



Ordinary Watercourse Regulation

Consultation Report



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1. Introduction

The draft Ordinary Watercourse Regulation document, hereinafter referred to as "the document", contains policies which set out the approach as to how Lancashire County Council (LCC), as a Lead Local Flood Authority (LLFA), will regulate and issue consent for changes to ordinary watercourses and use enforcement powers to rectify unlawful and potentially damaging works.

This report analyses consultation responses received during a public consultation of the document between 3 July 2023 and 27 August 2023.

2. Background

It is intended for the document to supersede Lancashire County Council's current Ordinary Watercourse Regulation policy, produced in 2014, taking account of lessons learnt as we have applied this policy and undertaken our duties in consenting and enforcement of ordinary watercourses in Lancashire.

This fulfils objective 1.3 of the Lancashire Local Flood Risk Management Strategy 2021 – 2027, adopted in November 2021, which commits the Lead Local Flood Authority to reviewing and revising its current consenting and enforcement policy by March 2024.

3. Public Consultation

A public consultation of the document was undertaken between Monday 3rd July 2023 and Sunday 27th August 2023. The purpose of this consultation was to gather views from a wide range of stakeholder groups and the public about the content of the document and the policies within.

3.1. The Survey

The consultation was conducted via an online snap survey hosted on the county council's 'have your say' consultation webpage. A full list of consultation questions can be found in Appendix A of this report. Consultation materials included:

- a copy of the document,
- a link to the county council's current Ordinary Watercourse Consenting and Enforcement Policy,
- a link to the Flood and Water Management Act, 2010,
- a link to the Lancashire Local Flood Risk Management Strategy 2021 – 2027, and
- a link to the Land Drainage Act 1991.

Hard copies of the survey and consultation materials were made available on request via email and from county council owned libraries across Lancashire. Accessible versions were also made available on request.



3.2. The Consultees

Stakeholder groups and the public were notified of and invited to contribute to the public consultation via the following means:

- Weekly social media posts across the county council's platforms, including Facebook and X (formerly known as Twitter).
- Emails to identified stakeholder groups as shown in table 1 below.
- Posters that were placed in all county council owned libraries to promote the consultation throughout the 8-week consultation period.
- A consultation announcement and reminders that were uploaded onto the county council's intranet and C-First for County Councillors.

Table 1: Stakeholder Groups invited to comment on the consultation via email.

Lancashire County Council	Lead Local Flood Authority, Highway Authority, Design and Construction, Asset Management, Estates and Schools, Planning, Climate Change and Environment, Sensory Impairment Team.
District Councils	Local Planning Authority and Drainage Officers.
Environment Agency	Partnership and Strategic Overview Teams, Spatial Planning and Asset Management teams for the Cumbria and Lancashire and for the Greater Manchester, Merseyside and Cheshire areas.
Water and Sewerage Companies	United Utilities, Yorkshire Water
Internal Drainage Board	Earby and Salterforth Internal Drainage Board
Other organisations	Association of Drainage Authorities, Association of SuDS Authorities, Blackpool Council, Blackburn with Darwen Council, Canal and Rivers Trust, Electricity North West, Rivers Trusts (Irwell, Ribble, Douglas, Alt Crossens, Lune, Wyre), Lancashire Flood and Coastal Erosion Risk Management Partnership, Lancashire Wildlife Trust, National Highways, National Trust, Natural England, Network Rail, National Farmers Union, North West North Wales Coastal Group, RSPB.
Councillors and Committees	All County Councillors, Lancashire Association of Local Councils, North West Regional Flood and Coastal Committee.
Equality Groups	Disability First, Disability Equality North West, N Vision North West, Carers Trust Fylde Coast, Empowerment Charity, Age UK, Alzheimers, Accrington & District Blind Society, Deafway, Preston and Western Lancashire Race Equality Council.



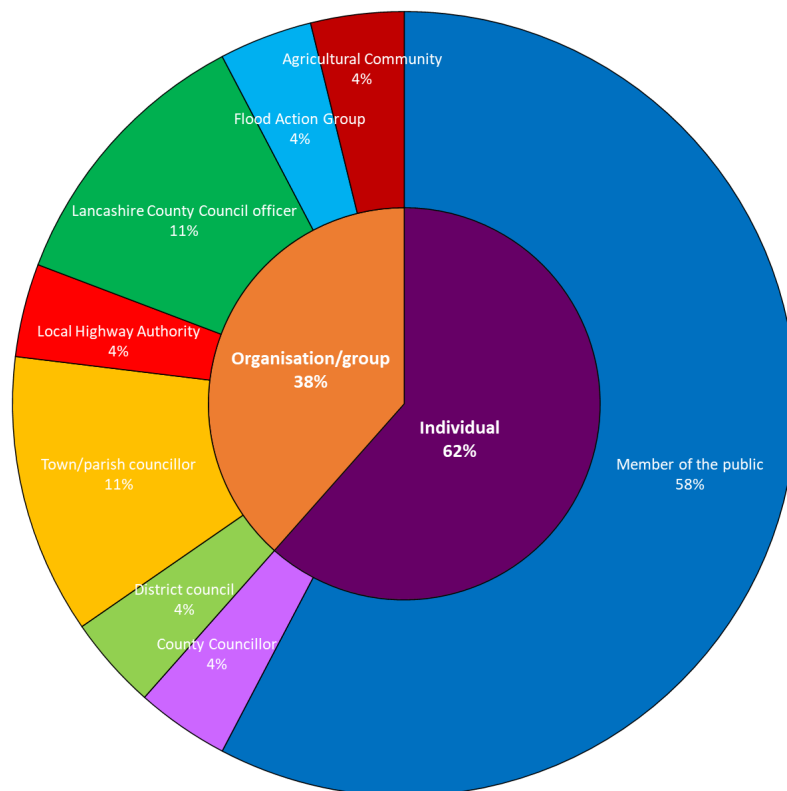
4. Consultation Results

A total of 24 online snap survey responses and 2 paper survey responses were received giving a combined total of 26 survey responses to the public consultation. We also received one additional email of support for the document, however this response has been omitted from the data analysis and is not included in the survey response total.

All consultation responses have been given equal weighting for the purpose of the data analysis, and all responses will be used to inform post-consultation changes to the final Ordinary Watercourse Regulation document and policies within, where this is considered to be appropriate. Consultation responses will also be used to inform the writing of the guidance document which will accompany the final version of the document.

4.1. The Respondents

The first section of the consultation survey, Questions 1 to 7, asked respondents if they were responding to the survey as an individual or as part of an organisation / group, and if an organisation / group, then which one. The results to Questions 1 to 7 are shown in Figure 1 below:



Questions 1 to 7: Who are you and where are you responding from?



Figure 1: Respondents by group

Figure 1 shows into which groups the 26 consultation respondents fit. The inner section shows that 62% of respondents were individuals and 38% belong to organisation/groups. The outer circle breaks these categories down further into specific groups and communities, for example almost all the individuals who responded to the consultation were members of the public, apart from 1 person (4%) who was a County Councillor. There were six organisations / groups that also responded to the consultation, including the agricultural community, Flood Action Group, Local Highway Authority and District Council. Within the county council, consultation responses came from officers within the Ecology, Design and Construction and Flood Risk Management teams.

4.2. Survey Responses

The next section of the consultation survey, Questions 8 to 57, asked respondents for their views on the content of the document and the policies within. The results to multiple choice Questions 8, 10, 12, 14, 16, 17, 19, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 43, 45, 47, 49, 51, 53, and 55 are shown in Figures 2 to 19 below. In some figures, multiple questions are represented in the same graph.

