



Office for  
Environmental  
Protection

# Complaint Report

Office for Environmental Protection

1 January 2023 - 31 March 2023

# Introduction

This report provides a summary of all complaints received since January 2021, with a particular focus on the period between January 2023 and March 2023. It is the fifth 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 considers complaints about suspected failures by public authorities to comply with environmental law. Each complaint that we receive is reviewed against the six criteria stated in the Environment Act 2021 and will only be eligible if those criteria are met. 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.

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 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. Complaints at that stage were then progressed to either no further action, intervention or investigation.

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 those criteria. 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 this.

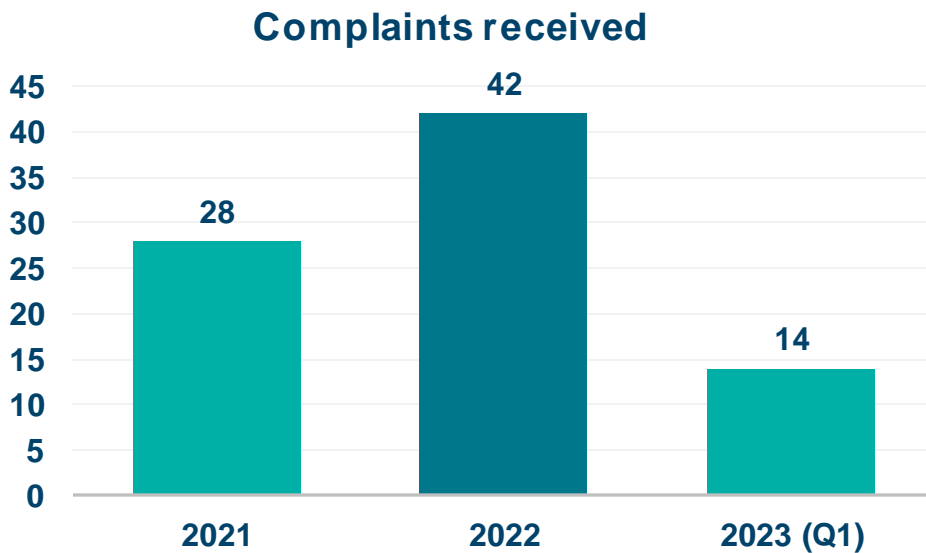
In many instances we signpost complainants to the most appropriate public authority to either raise an initial complaint or exhaust their complaints procedure. We do this to ensure the relevant public authority is provided with the opportunity to assess and respond to matters in the first instance. We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

We work closely with others and have three separate Memorandums of Understanding (MOU). One with the Climate Change Committee, one with the Local Government and Social Care Ombudsman, one with the Parliamentary and Health Service Ombudsman, and a joint MOU with 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>

# Complaint Summary

In the first three months of 2023, we received 14 new complaints. This means the total number of complaints we had received as of 31 March was 84.



When we receive a complaint, we send a receipt to the complainant and check the complaint against the criteria listed in the Environment Act 2021. The Act sets out that in order for us to consider information submitted to us as a complaint, the information must:

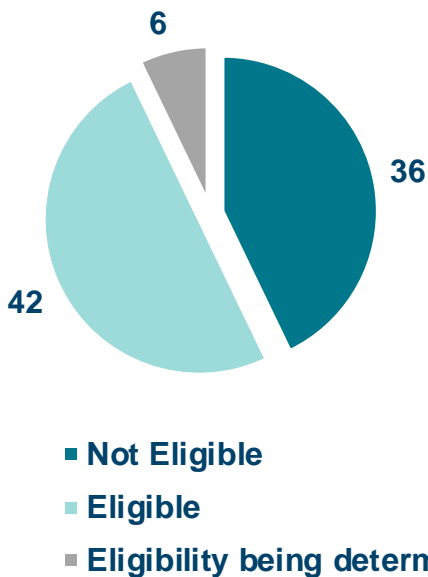
1. Relate to a suspected breach of environmental law by a public authority.
2. The relevant environmental law must relate to England, Northern Ireland, or a reserved matter (a matter on which only the UK Parliament in Westminster can make legislation).
3. Be submitted by an individual and not on behalf 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 us to establish that the above criteria have been met, we may contact the public authority and invite them to share any relevant information, under the duty to co-operate with us.

# Eligibility of Complaints

If a complaint does not meet the eligibility criteria then we explain the reasons why to the person making the complaint. We may also attempt to direct the complainant to a public authority or other organisation who may be better placed to assist them.

