



Office for  
Environmental  
Protection

# Complaint Report

Office for Environmental Protection

1 April 2023 - 30 June 2023

# Introduction

This report provides a summary of all complaints received since January 2021, with a particular focus on the period between April 2023 and July 2023.

This is the sixth complaints report the Office for Environmental Protection (OEP) has published since it received its statutory powers on 24 January 2022. Prior to this, complaints were received to the Interim Environmental Governance Secretariat (January 2021- June 2021) and then the Interim OEP (July 2021- January 2022). All complaints received prior to the OEP receiving its statutory powers were passed onto the OEP in January 2022 for consideration, and any time restrictions waived due to the exceptional circumstances.

The OEP's complaints function is rooted in Section 32 of the Environment Act 2021, and it is this Act that informs most of what we can and cannot do. As such, the OEP considers complaints about suspected failures by public authorities to comply with environmental law. What is environmental law for the OEP's purposes is defined in Section 46 of the Environment Act 2021. The two most common ways in which a public authority could fail to comply with environmental law are:

- Failing to take proper account of environmental law when carrying out its activities. For example, not carrying out an environmental impact assessment.
- Unlawfully exercising, or failing to exercise, any activities it has to carry out under environmental law. For example, not properly regulating environmentally harmful activities it is responsible for licensing.

The Environment Act also provides the OEP with powers to launch self-initiated investigations and act on intelligence that highlights areas of serious environmental harm.

The OEP covers England, Northern Ireland and reserved matters. There are separate arrangements for devolved matters in Wales and Scotland. Please visit our FAQ page on [www.theoep.org.uk/faqs](http://www.theoep.org.uk/faqs) for more details and contact information.

# Our Approach

We process complaints through a staged procedure, working through the steps of receipt, eligibility check and assessment. Following the publication of our Strategy and Enforcement Policy in June 2022, we were able to formally decide and communicate our assessment outcomes.

The OEP can only legally consider complaints that meet the six criteria stated in the Environment Act 2021, unless there is an exceptional reason to waive them. We refer to these criteria as our eligibility criteria. If any of these six criteria are not met in a complaint that we receive, we will communicate with the complainant to explain. Members of the public can check our website prior to submitting a complaint to help determine the eligibility of their complaint by visiting: <https://www.theoep.org.uk/eligibility-check>

In many instances we signpost complainants to the most appropriate public authority to either raise an initial complaint or exhaust their complaints procedure. We do this to ensure the relevant public authority is provided with the opportunity to assess and respond to matters in the first instance. We also signpost complainants to other organisations if the matter raised would be more successfully dealt with elsewhere. For instance, the Ombudsman remain the most appropriate place to raise a complaint of a procedural nature.

We work closely with others and have four separate Memorandums of Understanding (MOUs). These are with the Climate Change Committee, the Local Government and Social Care Ombudsman, and the Parliamentary and Health Service Ombudsman. We also have a joint MOU with both Environmental Standards Scotland and the Interim Environmental Protection Assessor for Wales.

More information about our approach to handling complaints is available here: <https://www.theoep.org.uk/our-complaints-process>.