Question 8: Do you agree or disagree that in the introduction is clear?

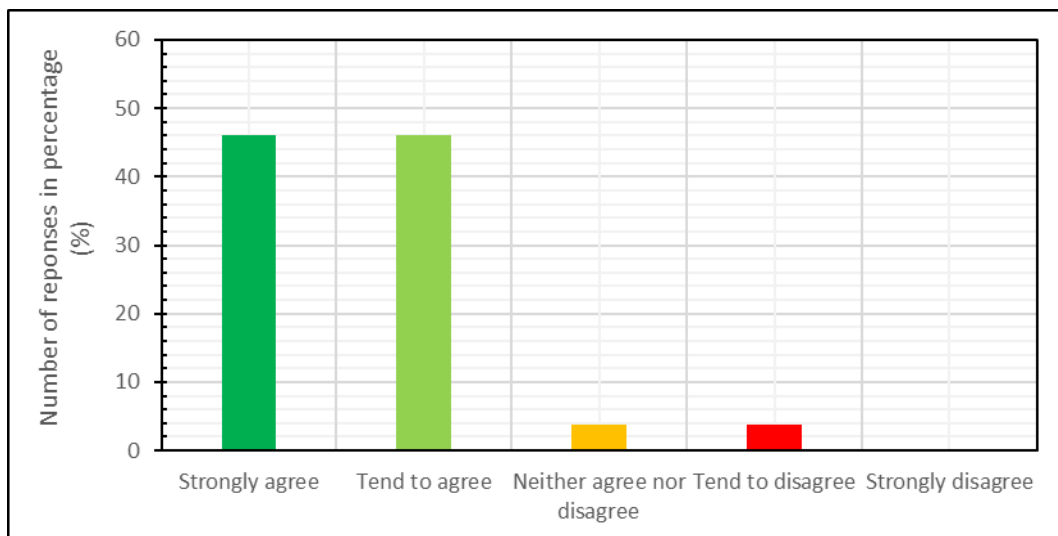


Figure 2: Clarity of the introduction.

Figure 2 shows that 92% agree that the introduction is clear in explaining the document, however half of these respondents only tend to agree that the introduction is clear. 4% of respondents tend to disagree that the introduction is clear, with another 4% responding with neither agree nor disagree.



Question 10: Are the definitions for watercourse classifications clear?

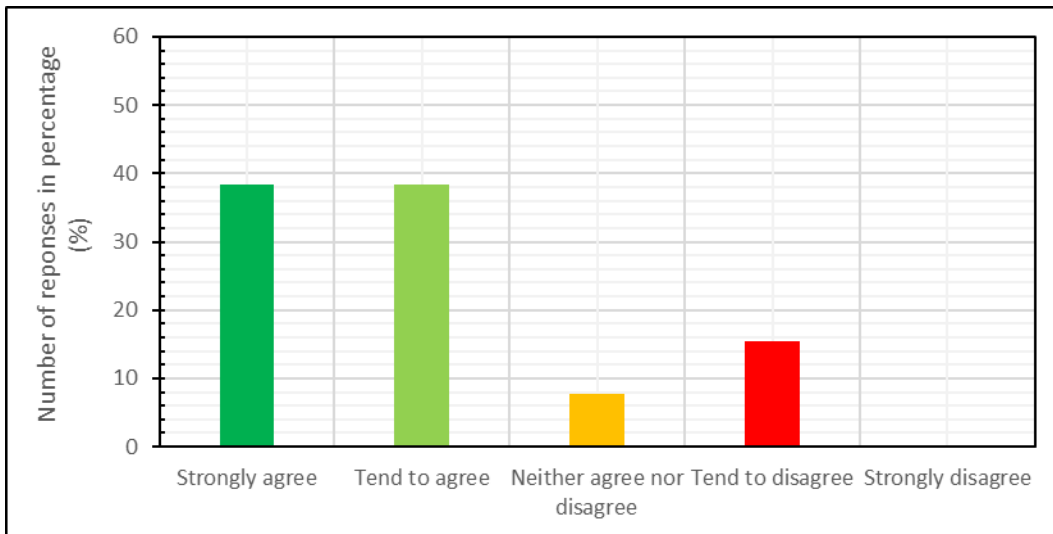


Figure 3: Clarity of watercourse classification definitions.

Figure 3 shows that 77% of respondents agree that the definitions are clear, with this being split equally between the strongly agree and tend to agree options. 15% of respondents tend to disagree that the definitions are clear.

Question 12: Are the requirements for ordinary watercourse consent clear?

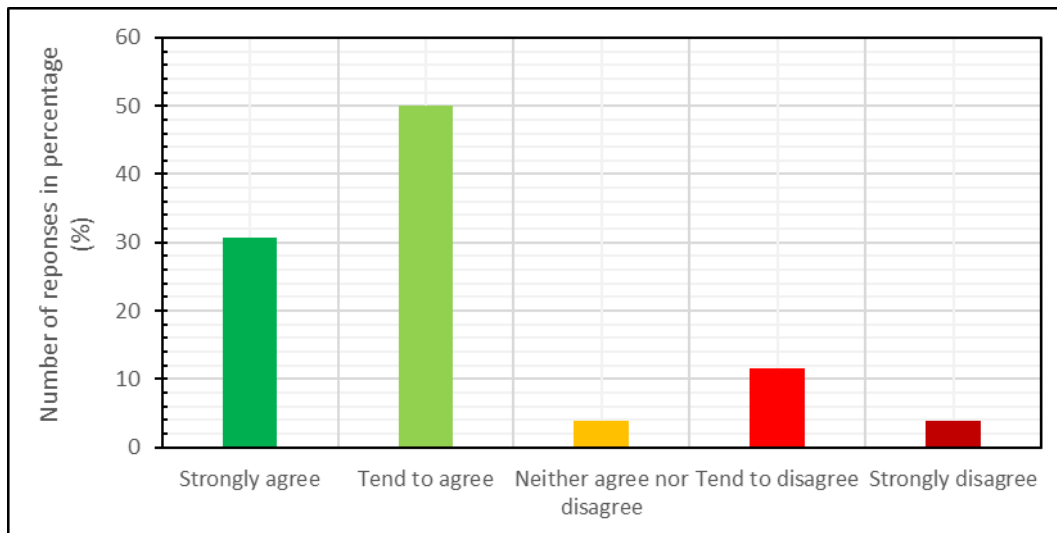


Figure 4: Clarity of ordinary watercourse consent requirements.

In Figure 4 tend to agree is selected the most with 50% of respondents opting for this option. A combined total of 16% of respondents are in the disagree category with three respondents choosing tend to disagree and one respondent choosing strongly disagree when asked if the requirements were clear.



Question 14: Do you understand the repercussions of failing to obtain ordinary watercourse consent?