## Eligibility status of complaints as of 31 March 2023

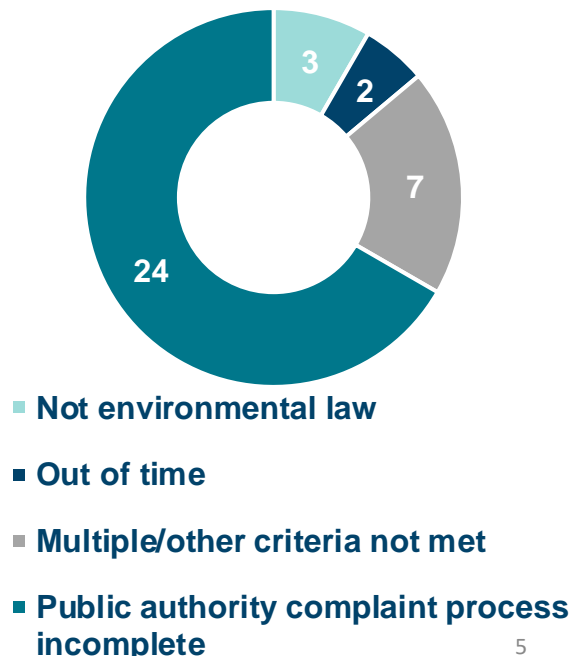


Twenty-four complaints did not complete the public authorities' complaints procedure before bringing the matter to us (when this happens, we inform the complainant of the requirement and note that we can reopen the case if it is met). Three complaints were deemed not to be environmental law in accordance with its meaning in the [Environment Act](#). Seven complaints were not eligible for multiple reasons or other criteria, for example not being within England or Northern Ireland, and two were submitted outside the timeframe.

Of the 84 complaints the OEP had received as of March 31, 2023, 42 did meet the criteria for complaining to us. However, 36 complaints were deemed not to be eligible (a further six complaints were still in the process of having their eligibility determined).

Of the 36 complaints deemed not to be eligible for complaining, we can explain the breakdown of the reasons, as follows.

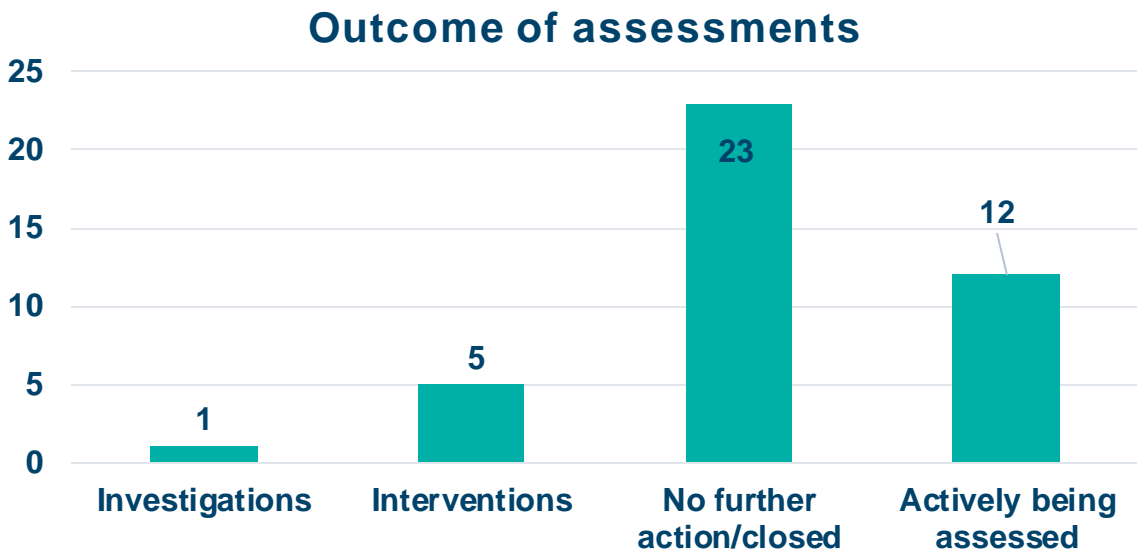
## Reasons complaints were not deemed eligible for complaining to the OEP



# 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 to the factors set out in our [enforcement policy and strategy](#).

Of the 42 complaints that met the eligibility criteria as of 31 March 2023, we had made decisions on 30. We utilised our statutory powers to make interventions on five occasions and launched one investigation into the regulation of combined sewer overflows (CSOs). Further details of our interventions and investigations are available on our website: [www.theoep.org.uk/our-casework](http://www.theoep.org.uk/our-casework)



A further 12 complaints were actively being assessed as of 31 March 2023. This means that we were reviewing the information already provided and in some cases, gathering 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. Finally, we had closed 23 complaints with no further action to be taken presently.

It is worth noting that the number of complaints will not always be equal to the number of outcomes. This is because there may be occasions where a single complaint may result in multiple outcomes, or alternatively, where many complaints result in only one outcome (investigation, invention etc.).

