing Orders for commissioning goods and services.

The Internal Drainage Board may recover the costs of the work from the person responsible as a civil debt, when the legislation permits this. Such a charge may be repaid by instalments but will accrue interest at such reasonable rate as the Internal Drainage Board may determine.

2.1.12 – How to contact us:

Phone – 01522 697 123

Email – enquiries@witham3idb.gov.uk

Website -www.witham3idb.gov.uk

Post - [Board], at Witham House, Meadow Lane, North Hykeham, Lincoln, LN6 9GJ

Complaints about the Service:

In the first instance by phone, letter or email to the Chief Executive Officer of the Board, using the above contact information.

A copy of the complaints procedure is available and published on the website.

2.2 – Consenting

2.2.1 – Legislation

The Boards consent is required in the following circumstances:

Type	Brief Description	Coverage	
Section 23 Land Drainage Act 1991	Works within a watercourse.	Within Board's District, and Outside Board's District on behalf of Lead Local Flood Authority	
Byelaw Consent, Section 66 Land Drainage Act 1991	Works adjacent to, under, over, a watercourse	Within Board's District as limited by adopted Byelaws	

<p>Section 339 Highways Act 1980</p>	<p>Highway Authority proposed works under sections</p> <p>45 Power to get materials for repair of publicly maintainable highways</p> <p>100 Drainage of highways</p> <p>101 Power to fill in roadside ditches etc.</p> <p>110 Power to divert non-navigable watercourses and to carry out other works on any watercourse</p> <p>294 Entry, etc., of premises by highway authority or council for certain purposes</p> <p>299 Right to discharge water</p> <p>SCHEDULE 22</p>	<p>Within Board's District as limited by adopted Byelaws</p>	<p>Application considered under Section 23 and/or Section 66 of the Land Drainage Act 1991. Any consent issued under the Land Drainage Act can be considered as Consent issued under the Highways Act.</p>
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2.2.2 – Guidance on information requirements and validations

Although there is no standard application form laid down within the terms of the land drainage act 1991, most Drainage Boards expect that use is made of an Application Form which can normally be accessed by the applicant directly, through their website or directly from the Board.

2.2.3 – Electronic V Paper form

As with the planning process, applicants are increasingly being encouraged to apply electronically, however, online or email submission of supporting information may not always be possible. It is therefore accepted that information can be submitted in hard copy, or electronically on a CD or USB storage device, even if the application has been submitted online or by email. Applicants who submit hard copies of supporting information must provide the original plus a copy (a total of two copies).

Applicants who submit an application electronically to the Board can communicate in this way throughout the whole application process unless an alternative approach is agreed between the Board and applicant. Where applicants have chosen to communicate

electronically with the Board, the Consent or Refusal Notice can also be issued electronically.

For electronic applications, a typed signature of the applicant or Agent's name is acceptable.

Applicants who apply for permission or consent on a paper copy of the application form must provide the original plus a copy of the form and any accompanying plans, drawings or information associated with the application (a total of two copies) unless the Board indicate that a different number is required.

2.2.4 – Multiple Applications

If applicants wish to apply for multiple consents at the same time: for example, to apply for consent to undertake works in two separate locations. The information to be supplied to enable each and every consent must be submitted although duplication is discouraged. A fee applies for each consent sought although the Board will indicate where similar proposals can be determined in a single application for a single fee.

2.2.5 – Guidance on information requirements and validation

Use of the application form for multiple applications which come under different determination processes is intended to streamline the application process. However, it does not alter the fact that these applications are legally distinct and their validity and determination should be treated as such by the Board.

At the end of the determination process, Boards are advised to send the applicant one decision letter for each application for each determination process. However, where a decision letter combining consents is sent, the different consents must be differentiated within the letter as they are still legally distinct from one another.

Boards should make proportionate requests for information, and should not use invalidation to prevent the start of the determination period where an applicant has taken reasonable steps to fulfil the information requirements set out on published documentation (where it exists).

For significant or complex proposals and other schemes which are likely to have significant impacts on the watercourse environs, applicants should engage in pre-application discussions so that they are clear about the information that the Board will need in order to understand the anticipated impacts of the application and make a determination of the consent application.

Boards should register and acknowledge receipt of a valid application within 7 working days of receipt. Under the terms of the Land Drainage Act 1991, **THERE IS NO OPPORTUNITY TO PROVIDE A RETROSPECTIVE CONSENT FOR WORKS THAT HAVE BEEN COMPLETED.** The Board must consider any unconsented works as an enforcement issue and dealt with accordingly, even if they have received an application for retrospective consent.

If an application is deemed invalid, the validating officer should notify the applicant of their reasons in writing, unless it is clear that the omissions could be addressed rapidly, in which case it may be more efficient to make contact with the applicant by telephone or email. If the applicant disagrees with the officer's reason(s) for invalidating the application, he or she should first discuss with the officer and if the dispute cannot be resolved with the officer the applicant should follow the complaints procedure.

Boards should start the determination process as soon as a valid application is received. A valid application is registered on the day of receipt (Day zero). If the application has been submitted electronically it should be treated as having been delivered at 9am on the next working day after the day on which it is transmitted.