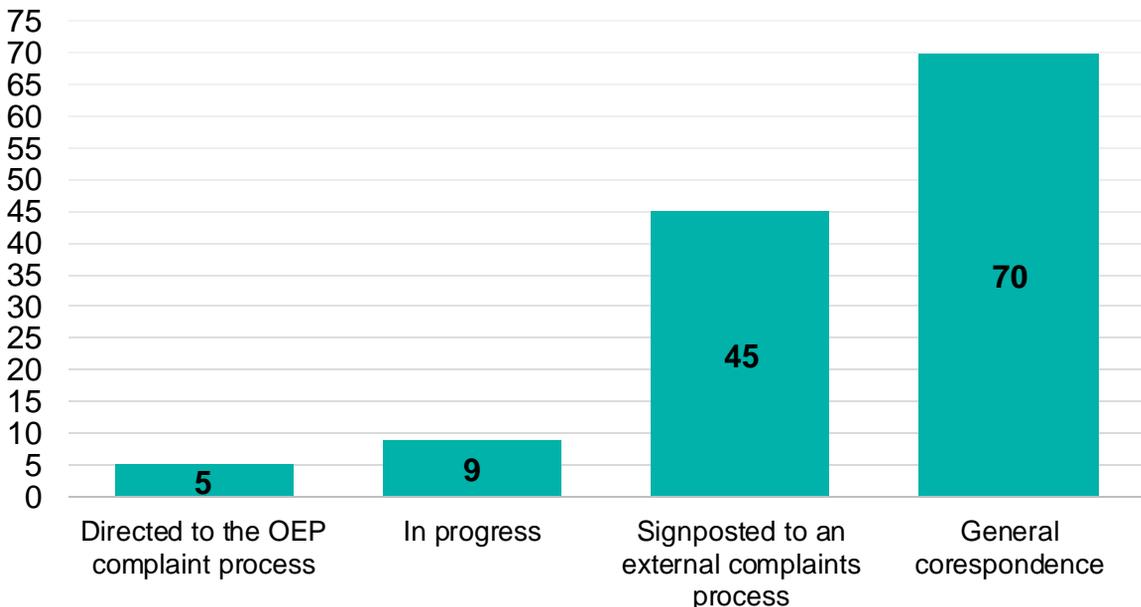
# Enquiries

In addition to complaints, the OEP deals with enquiries from many members of the public and organisations alike. We provide signposting responses where relevant. In an effort to direct members of the public to the correct organisation to contact in the first instance, we also provide [a list of useful contacts for common environmental issues and concerns](#) on our website.

Between January 2021 and the end of June 2023, we had recorded 737 separate enquiries in total. Of these, 129 were handled in the most recent reporting period. By way of a breakdown, 30 were received in April 2023, 45 received in May 2023, and 54 were received in June 2023. These enquires have been handled as follows:

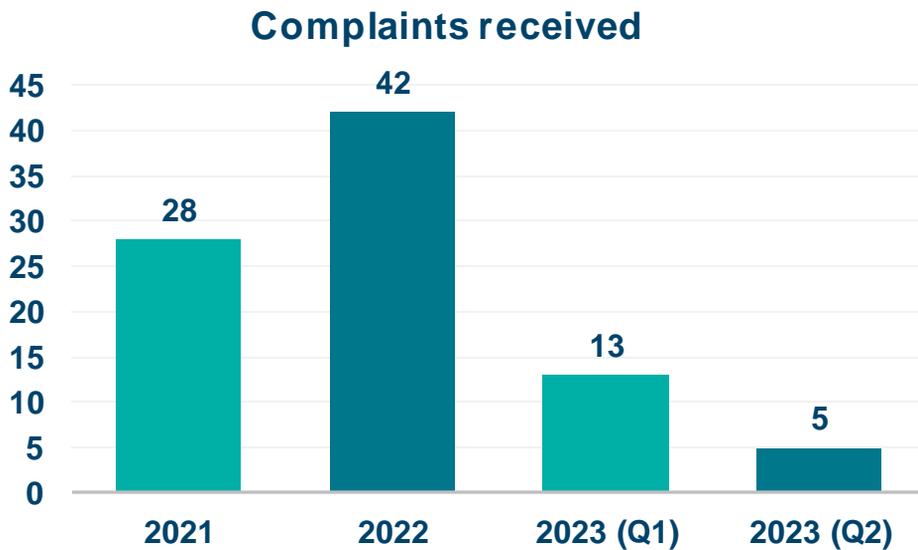
- Five (5) enquires were directed to the OEP complaint process on the basis that they appeared likely to meet the eligibility criteria set in the Environment Act 2021 for raising a complaint with the OEP.
- Forty-five (45) were signposted to the complaints process of a more appropriate organisation such as the Environment Agency or relevant local authority.
- Seventy (70) non-complaint specific emails were recorded. These include queries of a general nature, invites to stakeholder events, Freedom of Information Requests, Environmental Information Requests, etc.
- Nine (9) enquires were in progress (as of 30 June).

**Enquires by type of resolution: April to June 2023**



# Complaint Summary

Between April and June of 2023, we received five new complaints. This means the total number of complaints we had received as of 30 June 2023 was 88.



