



Office for  
Environmental  
Protection

# Complaint Report

Office for Environmental Protection

1 July 2023 - 30 September 2023



# Introduction

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

This is the seventh complaints report the Office for Environmental Protection (OEP) has published since it received its statutory powers on 24 January 2022.

The OEP's complaints function is based 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. 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 about our complaints function. For information about our mission and the powers and duties that we have, please visit: [What we do | Office for Environmental Protection \(theoep.org.uk\)](#)

# Our Approach

We process complaints through a staged procedure, working through the steps of receipt, eligibility check and assessment. This practice, and any decisions that we make in relation to complaints, are based on the Strategy and Enforcement Policy of the Office for Environmental Protection, which was published in June 2022. The statutory underpinning for this strategy is rooted in the Environment Act 2021.

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 why we cannot progress their complaint. 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 appropriately 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>.

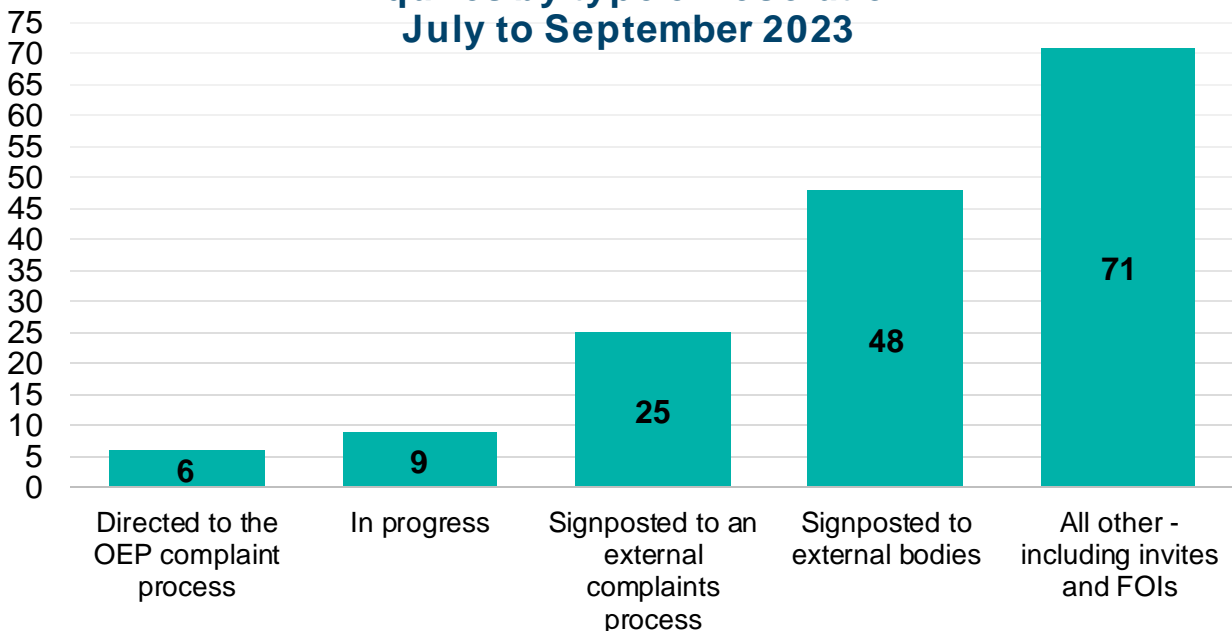
# Enquiries

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 September 2023, we had recorded 957 separate enquiries in total. The most recent reporting period of July through September 2023 has been our busiest period to date, during which we received 159 separate enquiries during that time. By way of a breakdown, 40 enquiries were received in July 2023, 45 received in August 2023, and 74 were received in September 2023. Enquires during this reporting period have been handled as follows:

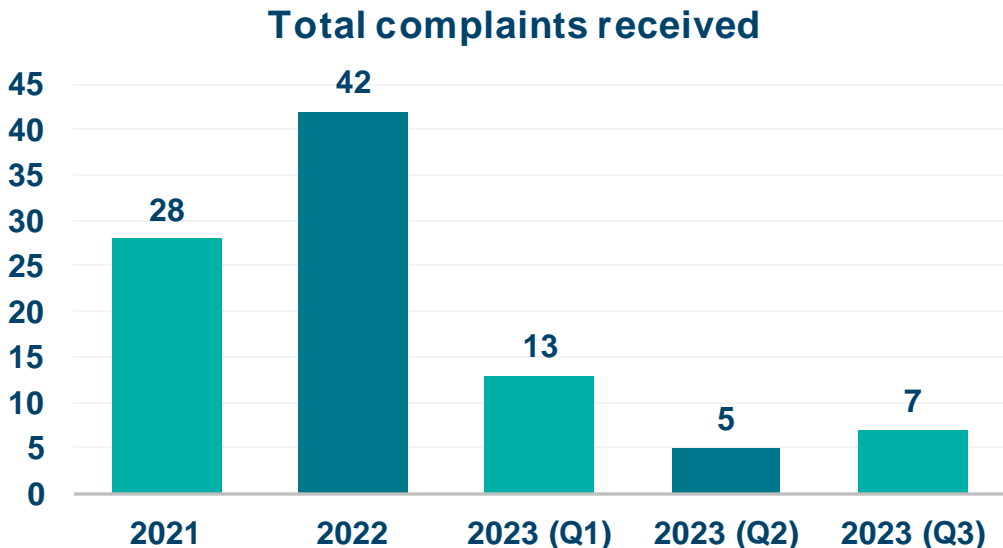
- Six (6) enquires were directed to the OEP complaint process on the basis that they appeared likely to meet the eligibility criteria set in the Environment Act 2021 for raising a complaint with the OEP.
- Twenty-five (25) enquiries were signposted to the complaints process of a more appropriate organisation such as the Environment Agency or relevant local authority.
- Forty-Eight (48) emails were signposted to enquiry process of an organisation who would be better placed to handle the enquiry.
- Seventy-one (71) non-complaint related enquiries were recorded. These include general questions of an environmental nature, invites to stakeholder events, Freedom of Information Requests, etc.
- Nine (9) enquires were in progress at the end of this recording period.

## Enquires by type of resolution: July to September 2023



# Complaint Summary

Between July and September of 2023, we received seven new complaints. This means the total number of complaints we had received as of 30 September 2023 was 95.



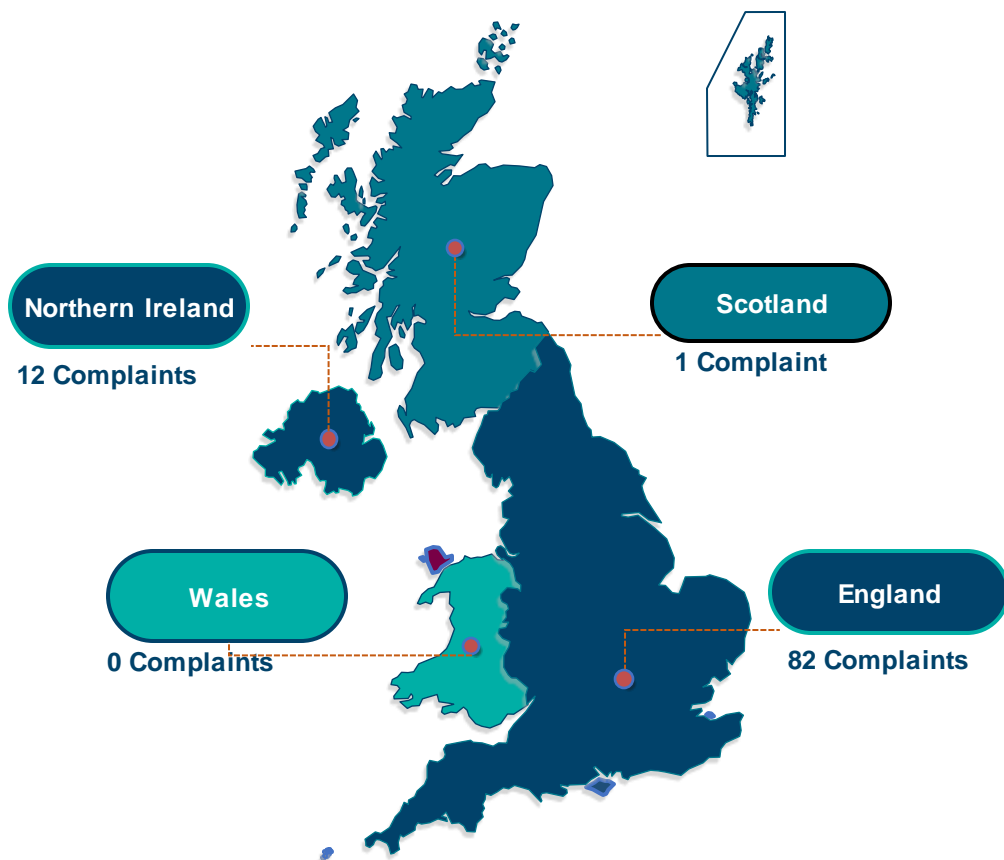
Complaints need to be submitted with a completed complaint form. They may be sent via post, email, or directly via our website. On receipt of a complaint, we send a confirmation email and check the complaint against the eligibility criteria listed in the Environment Act 2021. The Act makes clear that 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. Between January 2021 and the end of September 2023, We received 12 complaints about environmental law in Northern Ireland and 82 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 repeated 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