The time period from application to decision begins the day after a valid application and the correct fee have been received (Day one) regardless of whether the application is submitted electronically or in paper format. The time period for determining the application is laid down within the Land Drainage Act 1991. (Two months).

In some circumstances the supporting information may be inadequate or its quality may be a concern. These are not grounds for invalidating applications, but applicants are encouraged to submit information to a good standard since this will greatly assist the determination process. Boards have the ability to request clarification or further information during the determination process.

Where the Board requests additional information from the applicant, the 'clock' should not be stopped whilst waiting for further information. Normal determination periods should continue to apply unless a longer period is agreed in writing between the applicant and the Board to extend the determination period. Should insufficient or inadequate information supplied to the Board the Board will have no option but to REFUSE the application.

A direction to the applicant to provide further information should be made only when necessary to assist the Board in its determination of an application and must not affect the validity of an application, where it has been validated and registered.

In cases where a fee in respect of an application is paid by cheque which is subsequently dishonoured or electronic payment which is declined, the start date for processing the application (day 1) is the day immediately after the Board is satisfied that they have received the full fee.

Any appeal against the determination is to be made to the Board, in the first instance phone, send a letter or email the Chief Executive of the Internal Drainage Board.

3.0 – Enforcement Policy Statement

The Board wish to provide their employees with the general guidance in relation to Enforcement actions if needed.

4.0 - Glossary / Definitions

Word/ term	Definition
EDI	Equality, Diversity and Inclusion (see policy)

5.0 – Legislation & other partner organisation documents

- Land Drainage Act 1991
- Highways Act 1980
- The Equalities Act 2010
- Local Policy in line with ADA Lincolnshire Branch White Book.

6.0 – Roles and Responsibilities

6.1 Arrangements for roles and reporting lines

The arrangements and organisational responsibilities for implementing the policy are detailed in this section.

6.1.1 – Board Members

- Reviewing and approving this policy
- Supporting the Chief Executive Officer and SMT in its application

6.1.2 – Chief Executive Officer (CEO) and Senior Management Team (SMT)

- Comply with this policy.
- Cascade this policy and ensure it is available to all staff members.
- Support enforcement within the organisation and the consistent application of the policy.

6.1.3 – Enforcement Officer & Planning and Consents Officer

- Apply the Policy consistently

6.1.4 – All Staff

- Follow the policy and pass enforcement to the Enforcement Officer
- Follow the policy and pass consenting to the Planning and Consents officer

7.0 - Document review:

Version	Date	Reviewed by	Changes	Approved by/ date
1.0	2014	SMT	Review and update	2014
2.00	November 2024	Risk Manager & SMT	Periodic Review and new template	JSC December 2024

This concordat is due for review at 5 yearly intervals, unless a review is required before e.g. change to management, process or anything which may affect the contents of this concordat.

8.0 - Supporting documents and forms (Annex)

ANNEX 1 – IDB Enforcement Procedure

ANNEX 2 – Unconsented work (Standard Document)

ANNEX 3 – Repair watercourse/ structure (Standard Document)

ANNEX 4 – Clear blockage (Standard Document)

ANNEX 5 – NOTICE to remedy condition of watercourse (Standard Document)

ANNEX 6 - Notice to repair maintain watercourses, bridges, drainage work.

ANNEX 7 - Notice requiring removal of obstructions in watercourse erected raised or altered in contravention. (Standard Document)

