

## FAT, OIL, GREASE (FOG) MANAGEMENT - IN COMMERCIAL HOSPITALITY & FOODSERVICE

### A. A QUALIFICATION OF WATER AND SEWERAGE COMPANIES RIGHTS AND LEGAL OBLIGATIONS

The relevant legislation which applies to Water and Sewerage Companies (WaSCs) in England and Wales is the Water Industry Act 1991 (WIA). This confers powers and obligations on the WaSCs to deal with issues **'in the sewer'**.

The relevant provisions are set out in Section 111 of the WIA as follows:

#### **Water Industry Act 1991**

##### **111 Restrictions on use of public sewers.**

(1)...no person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—

(a) any matter likely to injure the sewer or drain, to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its contents

There is no law which empowers WaSCs to prescribe or endorse ANY particular equipment to prevent sewer blockages. WaSCs, or agents acting on their behalf, cannot prescribe what type of equipment must be used or fitted in any premises as there are no standards or legislation which require or allow them to do so. The only requirement is that businesses must use "effective means" to ensure that nothing is put into the sewer which is likely to impede flows or cause blockages.

**To be clear** – WaSCs have **no power** to insist on or enforce selection of any particular FOG Management equipment or systems. This is a matter for the operator. They can only take action in the event that they can establish that discharges from any specific premises are causing or are likely to cause impediments or blockages in the sewer. However, they need evidence to establish this and experience and understanding is that the WaSCs generally do not monitor discharges from individual premises, they only look at cumulative impacts in the sewer.

Other relevant guidance is as set out below.

#### **Disposal of Fats, Oils, Grease and Food Waste, Best Management Practice for Catering Outlets**

**British Water UK: Extract:** *It is a criminal offence under section 111 of the Water Industry Act 1991 to discharge into the public sewers any matter which may interfere with the free flow of wastewater. In addition, where the water company has incurred costs in dealing with the detrimental effects on the sewers e.g. removing blockages cleaning sewers, investigating and remedying flooding or pollution incidents, it can take legal action to recover these costs.*

#### **The Building Regulations 2010 Drainage and waste disposal (2015 edition)**

##### **H1 Foul Water Drainage, Section 2 2.21**

Drainage serving kitchens in commercial hot food premises should be fitted with a grease separator complying with BS EN1825-1 and designed in accordance with BS EN1825-2 **or other effective means** of grease removal.

#### **The British Standard – BS EN 12056-1:2000 - Drainage Systems Inside Buildings**

Paragraph 5.3 Hygiene – "Drainage systems shall be designed and installed so that health and safety of the users and occupiers of the building is not affected, by amongst other things, **the penetration of toxic or noxious odours into the building**".

Paragraph 5.4 Safety – "Waste water systems shall be designed and installed so that there is **protection against escape of odours**"

Paragraph 5.4.2 "Drainage systems shall be water and gas tight against the operational pressures. Pipe work systems installed inside buildings **shall not release vapours and foul air into the building**".

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### B. WHAT THE LAW 'ACTUALLY' MEANS IS:

The WIA 1991 confers on WaSCs in England and Wales powers to deal with sewer issues “in the sewer”. The offence under Section 111 of the WIA 1991 relates to a blockage etc. caused “in the sewer” and does not relate to activities or processes prior to entry to the sewer. The enforcement powers of WaSCs only relate to blockages in the sewer. WaSCs do have an advisory role regarding items likely to cause blockages and are entitled to express a view as to their preferred FOG management systems. However, these are advisory only and no enforcement powers attach to them.

An end user, business owner or operator can implement such FOG management systems and equipment as they decide are appropriate to their business to effectively prevent the discharge of FOG which may impede or block public sewer flows.

Mechline has received legal advice which confirms this analysis.

### C. THREAT OF 'RECHARGE NOTICES' BY WATER AND SEWERAGE COMPANIES

Some WaSCs, or their appointed Agents, may be exaggerating their legal entitlement by suggesting that foodservice operators are causing sewage blockages without any evidence to support their claims and/or requiring installation of prescribed FOG management products under threat of recharge notices when there is no basis for any such accusation..

Any Operator is entitled to ask for specific evidence that their discharges are causing pollution and are entitled to challenge any recharge notices with which they are threatened.

### D. REFERENCING – FOR QUALIFICATION

**Industry Trade Body statements and publications:**

#### **FEA.**

<https://fea.org.uk/news/cesa-statement-and-legislative-reference-regarding-fats-oils-and-grease-fog-management-in-foodservice-establishments/>

#### **British Water – FOG Code of Practice.**

<https://www.fea.org.uk/media/g0vpx2mj/british-water-fog-code-of-practice-2015.pdf>

### E. MYTH BUSTING – 'FATBERGS'

**Guardian 2018.** Baby wipes and Sanitary Products are causing hundreds of thousands of blockages in the UK sewer system and costing the country £100m every year, according to a new report. The study from Water UK, the trade body representing all of the main water and sewerage companies in the country, found that wipes products made up about 93% of the material causing the sewer blockages. The other 7% was made up of a range of other materials including feminine hygiene products, cotton pads and plastic wrappers. Toilet paper made up just 0.01% of the material blocking our pipes and sewers. Fat, Oil and Grease only made up 0.5%.

**Anglian Water** - Nicola Harvey, public relations and media manager at Anglian Water, said wet wipes have become a huge issue in the east of England and are the main causes of monstrous fatbergs blocking our sewers.

She said: “We deal with 40,000 blockages a year and 80% of these are caused by things such as wet wipes and sanitary products – costing Anglian Water £19million a year.”

**Sidmouth 64-metre long Fatberg!** Scientists from the Greenpeace laboratory, based at the university's Streatham Campus, also looked at the chemical composition of the fatberg. The results suggested that the fats found were more in keeping with domestic food preparation than commercial food outlets, while the chemicals were those found in personal care products rather than pharmaceuticals or pesticides.