Online Portal	Telephone	Email	Post
56	0	36	3

Understanding how the public interact with us and determining if we are providing an accessible means of submitting a complaint is important. Most of our complainants chose to submit their complaint via our [online complaint portal](#). By way of a breakdown, 56 complaints were received via our online complaint portal, 36 came via email, three were received by post and none were received by phone (an option to submit a complaint via telephone is offered if there are accessibility needs).

## Complaint Category

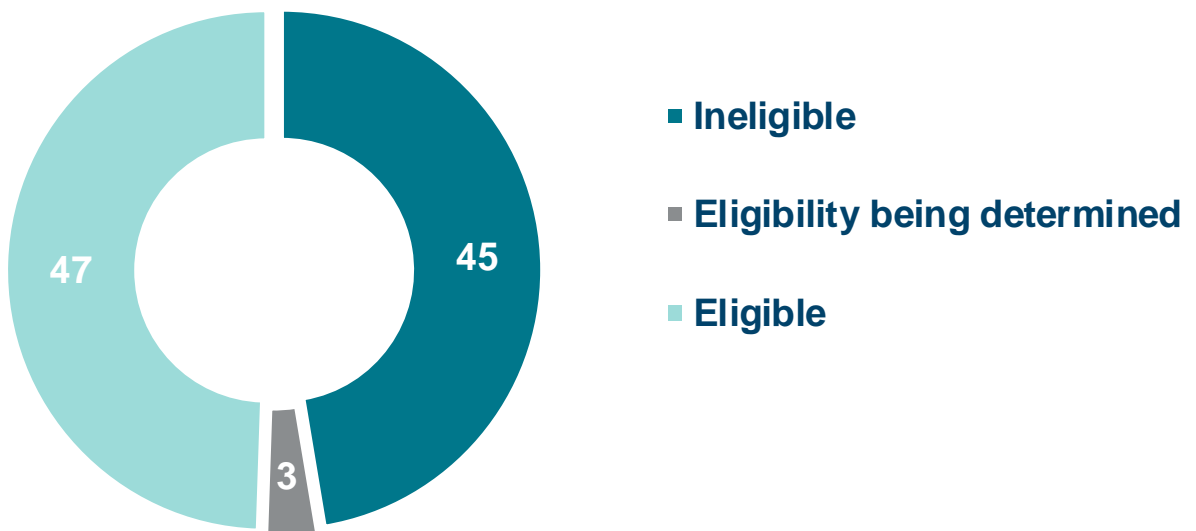
We have adopted an initial approach categorising complaints for reporting purposes. While some of the categories might be self-explanatory, it may be worth explaining that the "Environmental governance" category covers the institutional framework for environmental protection, as well as cross-cutting measures such as environmental reporting. Meanwhile, the "Other" category includes things like development control. It should be noted that some complaints named more than one category and that our categorisation methodology is under review.

Environmental Category	% of complaints where category mentioned
Pollution control	37%
Nature conservation	26%
Environmental monitoring and assessment	17%
Environmental governance	5%
Other	2%
Waste and resources	5%
Not environmental law	8%

# Eligibility of complaints

By 30 September 2023, the OEP had received 95 complaints and it had been determined that 47 had met the eligibility criteria for complaining as outlined in the Environment Act 2021. Meanwhile, 45 complaints were found not to be eligible. When this happens, we explain the issues to the complainant, and we may also attempt to direct that individual (or group) to the relevant public authority or ombudsman who may be better placed to assist them. It is important to understand that these numbers are dynamic and can fluctuate depending on whether a complainant provides additional detail to establish the basis of their complaint at a later date. This can, for example, mean a case that was once counted as ineligible and closed, is then reopened and counted as eligible.

## Eligibility status of complaints as of 30 September 2023



During the process of determining the eligibility of a complaint, one of the issues we must establish is whether the complainant has exhausted the complaint process of the relevant public authority prior bringing the matter to us. The requirement to do this stems from the Environment Act 2021 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 internal complaints process of a public authority has been exhausted. We make efforts to assist in this process where we can.