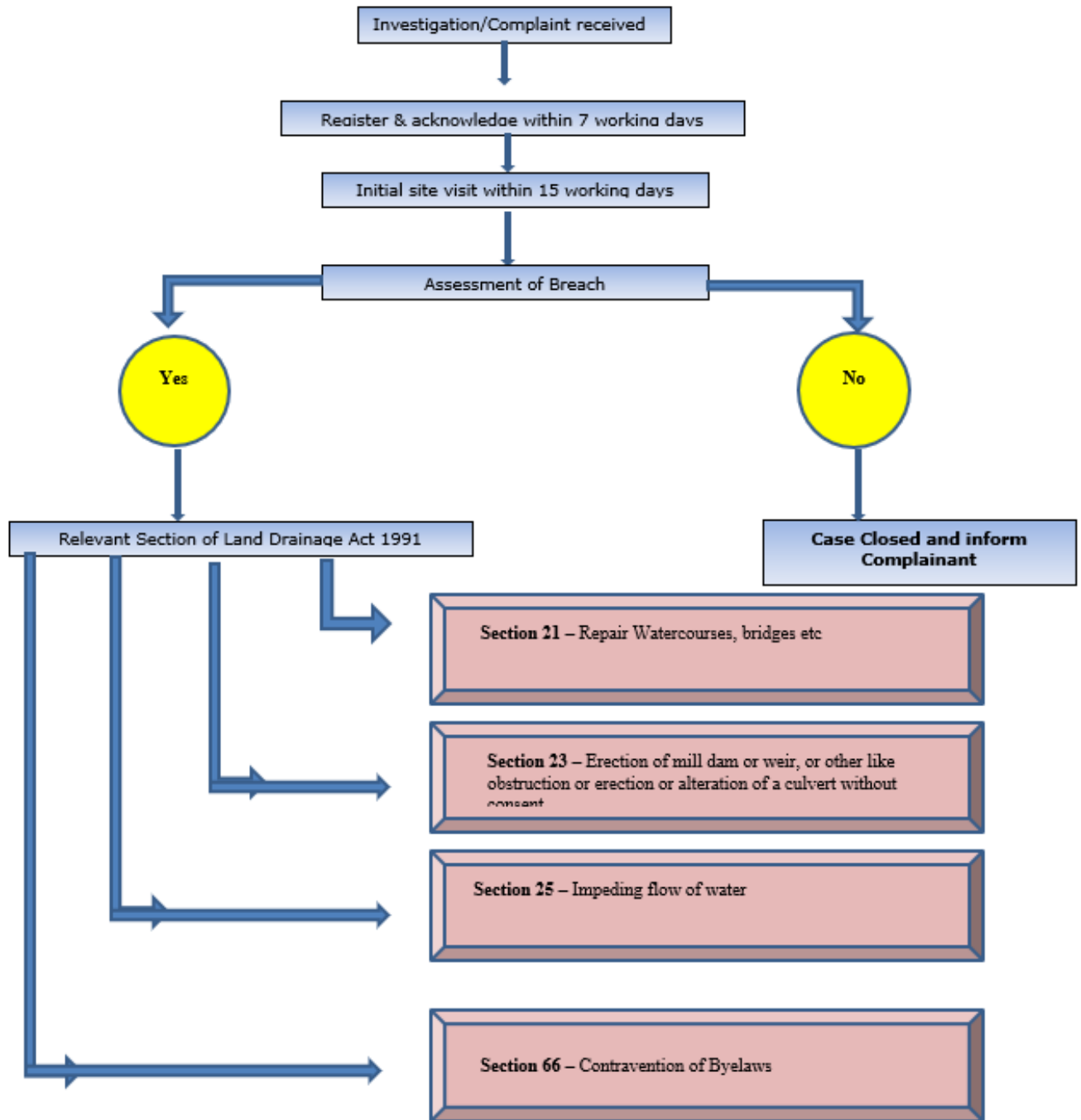
ANNEX 8 - Notice requiring remediation of a watercourse to ensure proper flow (non-main River). (Standard Document)

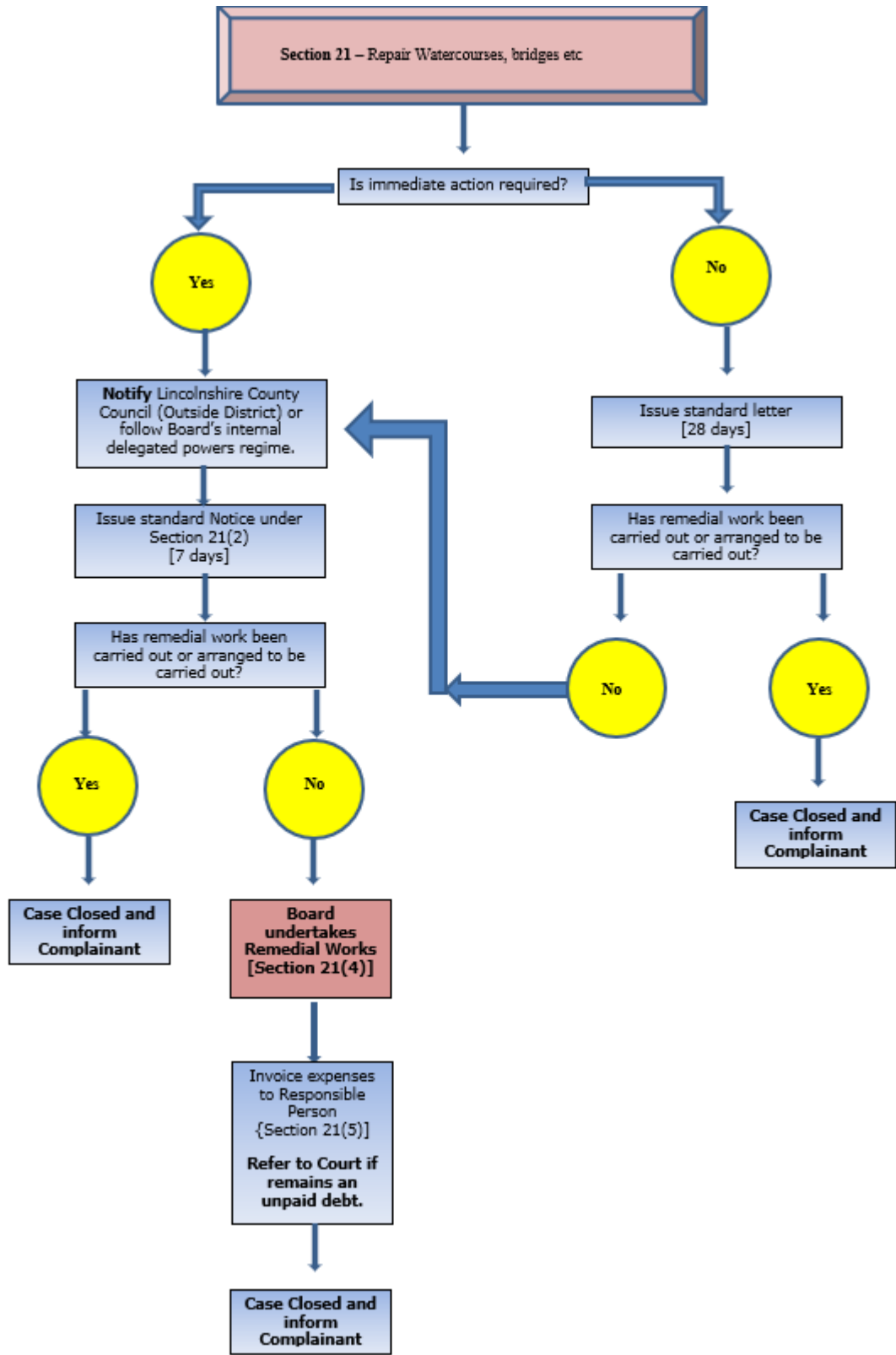
ANNEX 9 - Concluding Recommendation Report. (Standard Document)