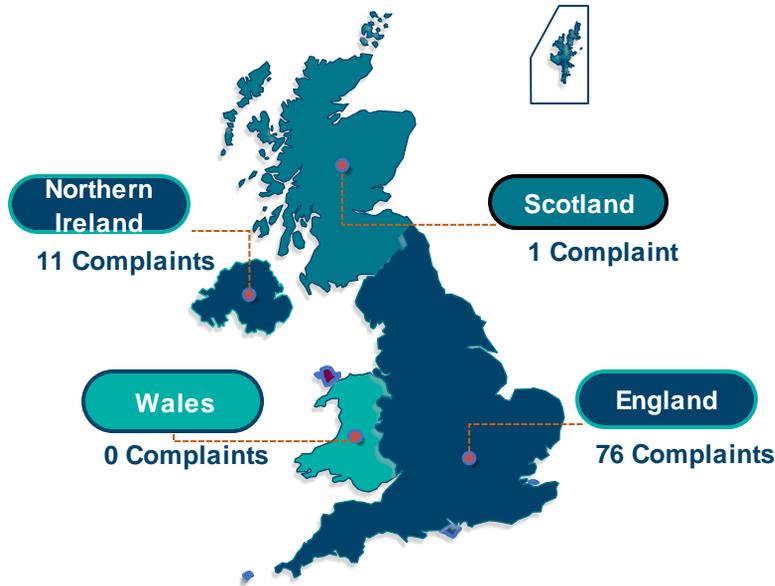
Complaints need to be submitted with a completed complaint form. They may be sent via post, email, or directly via our website. On receipt of a complaint, we send a confirmation email and check the complaint against the eligibility criteria listed in the Environment Act 2021. The Act makes clear that for the OEP to be able to consider a complaint, the information submitted must:

1. Relate to a suspected breach of environmental law by a public authority.
2. The relevant environmental law must relate to England, Northern Ireland, or a reserved matter (a matter on which only the UK Parliament in Westminster can make legislation).
3. Be submitted by an individual and not on behalf of a public authority.
4. Have already been subject to the public authority's internal complaints procedure.
5. Be submitted within the time limits.

To help establish that the above criteria have been met, we may contact the public authority in question and invite them to share any relevant information. Public authorities have a legal duty to co-operate with the OEP.

# Geographic Breakdown of Complaints

We cover breaches of environmental law by public authorities in England and Northern Ireland. We received 11 complaints about environmental law in Northern Ireland and 76 in England. We received one complaint about a devolved matter in Scotland. We signposted the complainant to [Environmental Standards Scotland](#) before closing the complaint.



We record each individual public authority being complained about. This is done with the intention of identifying authorities that may experience compliance issues or have particular environmental sensitivities. We also understand that demographics are likely to influence where we receive complaints from, and we hope to be able to identify and report on trends in this area in future. However, at this relatively early stage, the information collected so far does not provide us with any noteworthy information.

## Method of Complaint Submission



From 1 January 2021 up to 30 June 2023, most of our complainants chose to submit their complaint via our [online complaint portal](#). By way of a breakdown, 52 complaints were received via our online complaint portal, 33 came via email, three were received by post and none were received by phone.

# Complaint Category

We have adopted an initial approach to complaints under categories of environmental law as below. By way of explanation, the "Environmental governance" category covers the institutional framework for environmental protection as well as cross-cutting measures such as environmental reporting that do not fit in one of the other, more specific categories. The "Other" category includes things like development control. It should be noted that some complaints named more than one category.

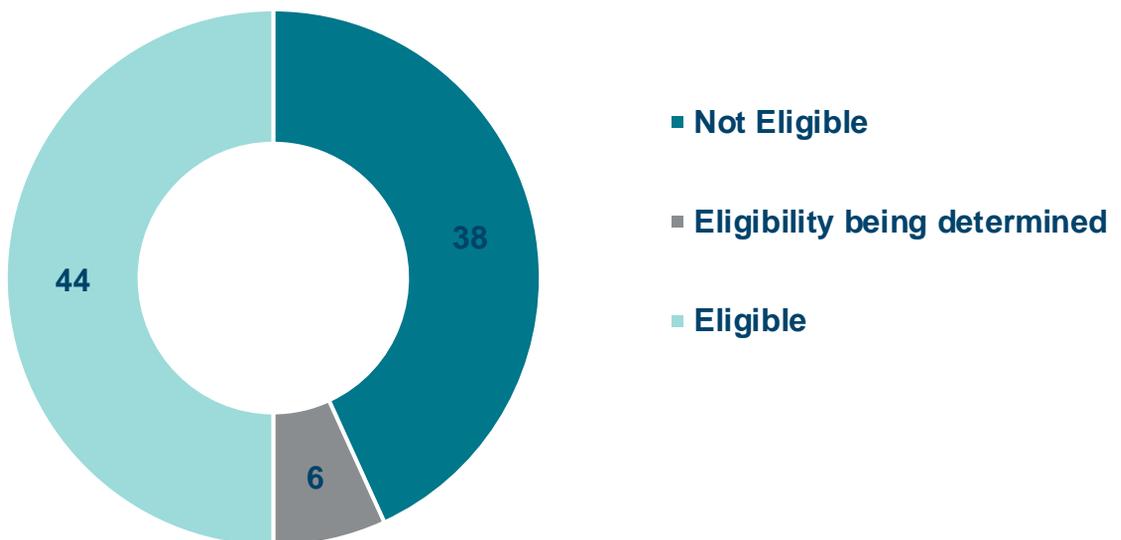
<b>Environmental Category</b>	<b>% of complaints where category mentioned</b>
<b>Pollution control</b>	<b>36%</b>
<b>Nature conservation</b>	<b>29%</b>
<b>Environmental monitoring and assessment</b>	<b>20%</b>
<b>Environmental governance</b>	<b>1%</b>
<b>Other</b>	<b>2%</b>
<b>Waste and resources</b>	<b>5%</b>
<b>Not environmental law</b>	<b>7%</b>