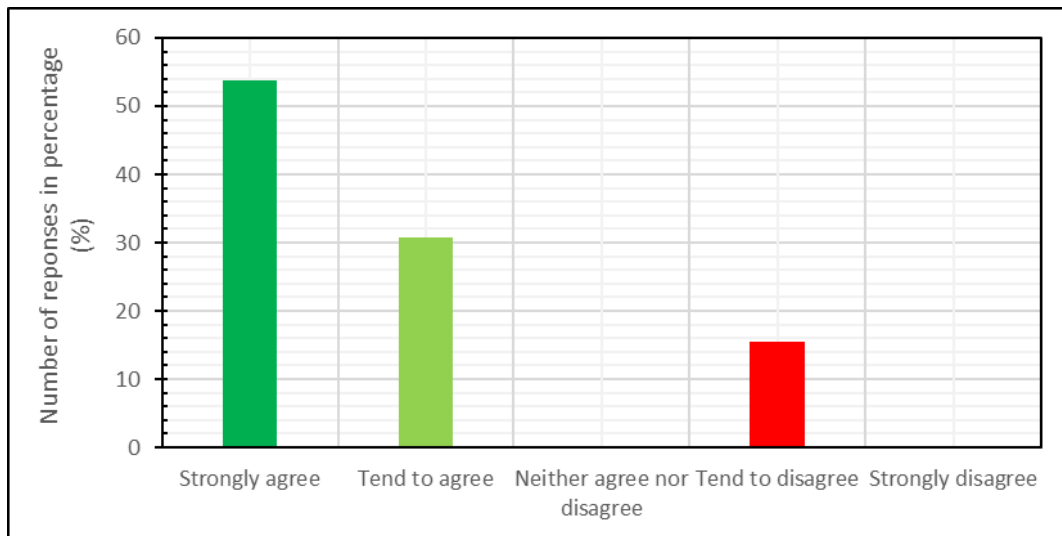


Figure 5: Failure to obtain consent.

Figure 5 shows that 54% respondents strongly agree that the repercussions of failing to gain consent are clear, 30% tend to agree and 15% tend to disagree. There are no responses in the neither agree nor disagree or strongly disagree categories.

Question 16: Are you aware that there are no legal means to issue retrospective consent?

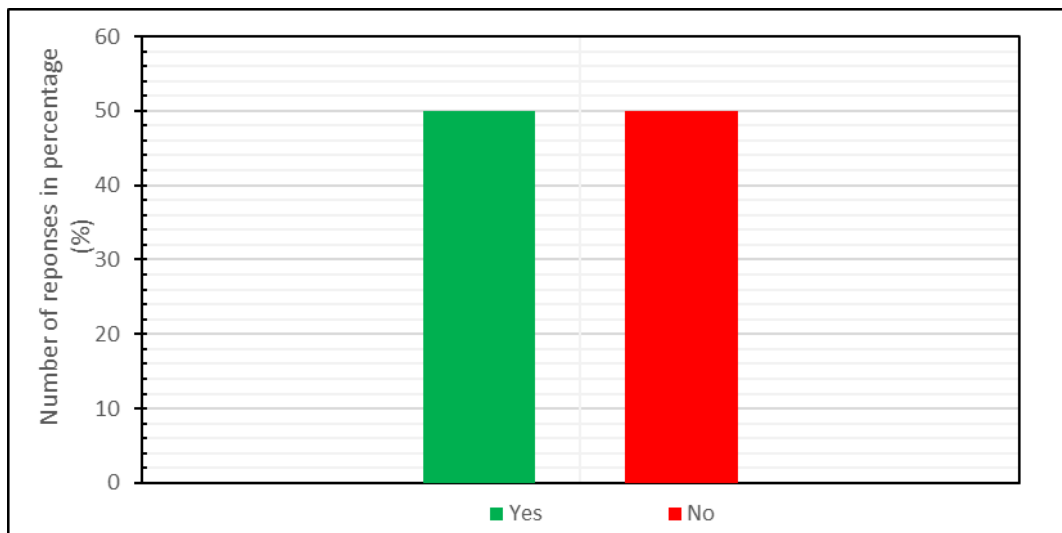


Figure 6: Issuing retrospective consent.

Figure 6 shows that the 24 respondents who answered Question 16 were split equally between the two answers, with 50% being aware and 50% being unaware that there is no legal mean for Lancashire County Council to issue retrospective consent.



Question 17: It is necessary to have a minimum level of information for a valid consent application?

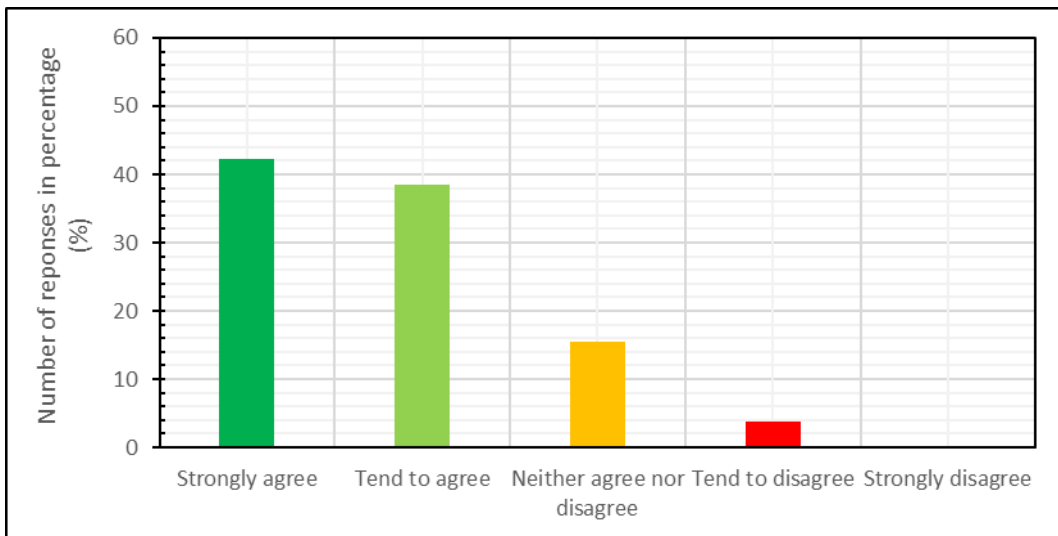


Figure 7: Information for a valid consent application.

Figure 7 shows that 21 respondents, (81%) agree that there should be a minimum level of information applicants have to deliver in order to produce a valid application. There are four respondents, 15%, that neither agree nor disagree with this question and one respondent (4%) that tends to disagree.

Question 19: Do you agree with the principle of a hierarchy of ordinary watercourse options?

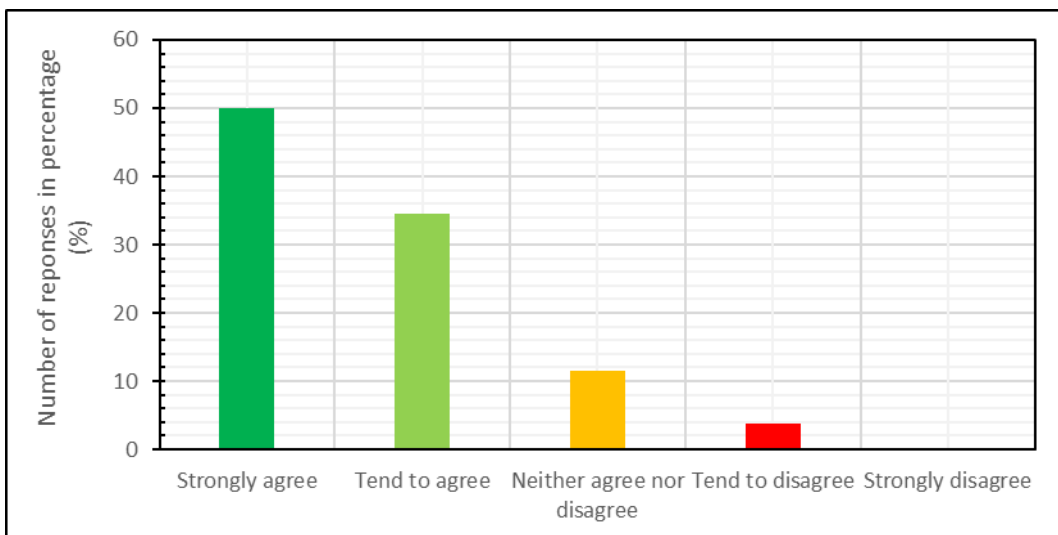


Figure 8: Options within the hierarchy.