ANNEX 10 – Checklist

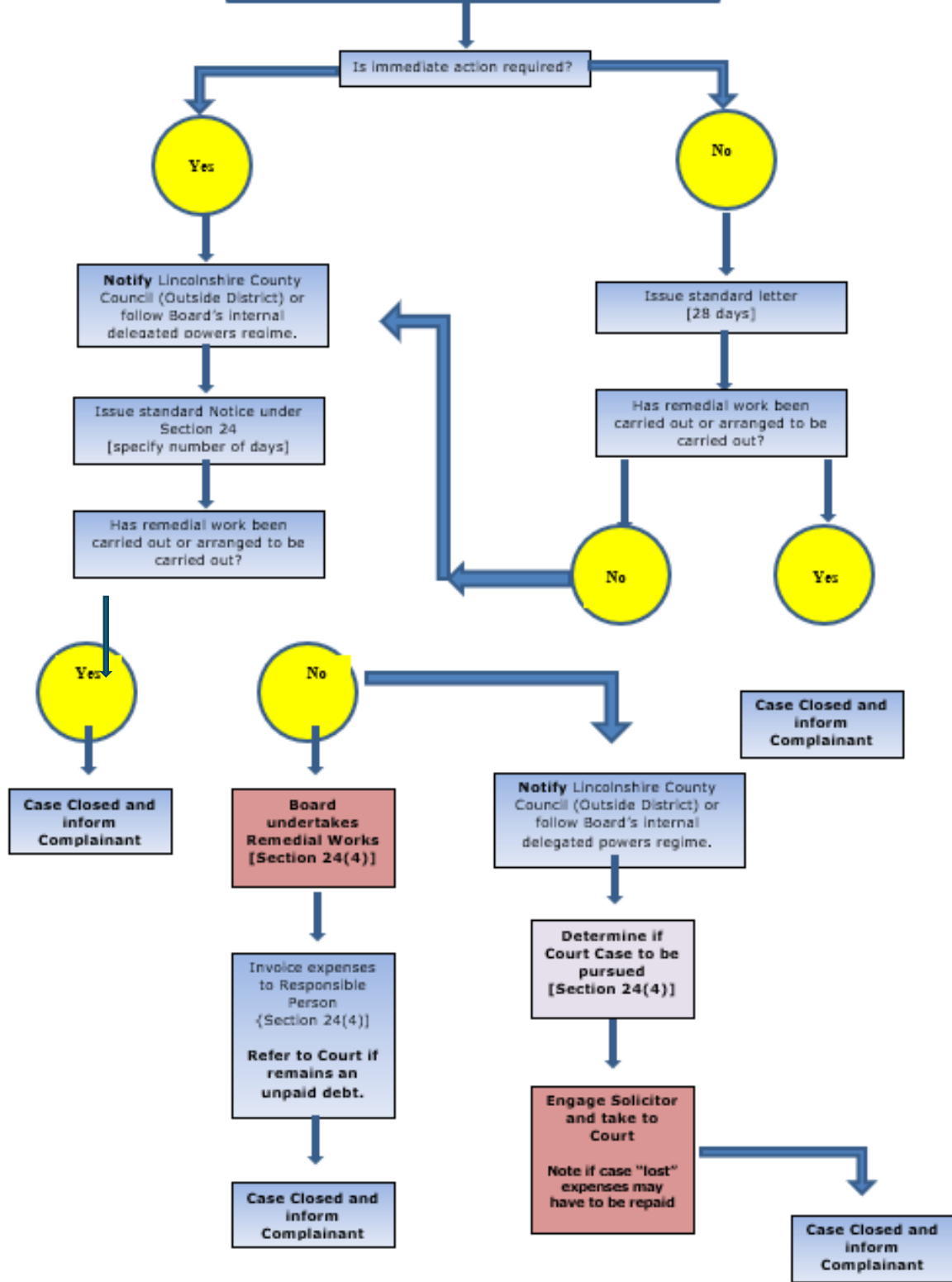
ANNEX 11 – suggested text for acknowledgement of a valid application