# 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 47 complaints that met the eligibility criteria by the end of September 2023, we had made decisions on 39. Of the complaints where decisions had been made, 27 had been closed with no further action. The main reason that these complaints resulted in no further action was that they did not present an indication that the public authority in question had failed to comply with or correctly implement environmental law. It should be understood that outcomes of complaints are communicated to both the complainant and to public authority who is the subject of the complaint.

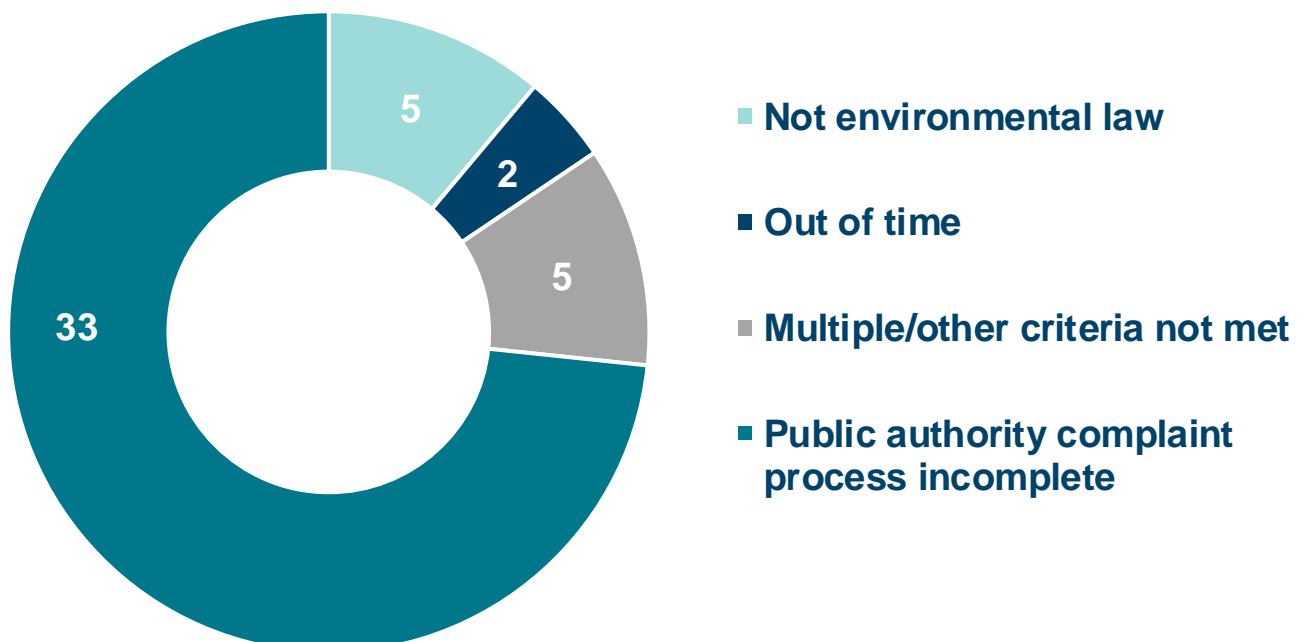
We focus on the most significant matters, such as failures to comply with environmental law that are systemic, recurrent, or may cause serious harm. As such, every complaint submitted to us is valuable and provides us with information which helps inform our priorities. Therefore, while some complaints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

# Analysis of 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. 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. Meanwhile, just two complaints were so far submitted outside the statutory timeframe, and eight complaints were deemed ineligible 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's statutory complaint handling function**



# Investigations

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 focuses on the roles of Ofwat, the Environment Agency and the Defra Secretary of State in the regulation of combined sewer overflows (CSOs) in England. In September 2023, we announced that we had identified possible failures to comply with environmental law and moved to the next stage of our enforcement process. This involved serving statutory information notices on each of the three public authorities. For more details, please visit: <https://www.theoep.org.uk/news/oep-identifies-possible-failures-comply-environmental-law-relation-regulatory-oversight>

Our second investigation was launched in May 2023 and considers 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>

# Interventions

Where we have not prioritised complaints for formal investigation, we may still take action to address relevant issues through interventions. These can take the form of advice and guidance letters to public authorities, or requests for action plans to remedy perceived poor practice or non-compliance. This list is not exhaustive, and we will consider the best course of action on a case-by-case basis to meet our strategic aim of protecting and improving the natural environment.

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 to ensure a satisfactory outcome; Where one 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.

To follow us on social media, please visit: <https://twitter.com/OfficeforEP>