# Method of Complaint Submission

**49**

Online portal

**0**

Telephone

**3**

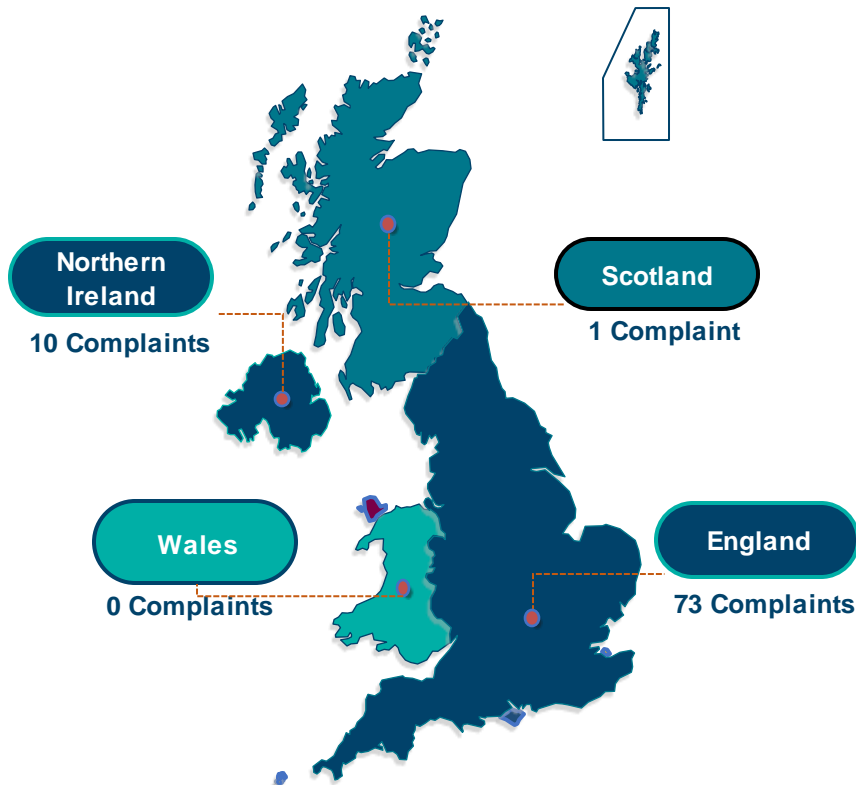
Post

**32**

Email

From 1 January 2021 up to 31 March 2023, most of our complainants chose to submit their complaint via our [online complaint portal](#). By way of a breakdown, 49 complaints were received via our online complaint portal, 32 came via email, three were received by post and none were received by phone.

# Geographic Breakdown of Complaints



We cover breaches of environmental law by public authorities in England and Northern Ireland. We received 10 complaints about Northern Ireland and 73 from England. We received one complaint about a devolved matter in Scotland. We signposted the complainant to [Environmental Standards Scotland](#) before closing the complaint. To date we have not received any cross-border complaints. From 1 January 2021 to 31 March 2023, the complaints received named 65 different public authorities in Northern Ireland and England, which included 41 different local authorities.

# 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.

Environmental Category	% of complaints where category mentioned
Pollution control	29%
Nature conservation	26%
Environmental monitoring and assessment	17%
Environmental governance	13%
Other	6%
Waste and resources	6%
Not environmental law	3%

## Enquiries

In addition to complaints, the OEP deals with enquiries from individuals and organisations. Between January 2021 and the end of March 2023, we had recorded and responded to 629 separate enquiries. During the most recent reporting period, we received 51 enquires in January, 42 in February and 33 enquiries in March. We continue to provide signposting where relevant. For example, if the enquiry does not relate to the OEP's remit. During the first three months of 2023, we signposted 55 of our enquirers to public authorities who would be better placed to respond to the issue in the first instance. Some of these enquiries have become complaints for the OEP and some serve to provide useful notification of wider environmental issues.



# Decisions and Impacts

We make our decisions following our [Strategy and Enforcement policy](#). We focus on the most significant matters, such as failures to comply with environmental law that are systemic, recurrent, or may cause serious harm.

Every complaint submitted to us is therefore valuable and provides us with information which helps inform our priorities. Whilst some complaints may end with no further action, each individual matter when taken together may indicate the possible seriousness of a bigger problem.

When determining if a failure to comply with environmental law is or may be serious, we consider the following factors:

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

We monitor the actions we have taken and assess the impact they are having on the environment. We publish a summary of the outcomes of decisions that lead to interventions, resolutions, and investigations that are made using our statutory powers on our website: [www.theoep.org.uk/our-casework](http://www.theoep.org.uk/our-casework)

# More Information

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

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