ANNEX 1 – IDB Enforcement Procedure

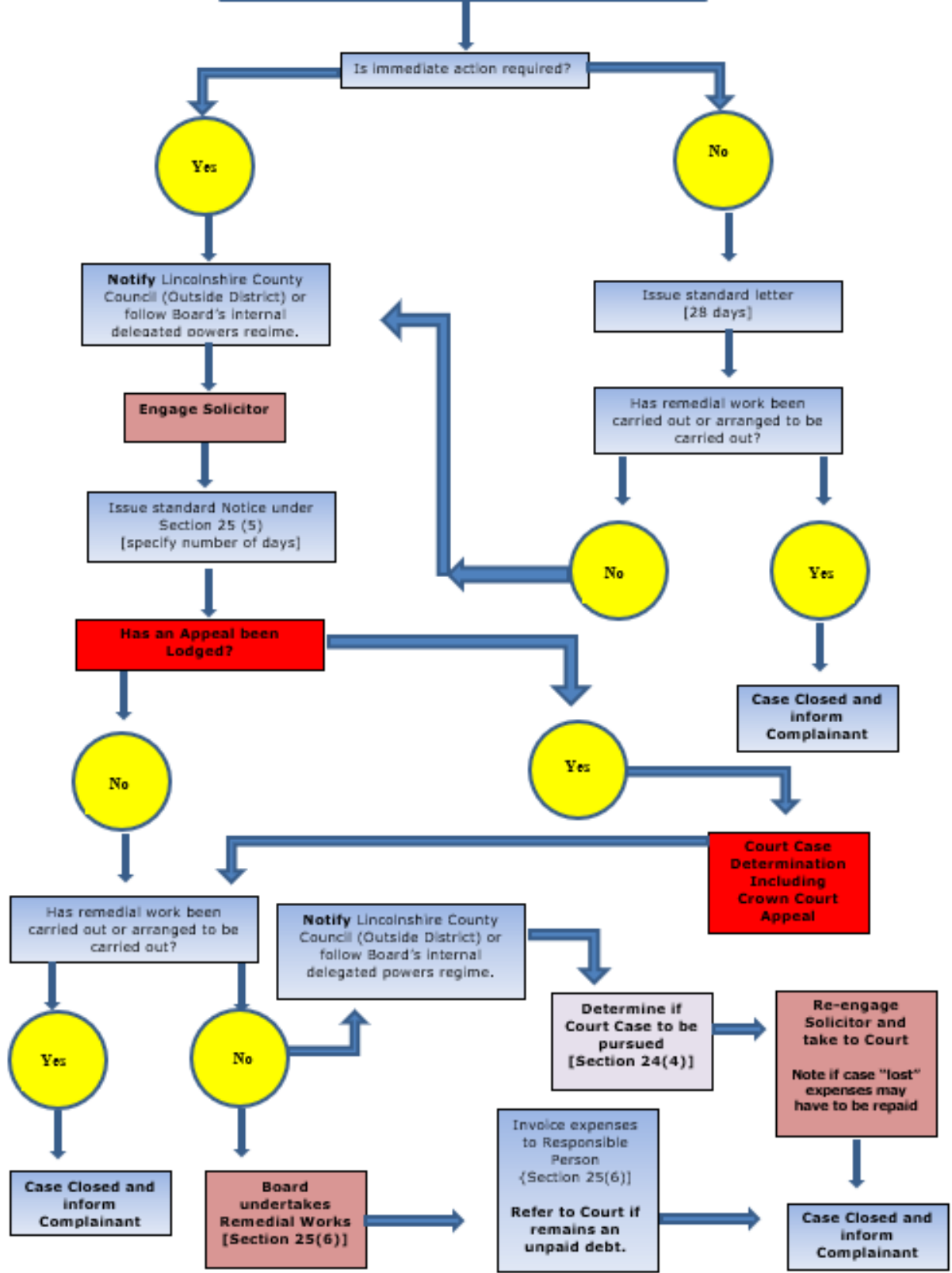


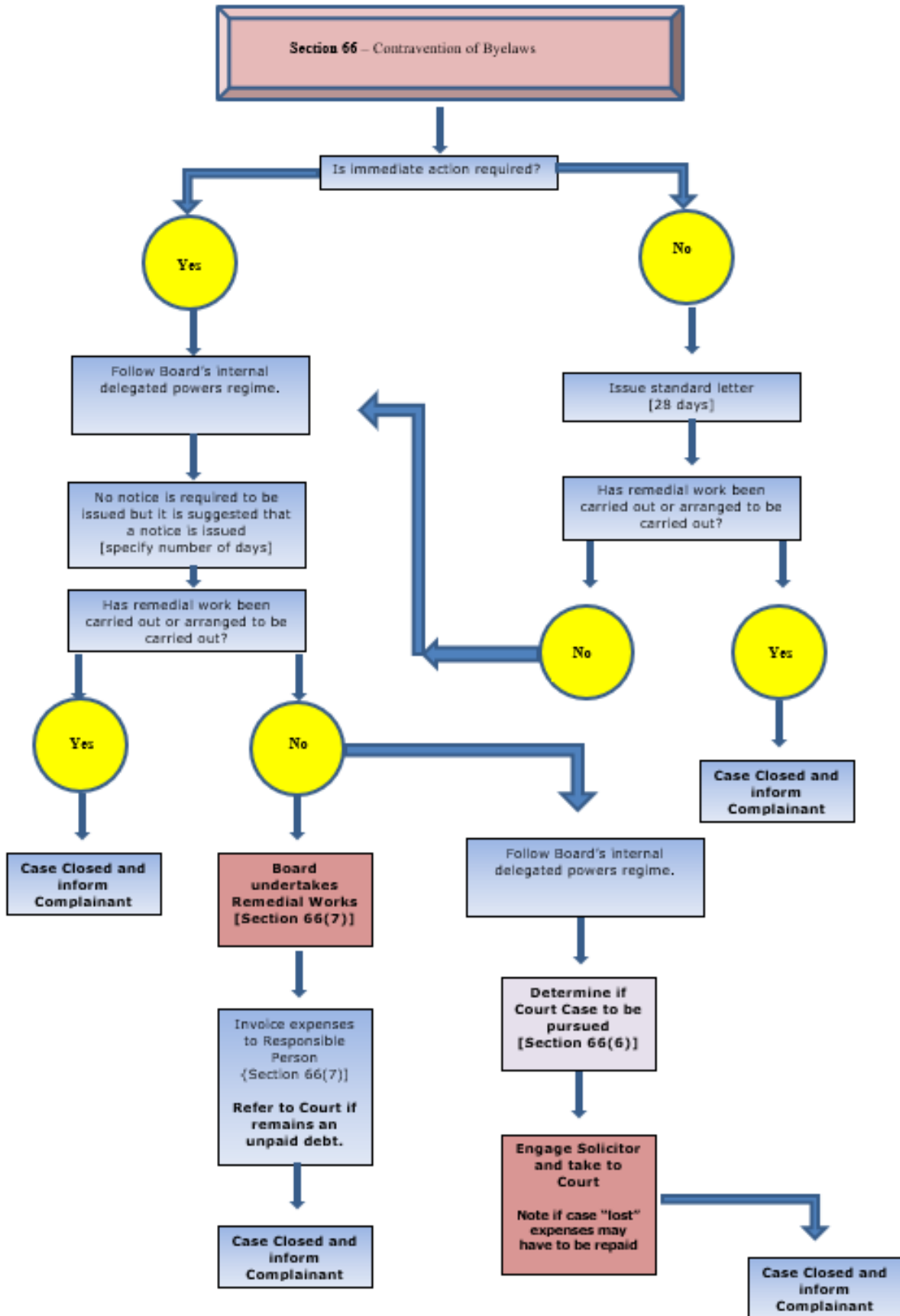


Section 23 – Erection of mill dam or weir, or other like obstruction or erection or alteration of a culvert without consent.



Section 25 – Impeding flow of water





ANNEX 2 – Unconsented work (Standard Document)

Unconsented work: First contact

Dear [Name]

..... works at [identify/describe works]

The Board [on behalf of the Lead Local Flood Authority] has become aware that the above works have been carried out. The works would have required our consent under Section 23 of the Land Drainage Act 1991. Having checked our records no consent appears to have been granted for these works.

Please contact [contact name] at the above office, who is dealing with this matter, to arrange a site meeting and to discuss any remedial action which may be necessary. Alternatively, could you please forward a copy of any Land Drainage Act consent that you may have received from the Board, Environment Agency, National Rivers Authority, or their predecessors.

In order to progress this matter promptly would you please respond by

Yours sincerely / faithfully

Unconsented work: Site meeting

Dear Sir / Madam /

.....works at.....

Following the Board's investigation and further to our meeting on [date]., I confirm that the above works have been carried out without consent of the Board [acting for Lincolnshire County Council, the Local Lead Flood Authority] and are in contravention of Section [23/66] of the Land Drainage Act 1991. As explained at our meeting we require the following works to be undertaken:

- 1.
- 2.

This work should be undertaken by [date].

If the work is not carried out by this date, the Board will proceed to take formal enforcement action.

I trust that this enforcement action will not be necessary and I look forward to receiving your confirmation that the remedial works will be carried out by the above date. If you do not think that you are able to meet the timescale above, please contact me to discuss the options available.

Yours sincerely / faithfully

Unconsented work: Reminder letter

Dear [Name]

..... works at [identify/describe works]

I refer to my letter dated concerning the above. It appears from our records that we have not had a response from you.

I now enclose a formal Notice under SectionLand Drainage Act 1991.

This notice requires remedial action to be taken by

I would in particular draw your attention to the notes at the bottom of/attached to the notice.

Yours sincerely / faithfully

ANNEX 3 – Repair watercourse/ structure (Standard Document)

Dear Sir / Madam,

Need to Repair Watercourse and/or Structure.

Following the receipt of a complaint, the Board has inspected the [watercourse / structure] under your control, as highlighted on the attached plan.

On investigation the [watercourse / structure] is affecting the free flow of water in the ditch and causing significant problems upstream of your property.

Accordingly, I write to request that the blockage is cleared within a period of [number] days from the date of this letter. If you have problems in complying with this request, or require further assistance, then please do not hesitate to contact me.