Figure 8 shows that half of respondents strongly agree with having a hierarchy of options. 35% of respondents tend to agree and there is only one respondent in the tend to disagree category. No respondents strongly disagree.



Question 20: Do you agree with order of the options?

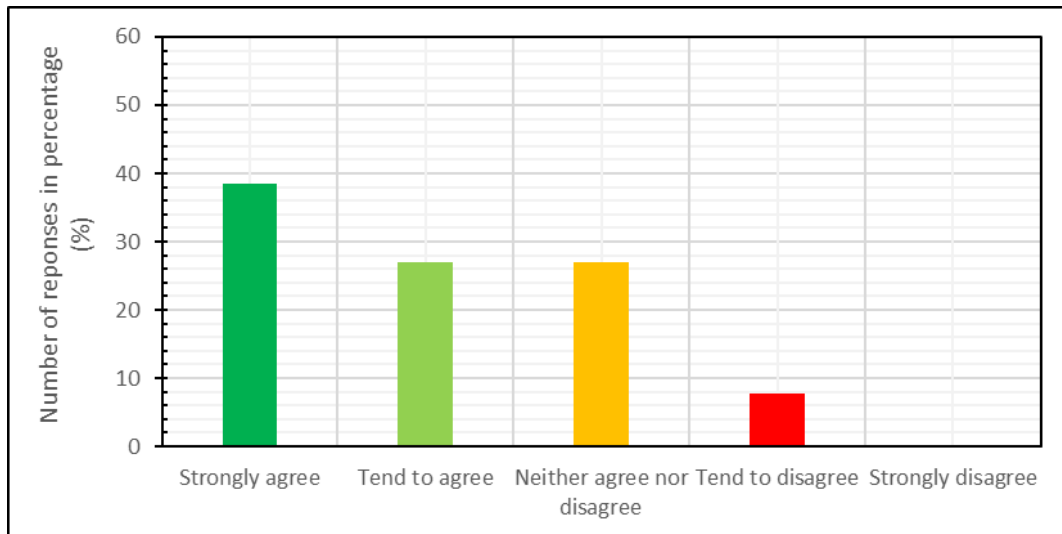


Figure 9: Order of hierarchy.

In Figure 9 the responses are more evenly distributed than the previous figures. 38% of respondents strongly agree with the order of options in the watercourse hierarchy. The same percentage of respondents, 27%, selected tend to agree and neither agree nor disagree. 8% of respondents selected tend to disagree, with no respondents strongly disagreeing.

Question 22, 24 and 26: Do you agree that requirements 1, 2 and 3, in OWC3, should be approved?

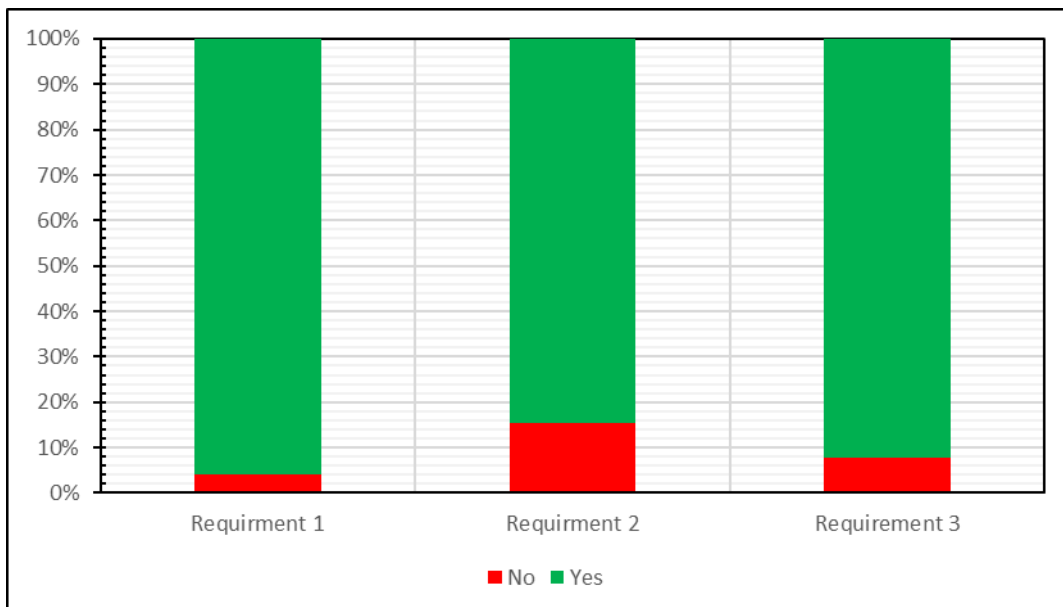


Figure 10: Culvert Policy requirements.

Figure 10 shows the responses to 3 questions which all relate to OWC3: Culvert Policy. The figure shows that the greatest proportion of respondents agree to requirement 1 with one



respondent disagreeing. Requirement 2 received the most disagree responses with four respondents selecting no. For requirement 3, two respondents selected no.

Questions 28, 30, 32, 34: Do you agree that requirements 1, 2, 3 and 4, in OWC4, should be approved.

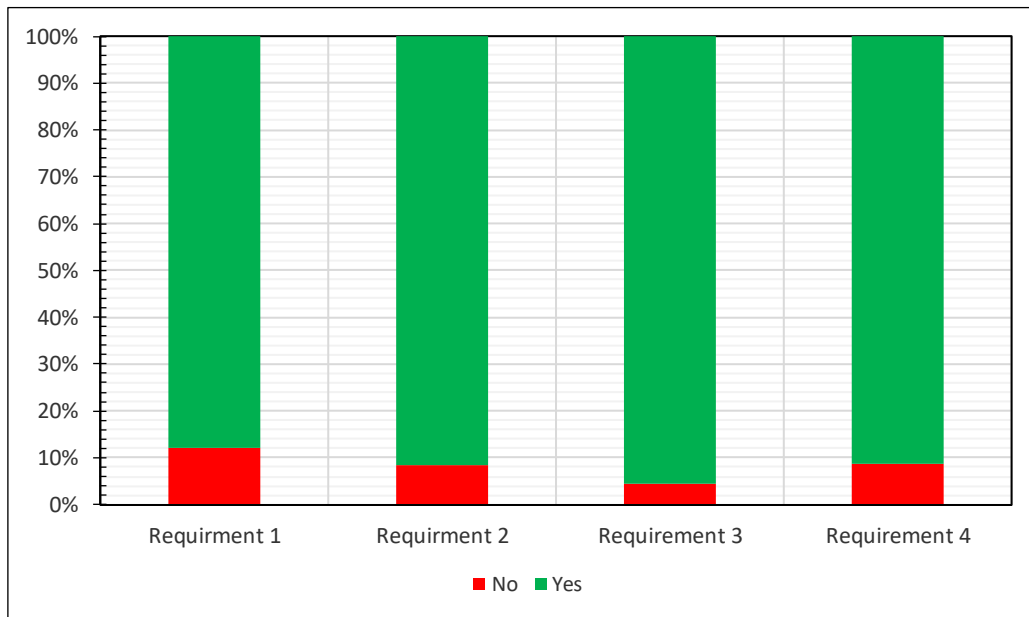


Figure 11: Water Management Policy requirements.