# Eligibility of Complaints

By 30 June 2023, the OEP had received 88 complaints and it had been determined that 44 had met the eligibility criteria for complaining. At that time, we were dealing with eight open complaints. Of these, six had progressed to a more detailed assessment (see page 10 for details).

As of 30 June 2023, two complaints were in the process of having their eligibility checked. Typically, this means that we are confirming whether the complainant has exhausted the complaint process of the relevant public authority prior bringing the matter to us. This requirement stems from the Environment Act and is designed to provide the relevant body with the opportunity to review (and if necessary, rectify) any potential infractions at the earliest possible opportunity. We do appreciate that it is not always straightforward for members of the public to determine if a public authority has treated their issue as a complaint, or whether the necessary internal complaints process has been exhausted. We make efforts to assist in this process where we can.

**Eligibility status of complaints as of 30 June 2023**



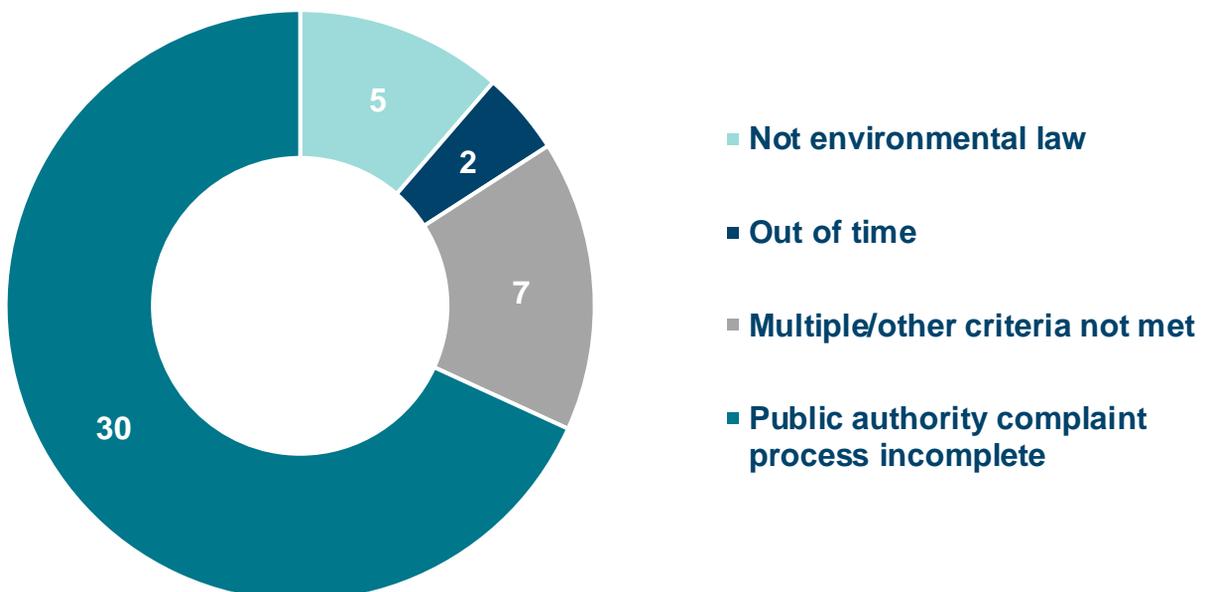
By 30 June 2023, it had been determined that 38 of the complaints that we had received did not meet the criteria as set out in the Environment Act 2021. When this happens, we explain the issues to the person making the complaint. We may also attempt to direct that individual (or group) to the relevant public authority or Ombuds who may be better placed to assist them.