If the work is not carried out by this date, the Board will proceed to take formal enforcement action as determined by Section 21 of the Land Drainage Act 1991.

I trust that this enforcement action will not be necessary and I look forward to receiving your confirmation that the remedial works will be carried out by the above date. If you do not think that you are able to meet the timescale above, please contact me to discuss the options available.

Yours sincerely / faithfully

[] delete as necessary

ANNEX 4 – Clear blockage (Standard Document)

Dear Sir/Madam,

Remove Impediment to Flow.

Following the receipt of a complaint, the Board has inspected the [watercourse / structure]under your control, as highlighted on the attached plan.

On investigation, the[pipes are either collapsed or are blocked / the watercourse has excessive levels of silt / the watercourse banks have slipped /], thereby obstructing the free flow of water in the ditch and causing significant problems upstream of your property.

Accordingly, I write to request that the blockage is cleared within a period of [number] days from the date of this letter. If you have problems in complying with this request, or require further assistance, then please do not hesitate to contact me.

If the work is not carried out by this date, the Board will proceed to take formal enforcement action as determined by Section 25 of the Land Drainage Act 1991.

I trust that this enforcement action will not be necessary and I look forward to receiving your confirmation that the remedial works will be carried out by the above date. If you do not think that you are able to meet the timescale above, please contact me to discuss the options available.

Yours sincerely / faithfully

[] delete as necessary

ANNEX 5 – NOTICE to remedy condition of watercourse (Standard Document)

UPPER WITHAM INTERNAL DRAINAGE BOARD

LAND DRAINAGE ACT 1991 – SECTION 25

NOTICE to remedy condition of watercourse

WHEREAS the watercourse specified in the schedule below, which is within the District of the Upper Witham Internal Drainage Board, is in such a condition that the proper flow of water is impeded.

TAKE NOTICE that the said Drainage Board **HEREBY REQUIRE YOU** as the owners/occupiers of land adjoining that part of the said watercourse where the said impediment occurs within a period of [XXXXXX] weeks from the date of service of this notice upon you to **REMEDY** the said condition by:-

- a)
- b)

All to the satisfaction of the Board's Engineer.

Attention is drawn to the provisions of Section 27 of the Land Drainage Act 1991

(extract enclosed), with respect to appeals against and the enforcement of this notice.

Any appeal in pursuance of these provisions should be made to the Magistrates Court and must be brought within 21 days from the date of the service of this notice.

SCHEDULE

boundary of your property as indicated in red on the attached plan.

Dated this

Signed.....

D (alternative) Notice requiring remediation of watercourse to ensure proper flow

Land Drainage Act 1991

Section 25

**NOTICE REQUIRING WORKS TO
MAINTAIN FLOW OF AN IMPEDED ORDINARY WATERCOURSE**

To:

Under Section 25 of the Land Drainage Act 1991, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] can require works where the proper flow of water in an ordinary watercourse is impeded. The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] considers that the ordinary watercourse, namely, [insert watercourse name and location] is in such a condition that the proper flow of water is impeded, namely, [insert detail of what is impeding the flow].

The Board requires you, as the

- person who has control of the part of the watercourse where the watercourse, bridge or drainage work is located;
- or owner or occupier of the land adjoining that part;
- or person responsible by your act or default for the condition of the said [watercourse, bridge or drainage work].

To take the actions set out in Schedule 1 of this notice by the date(s) specified

Date

Signed

.....

Engineer to the Board

Please see overleaf for notes

Land Drainage Act 1991

Section 25

Notes:

General

Failure to comply with this Notice is an offence under Section 25(6)(b) of the Land Drainage Act 1991 and may result in legal action being taken against you.

You have a right of appeal against this Notice.

You may wish to seek independent legal advice.

If you fail to comply with this Notice, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] may carry out the works and recover from you any expenses reasonably incurred in so doing.

Appeal Provisions

You are entitled to appeal against this Notice under Section 27 of the Land Drainage Act 1991. Notice of appeal must be made to a Magistrates' Court within 21 days from the date on which this is notice was served.

The procedure for an appeal under this section shall be by way of complaint for an order in accordance with the Magistrates' Courts Act 1980

SCHEDULE 1	
WORKS REQUIRED	
Works	By date

ANNEX 6 - Notice to repair maintain watercourses, bridges, drainage work etc in contravention of S.21 Land Drainage Act 1991.

Land Drainage Act 1991

Section 21(2)

**NOTICE TO REPAIR
WATERCOURSES, BRIDGES, DRAINAGE WORK ETC**

To:

Under Section 21(2) of the Land Drainage Act 1991, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] can require works in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise).

The Board considers that the ordinary watercourse, namely, [insert watercourse name and location] is in such a condition that you, as the:

- person who has control of the part of the watercourse where the watercourse, bridge or drainage work is located;
- or owner or occupier of the land adjoining that part;
- or person responsible by your act or default for the condition of the said [watercourse, bridge or drainage work].

To take the actions set out in Schedule 1 of this notice by the date(s) specified

Date

Signed

.....
Engineer to the Board

Please see overleaf for notes

Land Drainage Act 1991

Section 21(2)

Notes

General

If you fail to comply with this Notice, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] may carry out the works and recover from you any expenses reasonably incurred in so doing.