Figure 11 shows the response to four questions which all relate to OWC4: Water Management Policy. Overall, all 4 requirements are supported with yes being selected by respondents the most for all four questions. Requirement 1 received the highest number of no responses with it making up 12% of responses and requirement 3 the least with 4% of respondents selecting no.

Question 36: Do you understand the purpose of ordinary watercourse enforcement?

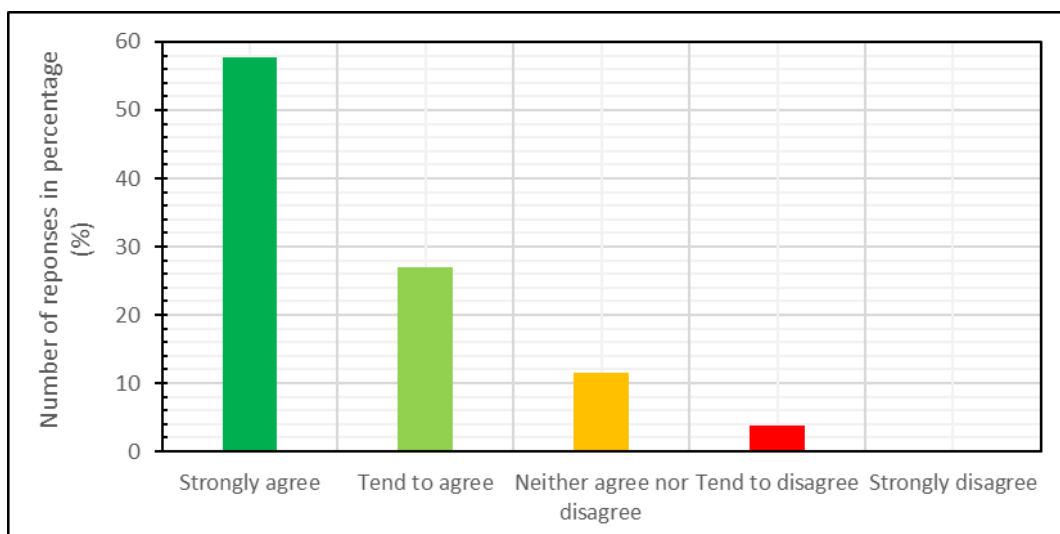


Figure 12: Ordinary watercourse enforcement understanding.



Figure 12 shows that 58% of respondents strongly agree with the purpose of ordinary watercourse enforcement. 27% of respondents tend to disagree and 12% neither agree nor disagree. There is only one respondent who selected tend to disagree.

Question 38: Do you agree with the proposed approach on enforceable matters?

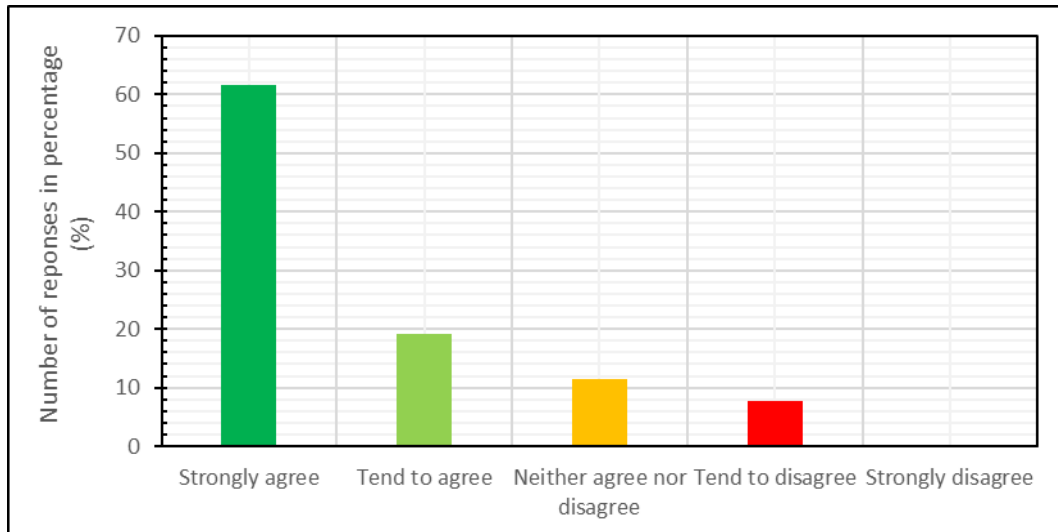


Figure 13: Enforcement approach.

Figure 13 shows that 62% of respondents strongly agree with question 38. This is the highest number of strongly agree responses for any question with these options as answers. There are only two respondents who selected tend to disagree, with no respondents selecting strongly disagree.

Question 40: Do you agree a 7-day notice period is reasonable in non-emergency situations?

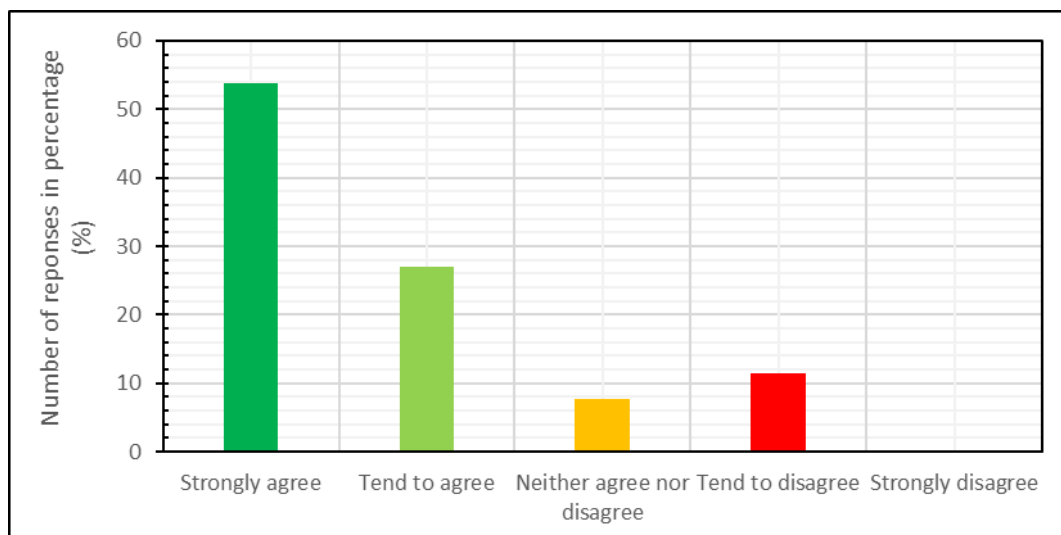


Figure 14: Notice period for non-emergencies.



Figure 14 shows that 81% of respondents selected one of the agree categories for their answer. No respondents selected strongly disagree but tend to disagree received 12% of responses.

Question 42: What do you consider a reasonable notice period?