# Ineligible complaints

Complaints found to be ineligible are not progressed to assessment. The most common reason complaints do not meet the eligibility criteria for complaining to the OEP is because the internal complaints procedure of the public authority being complained about had not been exhausted. By the end of June, this had happened in at least 30 of all complaints initially submitted to us. When this happens, it is explained that we may reopen the complaint at a later date once the correct public authority has been provided with the opportunity to resolve the matter in the first instance.

The next most common eligibility issue is whether the matter being complained about relates to environmental law, as per the definition provided in [Section 46](#) of the Environment Act 2021. By 30 June 2023, five complaints had been closed on the basis that they did not meet this definition. Meanwhile, two complaints were submitted outside the statutory timeframe. While the OEP does have power to waive these criteria in certain situations, these were not met. Finally, seven complaints were found not to be eligible for a combination of the reasons above or for other criteria e.g., not relating to England, Northern Ireland, or a reserved matter.

## Reasons complaints were deemed ineligible for the OEP



# Assessment Status

Complaints that do meet the eligibility criteria for complaining to the OEP (as laid out in the Environment Act 2021) are assessed in accordance with the factors set out in our [enforcement policy and strategy](#).

During the assessment stage we review the information already received and where necessary, gather further information to determine whether a potential failure to comply with environmental law by a public authority had occurred, and if so, whether that failure would be serious. When determining if a failure to comply with environmental law is or may be serious, we consider the following factors:

- The harm or potential harm to the natural environment and/or human health
- The frequency of the conduct over time
- Whether the conduct complained of raises any points of law of general importance
- The behaviour of the public authority or authorities
- Any other relevant factors

Of the 44 complaints that met the eligibility criteria by the end of June 2023, we had made decisions on 37. Of the complaints where decisions had been made, 23 had been closed with no further action. The main reason that these complaints resulted in “no further action” decisions was that they did not present an indication that the public authority in question had failed to comply with/correctly implement environmental law. Outcomes of complaints are communicated to both the complainant and the relevant public authority.

We focus on the most significant matters, such as failures to comply with environmental law that are systemic, recurrent, or may cause serious harm. As such, every complaint submitted to us is valuable and provides us with information which helps inform our priorities. Therefore, while some complaints may end with no further action, each individual matter, when taken together may indicate the possible seriousness of a bigger problem.

# Decisions and Impacts

The OEP can undertake investigations into public authorities' compliance with environmental law. We may do this in response to a complaint raised with us (via our published complaints procedure), or via a self-initiated investigation. In deciding whether to investigate a matter, or pursue any other action, we follow the decision-making framework set out in Part 4 of our Enforcement Policy.

We have now launched two separate investigations. Our first investigation was launched in June 2022, and is focused on the roles of Ofwat, the Environment Agency and the Defra Secretary of State in the regulation of combined sewer overflows (CSOs) in England. For more details, please visit: <https://www.theoep.org.uk/news/oep-launches-investigation-regulation-combined-sewer-overflows-csos>

Our second investigation was launched in May 2023 and will consider whether the Department of Agriculture, Environment and Rural Affairs' (DAERA) Standing Advice on Livestock Installations and Ammonia fails to comply with environmental law. For more details, please visit: <https://www.theoep.org.uk/news/oep-launches-investigation-daeras-advice-ammonia-emissions>

Moreover, we have utilised our statutory powers to make interventions with Public Authorities on several occasions. These interventions can be informed by information that we receive by way of our complaints process, although that is not exclusively the case. We monitor the actions we have taken related to these interventions and assess the impact they are having on the environment. Where a satisfactory outcome cannot be reached through these means, we may pursue a formal investigation, and exercise our stricter enforcement powers.

A summary of the interventions, resolutions, and investigations that have been made using our statutory powers is available on our website: [www.theoep.org.uk/our-casework](http://www.theoep.org.uk/our-casework)

# More Information

For more information about our complaint procedure and definitions, please visit our website: [www.theoep.org.uk](http://www.theoep.org.uk)

To watch a video overview of our complaints process, please visit: <https://www.youtube.com/watch?v=brtssXuTN3o>

If you cannot find an answer on the website, please email or call us: [enquiries@theoep.org.uk](mailto:enquiries@theoep.org.uk) or call 03300 416 581