Appeal provision

There is no appeal mechanism available in the legislation against the service of this notice

SCHEDULE 1	
STEPS REQUIRED TO ABATE THE NUISANCE	
Step	By Date

ANNEX 7 – N2 Notice requiring removal of obstructions in watercourse erected raised or altered in contravention of 5.23 Land Drainage Act 1991.

Land Drainage Act 1991

Section 24

**NOTICE TO
ABATE/REMOVE OBSTRUCTION**

To:

Under Section 24 of the Land Drainage Act 1991, The Board [acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] can require the abatement/removal of un-consented works from ordinary watercourses .

The Board considers that:

- an obstruction has been [erected/raised] in an ordinary watercourse, namely, [insert watercourse name and location]

OR

- a culvert has been [erected/altered] in a manner likely to affect the flow of an ordinary watercourse, namely, [insert watercourse name and location]

Without the consent, in writing, of the drainage board, in contravention of Section 23 Land Drainage Act 1991.

In accordance with Section 24 of the Land Drainage Act 1991, The Board [as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] requires you to take the actions set out in Schedule 1 of this notice by the date(s) specified.

Date

Signed

.....

Engineer to the Board

Please see overleaf for notes

Land Drainage Act 1991

Section 24

Notes:

General

Failure to comply with this Notice is an offence under Section 24(3) of the Land Drainage Act 1991 and may result in legal action being taken against you.

You may wish to seek independent legal advice

If you fail to comply with this Notice, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] may carry out the works and recover from you any expenses reasonably incurred in so doing.

Appeal provision

There is no appeal mechanism available in the legislation against the service of this notice

SCHEDULE 1	
STEPS REQUIRED TO ABATE THE NUISANCE	
Step	By Date

ANNEX 8 – N3 - Notice requiring remediation of a watercourse to ensure proper flow (non-main River).

Land Drainage Act 1991

Section 25

**NOTICE TO
MAINTAIN FLOW OF AN IMPEDED ORDINARY WATERCOURSE**

To:

Under Section 25 of the Land Drainage Act 1991, The Board [as Agents of Lincolnshire County Council, the Lead Local Flood Authority,] can require works where the proper flow of water in an ordinary watercourse is impeded.

The Board considers that the ordinary watercourse, namely, [insert watercourse name and location] is in such a condition that the proper flow of water is impeded, namely,

- [insert detail of what is impeding the flow].

The Board [as Agents for Lincolnshire County Council, the Lead Local Flood Authority,] requires you, as the:

- person who has control of the part of the watercourse where the impediment occurs; or
- owner or occupier of the land adjoining that part; or
- person responsible by your act or default for the condition of the said watercourse

to take the actions set out in Schedule 1 of this notice by the date(s) specified.

Date

Signed

.....

Engineer to the Board

Please see overleaf for notes

Land Drainage Act 1991

Section 25

Notes:

General

Failure to comply with this Notice is an offence under Section 25(6)(b) of the Land Drainage Act 1991 and may result in legal action being taken against you.

You have the right to appeal against this notice

You may wish to seek independent legal advice

If you fail to comply with this Notice, The Board [, acting as Agent for Lincolnshire County Council, the Lead Local Flood Authority,] may carry out the works and recover from you any expenses reasonably incurred in so doing.

Appeal provision

You are entitled to appeal against this Notice under Section 27 of the Land Drainage Act 1991. Notice of appeal must be made to a Magistrates' Court within 21 days from the date on which this is notice was served.

The procedure for an appeal under this section shall be by way of complaint for an order in accordance with the Magistrates' Courts Act 1980.

SCHEDULE 1

STEPS REQUIRED TO ABATE THE NUISANCE

Step	By Date

ANNEX 9 - Concluding Recommendation Report.

Case Ref:-
Address:-
Description:-

Notes:-

Recommendation For Consideration:

We look forward to receiving your decision in the **next 28 days.**

Signature:

Date:

ANNEX 10 – Checklist

Checklist

Validation Requirements	Required/Comments	Submitted
Completed application form	No but preferred	Yes / No
Location plan	Yes	Yes / No
Site Plan	Yes	Yes / No
Details	Yes appropriate to proposals	Yes / No
Design Parameters	Yes appropriate to proposals	Yes / No
Environmental Assessment	Yes appropriate to proposals (note there is a presumption against culverting)	Yes / No
Flood Risk Assessment	Yes appropriate to proposals	Yes / No

On validation - If the requested detail is judged to be critical in determining whether permission should be granted or not, and the applicant / agent is unable to submit the information within a specified timescale the authority may be left with no option but to refuse the application due to lack of information.

ANNEX 11 Suggested text for acknowledgement of a valid application:

Thank you for your Consent application received XXXXXXXXX. The reference number is XXXXXXXXXXXX.

The application is now going through the determination process and you can expect a reply from the Board (on behalf of the Lead Local Flood Authority) regarding this matter by XXXXXXXX. Please note that this 2 month period is the maximum time it will take to determine your consent; however we endeavour to process and determine consents as quickly as possible

If you have any queries please do not hesitate to contact me.