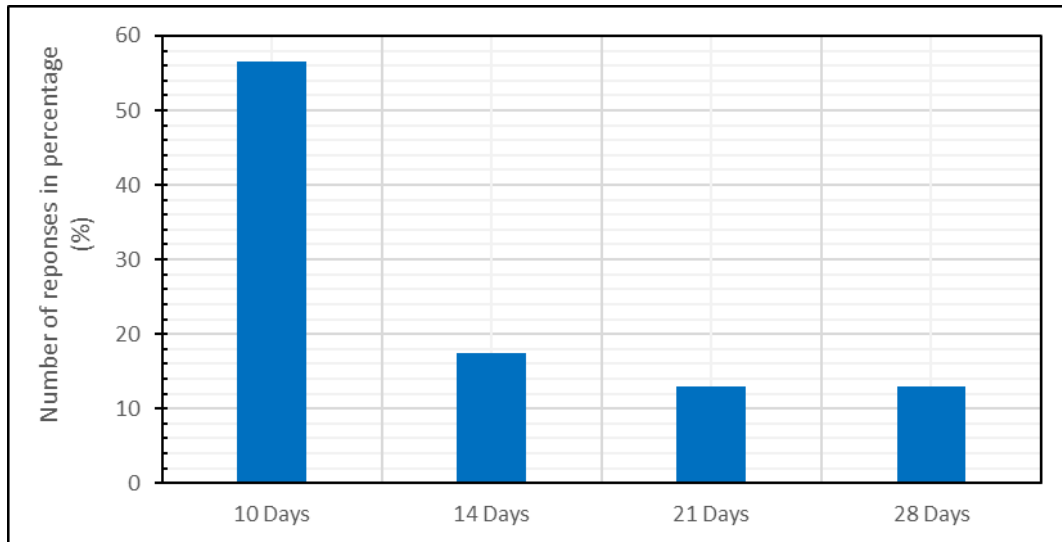


Figure 15: Reasonable notice period.

Figure 15 shows that respondents favour a shorter notice period. The majority of respondents (57%) selected 10 days, 17% selected 14 days and the 21 days and 28 days option both received 13% of responses.

Question 43: Do you agree that requirements 1 and 2 must be satisfied for enforcement to be carried out?

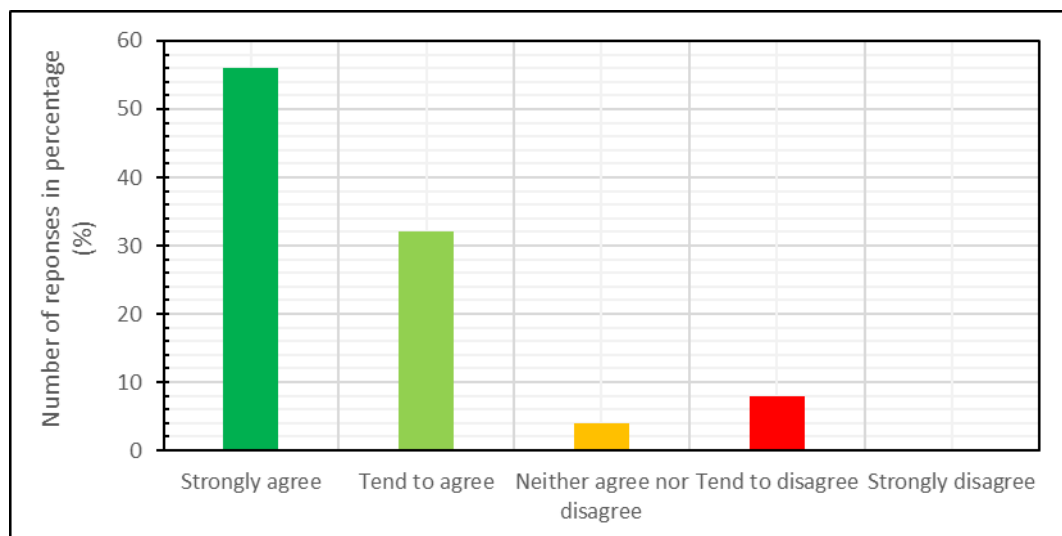


Figure 16: When to carry out enforcement.



Figure 16 shows 22 out of the 25 respondents to this question agree that requirements 1 and 2 must be satisfied for enforcement to be carried out. Two respondents tend to disagree with requirements 1 and 2 and no respondents strongly disagree.

Question 45: Do you agree with the requirements in OWC5 for an enforcement notice to be served?

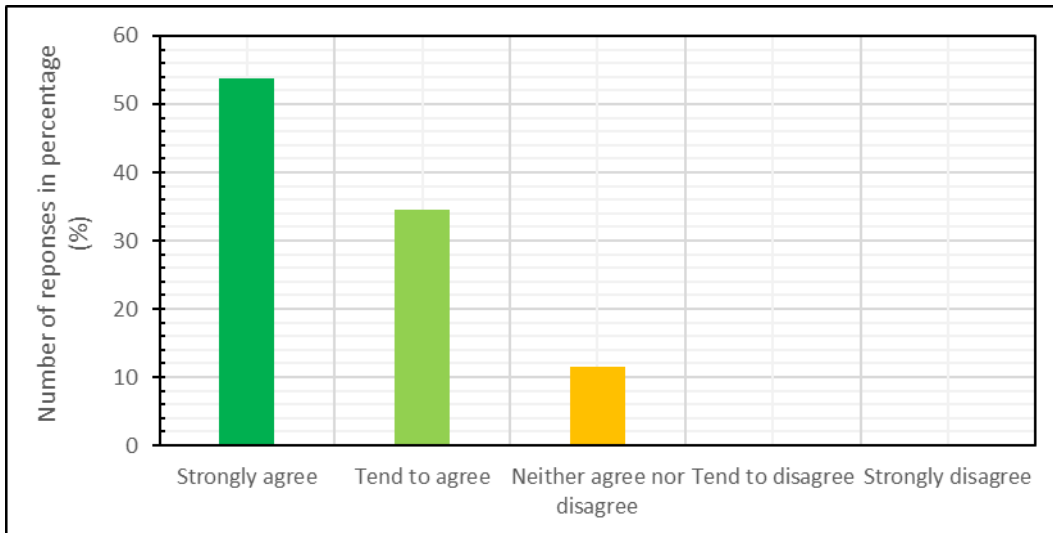


Figure 17: Enforcement Prioritisation Policy.

Figure 17 shows that no respondents disagree with the requirements set out in OWC5. 54% of respondents strongly agree, 35% of respondents tend to agree and 12% of respondents neither agree nor disagree.

Question 47, 49, 51 and 53: Are the definitions for ordinary watercourse, impediment, harm and receptor clear?

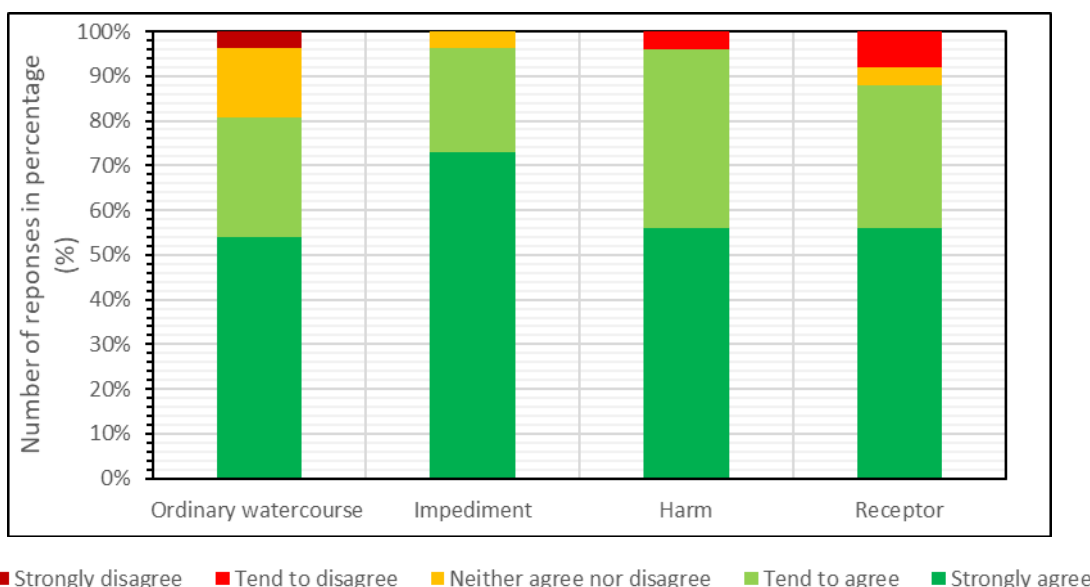


Figure 18: Clarity of definitions.



Figure 18 shows whether respondents agree if the four definitions outlined in section 3.3.1 of the document are clear. The figure shows that overall, the definitions are perceived as clear with over 80% of respondents selecting an agree option for all definitions. The only definition which received a strongly disagree response was ordinary watercourse.

Question 55: Are you aware of any other exemptions?

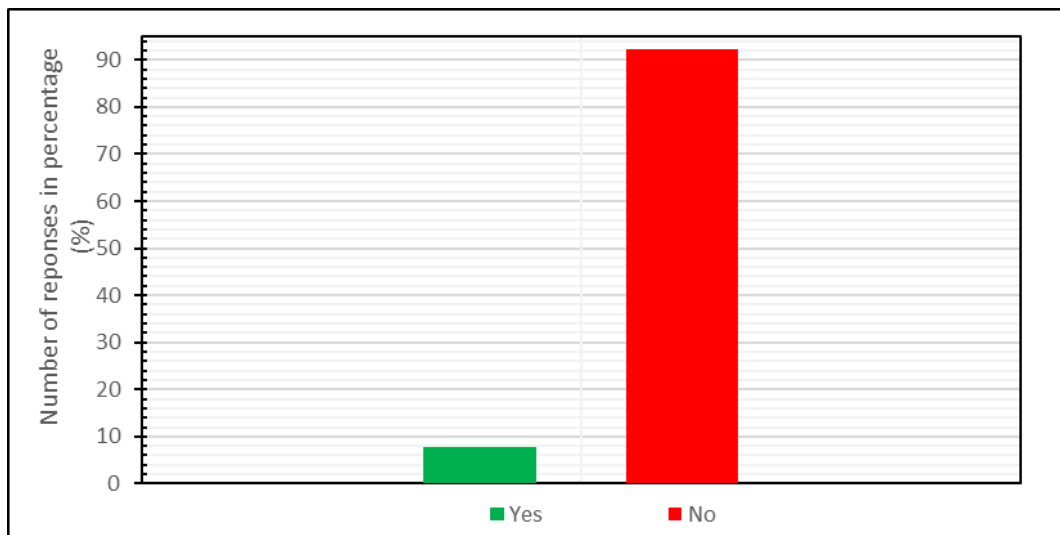


Figure 19: Exemption awareness.

Figure 19 shows that respondents are overall not aware of another other exemptions to enforcement action other than the ones provided in the document. 8% of respondents are aware of other exemptions.

The consultation survey also invited additional comments and suggestions in Questions 9, 11, 13, 15, 18, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 44, 46, 48, 50, 52, 54, 56 and 57. A total of 147 comments across all consultation questions were received. Each of these comments have been reviewed and are categorised as follows:

- No comment, no action
- Comment noted, no action required
- Comment noted, action within policy document
- Comment noted, action within guidance document

Where action is required, the feedback provided will be taken into account when shaping the final version of the relevant document(s).





5. Consultation Analysis and Interpretation

Overall, the data suggests that respondents generally support the consultation. There are some areas of the document where results can be explored further, and improvements to the document made.

Summary of multiple-choice questions

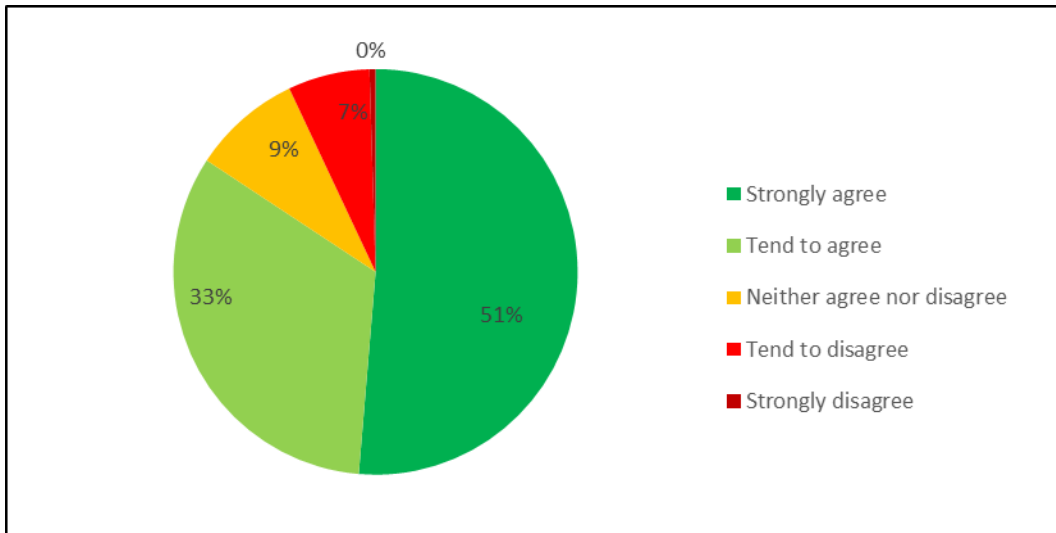


Figure 20: Percentage agreement to consultation questions.

Figure 20 combines responses to Questions 8, 10, 12, 14, 17, 19, 20, 36, 38, 40, 43, 45, 47, 49, 51 and 53. These are all the questions that used the multiple-choice options, strongly agree, tend to agree, neither agree nor disagree, tend to disagree and strongly disagree as multiple-choice answers. 413 responses are represented on the above pie chart.

Figure 20 shows respondents 'strongly agree' with the questions posed 51% of the time, and 'tend to agree' 33% of the time. A total of 84% of responses are in the 'agree category' showing that the document is generally well supported.

Only two responses out of the 413 are in the 'strongly disagree' category, which account for 0.5% of all responses. These responses are for Questions 12 and 47. The 'tend to disagree' section has a higher response rate and accounts for 7% of all answers.

When looking at the raw data, the 'disagree' responses are evenly distributed between respondents. There is no one person who has contributed largely to the disagree section.



5.1. Questions to further review

Question 8 refers to the introduction of the document. Only one respondent disagreed that the introduction was clear, however the 'tend to agree' category was selected by 46% of responses, suggesting it could be made clearer.

The response to Question 12 received one of the two 'strongly disagree' responses that were seen across the whole consultation with 12% of respondents selecting 'tend to disagree'. Therefore section 2.1.2 of the document could have further clarification with regards to what works require consent.

Section 2.1.6 of the document refers to retrospective consent. Question 16 asks respondents if they are aware that the county council has no legal means to issue retrospective consent. Figure 6 shows the responses to this question were split equally between 'yes' and 'no'. In the document it is stated that 'there is no legal means for the county council to issue retrospective consent.' The data suggests this should be made clearer within the final document and expanded upon in guidance.

Figures 8 and 9 show responses to Questions 19 and 20, which refer to OWC2: Crossing, Diverting and Culverting Policy. The data shows that the options within the hierarchy are well supported as demonstrated by Figure 8, but the order of the hierarchy does not receive the same support, as shown in Figure 9, suggesting changes are needed.

Questions, 22, 24, 26, 28, 30, 32, 34 ask about the requirements set out in OWC3: Culvert Policy and OWC4: Water Management Policy. The data shows all these questions received very few 'no' answers, however requirement 2 in OWC3 did receive the highest 'no' responses suggesting it could be altered in order to have the same support as the other requirements.

Section 3 of the document outlines Ordinary Watercourse Enforcement, and this section is generally well supported, notably the purpose and approach of enforcement, as shown by the data in Figures 12 to 17.

The responses to Question 42 offer a range of answers for what a reasonable notice period is. The shorter (10 day) notice period is the preferred option, but equally there are just under 50% of respondents who have suggested a longer notice period is preferred. OWC5: Enforcement prioritisations policy is very well supported with there being no respondents in the 'disagree' category as shown in Figure 17.

5.2. Definition Questions

Questions 10, 47, 49, 51 and 53 all ask about the clarify of definitions given for subject specific words and phrases used throughout the document. Generally, the data shows that the clarify of these definitions is well perceived, but further clarity could be provided for all definitions as no question received a response of complete agreement.

As shown in Figure 3, watercourse classifications clarity received 15% of all 'tend to disagree' responses seen across the whole consultation. Figure 18 shows that the definition for 'Ordinary Watercourse' needs further explanation as it received 50% of all 'strongly disagree' responses across the whole consultation. The definitions for watercourse classifications and 'Ordinary Watercourse' need most further clarification.



6. Summary and Recommendations

Overall analysis of the data and comments suggests the reception to the consultation document was positive and generally the content of the document and the policies within are supported. Some areas where clarification and refinement are recommended have been identified, including:

- a) Section 1 'Introduction' requires further detail along with section 1.1 when defining watercourse classifications.
- b) Section 2.1.2 'What Requires Consent' requires further explanation to ensure understanding is clear.
- c) The options within the hierarchy in 'OWC2: Crossing, Diverting and Culverting Policy', are well supported, however the order of the hierarchy is not as well supported, suggesting this needs to be reviewed and altered.
- d) Requirement 2 in 'OWC3: Culvert Policy', did not receive the same support as the other requirements in the policy, indicating this requirement needs reviewing.
- e) Review Section 3.2 'Access to Land and Powers of Entry' to make it clearer that the legal minimum length of notice period is 7 days.
- f) Further clarification of the definitions in sections 1.1.1 and 3.3.1 is required.
- g) Provide further information in the proposed guidance document on the above points is also recommended.



Appendix A – List of consultation questions

- Question 1:** Are you responding as an individual or on behalf of a group or organisation?
- Question 2:** If an individual, are you? (Member of the public or other)
- Question 3:** If other please provide?
- Question 4:** If organisation, what is your organisation/group? (Agricultural Community, Charitable Organisations, Community Interest Group, Consultants, County Councillor, Developers, District Councillor, Electricity North West, Environment Agency, Flood Action Group, Internal Drainage Board, Lancashire County Council, Lead Local Flood Authority (Neighbouring), Local Highway Authority, Member of Parliament, National Highways, Network Rail, RFCC Member, Town / Parish Councillor, United Utilities, Yorkshire Water and other.)
- Question 5:** If other, please provide
- Question 6:** If LCC officer, which LCC service do you work for? (Asset Management, Countryside, Design and Construction, Development Control and Spatial Planning, Ecology, Environment and Climate Change, Estates, Flood Risk Management, Highway Infrastructure, Highways Operations, Public Rights of Way, Strategic Development, Transport Planning and Transport Infrastructure and Delivery.)
- Question 7:** If other (LCC service) please provide
- Question 8:** How strongly do you agree or disagree that it is clear from the introduction what the Ordinary Watercourse Regulation policy is about?
- Question 9:** Please can you tell us why? (if disagree)
- Question 10:** How strongly do you agree or disagree that the definitions for watercourse classifications are clear from the information provided?
- Question 11:** Please can you tell us why? (if disagree)
- Question 12:** How strongly do you agree or disagree that the requirements for ordinary watercourse consent are clear?
- Question 13:** Please can you tell us why? Please type in the box below
- Question 14:** I understand the possible repercussions of failing to obtain ordinary watercourse consent, when this is a legal requirement.
- Question 15:** Please can you tell us why? (if disagree)
- Question 16:** Are you aware that the county council has no legal means to issue retrospective consent?
- Question 17:** It is an appropriate requirement to provide a minimum level of information for a consent application to be valid.



- How strongly do you agree or disagree with this statement?
- Question 18:** Please can you tell us why? If disagree
- Question 19:** How strongly do you agree or disagree with the principle of a hierarchy of ordinary watercourse options?
- Question 20:** How strongly do you agree or disagree that the options in the hierarchy are in the correct order?
- Question 21:** Please can you tell us why?(if disagree)
- Question 22:** Do you agree with requirement 1 set out in the policy for ordinary watercourse consent to be approved?
- Question 23:** Please can you tell us why? (if disagree)
- Question 24:** Do you agree with requirement 2 set out in the policy for ordinary watercourse consent to be approved?
- Question 25:** Please can you tell us why? (if disagree)
- Question 26:** Do you agree with requirement 3 set out in the policy for ordinary watercourse consent to be approved?
- Question 27:** Please can you tell us why? (if disagree)
- Question 28:** Do you agree with requirement 1 set out in the policy for ordinary watercourse consent to be approved?
- Question 29:** Please can you tell us why? (if disagree)
- Question 30:** Do you agree with requirement 2 set out in the policy for ordinary watercourse consent to be approved?
- Question 31:** Please can you tell us why? (if disagree)
- Question 32:** Do you agree with requirement 3 set out in the policy for ordinary watercourse consent to be approved?
- Question 33:** Please can you tell us why? (if disagree)
- Question 34:** Do you agree with requirement 4 set out in the policy for ordinary watercourse consent to be approved?
- Question 35:** Please can you tell us why? (if disagree)
- Question 36:** How strongly do you agree or disagree that you understand the purpose of ordinary watercourse enforcement?
- Question 37:** Please can you tell us why? (if disagree)
- Question 38:** How strongly do you agree or disagree with the proposed approach to first seek co-operation and compliance from riparian owner(s) with regard to an enforceable matter on ordinary watercourses?
- Question 39:** Please can you tell us why? (if disagree)
- Question 40:** How strongly do you agree or disagree that a minimum 7 day notice period is reasonable in non-emergency situations to be admitted to land for functions under the Land Drainage Act 1991 (as amended)?



- Question 41:** Please can you tell us why? (if disagree)
- Question 42:** What do you consider to be a reasonable minimum notice period to be admitted to land for functions under the Land Drainage Act 1991 (as amended)?
- Question 43:** How strongly do you agree or disagree that it is clear that requirement 1 AND requirement 2 must be satisfied for enforcement action to be carried out?
- Question 44:** Please can you tell us why? (if disagree)
- Question 45:** How strongly do you agree or disagree with the evidence requirements in OWC 5 for the County Council to serve an enforcement notice?
- Question 46:** Please can you tell us why? (if disagree)
- Question 47:** How strongly do you agree or disagree that the definition for Ordinary watercourse is clear?
- Question 48:** Please can you tell us why? (if disagree)
- Question 49:** How strongly do you agree or disagree that the definition for Impediment is clear?
- Question 50:** Please can you tell us why? (if disagree)
- Question 51:** How strongly do you agree or disagree that the definition for harm is clear?
- Question 52:** Please can you tell us why? (if disagree)
- Question 53:** How strongly do you agree or disagree that the definition for receptor is clear?
- Question 54:** Please can you tell us why? (if disagree)
- Question 55:** Are you aware of any other exemptions, which are applicable?
- Question 56:** Please can you tell us why? (if disagree)
- Question 57:** Do you have any further comments to make in regard to the Ordinary Watercourse Regulation Policies?

