



Office for
Environmental
Protection

Complaint Report

Office for Environmental Protection

1 July - 30 September 2022

Introduction

This is the third 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.

Between the 1 July and the 30 September, we continued to process complaints through our [procedure](#), working through the stages of receipt, validation and assessment. Following the publication of our Strategy and Enforcement Policy on the 23 June 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 considers complaints about suspected failures, by public authorities, to comply with environmental law. We cover 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 for more details and contact information. Each complaint is reviewed against the six criteria stated in the Environment Act 2021 and will only be validated if those criteria are met. We are however able to launch self-initiated investigations and act on intelligence that highlights areas of serious environmental harm

Our Approach

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. Our approach is to aid customers when they contact us, if we realise that these six criteria are not met, we will communicate with the customer and explain the situation. In many instances we signpost customers to the appropriate public authority to either raise an initial complaint or exhaust their complaints procedure.

If it is apparent that the public authority's complaints procedure doesn't exist, or it is unclear, we will work with the public authority, under their duty to cooperate, to ensure the complaint can be made appropriately. We aim to have open dialogue with complainants and public authorities working towards the best possible outcome. We work closely with our counterparts and now have three separate Memorandums of Understanding with the Local Government and Social Care Ombudsman, Parliamentary and Health Service Ombudsman and a [joint one](#) with Environmental Standards Scotland and the Interim Environmental Protection Assessor for Wales. We will make complainants aware if their issues would be more successfully dealt with by an alternative organisation.

We make our decisions in a strategic manner, and in line with 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 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*

Complaint Summary

When we receive a complaint, we send a receipt to the complainant and check the complaint against the criteria for complaining to the OEP in the Environment Act. If the complaint meets the criteria, we check with the public authority that their complaint procedure has been exhausted and invite them to share any relevant information.



63 complaints were received from the 1 January 2021 to 30 September 2022



Closed: 17 do not meet the criteria
Waiting: 18 require further information from the complainant or public authority
Validated: 28 meet the criteria and are open cases awaiting a decision or have finished the assessment phase



No cases have been escalated for the attention of Defra Ministers

Method of Complaint Submission



38 complaints were received via our online complaint portal, 23 by email, two by post and none were received by phone. From 1 January 2021 up to 30 September 2022 most of our complainants chose to submit their complaint via our [online complaint portal](#).

Geographic Breakdown

We cover breaches of environmental law by public authorities in England and Northern Ireland. We received eight complaints about Northern Ireland and 54 from England.

We received one complaint about a devolved matter in Scotland. We signposted the complainant to [Environmental Standards Scotland](#) before closing the complaint on our system.

To date we have not received any cross-border complaints.

From 1 January 2021 to 30 September 2022, the complaints received named 50 different public authorities in Northern Ireland and England, including 36 different local authorities.



Environmental Category

Following discussion with stakeholders, we adopted an initial approach to categorising complaints under categories of environmental law as shown above. "Environmental governance" 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. Some complaints named more than one category.

Environmental Category	% of complaints where category mentioned
Pollution control	27%
Nature conservation	25%
Environmental governance	20%
Environmental monitoring and assessment	14%
Other	7%
Waste and resources	4%
Not environmental law	3%

Enquiries

In addition to complaints the OEP deals with enquiries from individuals and organisations. 411 enquiries were recorded from January 2021 until the end of September, with 51 in July, 44 in August and 31 in September. We continue to provide signposting where relevant, if the enquiry does not relate to the OEP's remit. Some of these enquiries have become complaints for the OEP and some provide notification of wider environmental issues, for example the notification from WWF-UK and Client Earth on the systematic failings of nitrogen regulation.

Assessment Outcomes

Since June 2022, when our strategy and enforcement policy was published, we have reached 14 assessment outcomes. Between July and September 2022, we reached seven assessment outcomes which are outlined below:

No further action

We wrote to three complainants to notify them that we will not take their complaints any further. Although we closed these complaints the information submitted and issues raised will be used as intelligence, and may highlight bigger, systematic issues in due course. These complaints were closed due to no apparent failure to comply with environmental law and/or the issue not deemed serious for us to consider at this stage.

Interventions

We sent intervention letters to the Department of Agriculture, Environment and Rural Affairs (DAERA) and the Northern Ireland Department for Infrastructure. This was in relation to four complaints we received, which raised the same issues. In the letter to the Department for Infrastructure we strongly advised that they issue guidance to all 11 councils in Northern Ireland on the correct application of Schedule 3(3)(c) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 when conducting screening assessments relating to developments, which propose to carry out activities with potential cross-border impacts. In the letter to DAERA we asked for more information on their approach to revising the Operational Protocol for the assessment of cumulative impacts from atmospheric nitrogen pollution. We also asked for the steps they are taking in the interim to ensure that those cumulative impacts are fully assessed to the required standard before permission for a new development is granted.

Investigations

No new investigations were launched in this period but we continued to work on our [first investigation](#) into the regulation of combined sewage overflows in England and the roles of Ofwat, the Environment Agency and the Defra Secretary of State.

More Information

For more information about our complaints procedure and definitions, please visit our website: www.theoep.org.uk

If you cannot find an answer on the website, please email or call us:

enquiries@theoep.org.uk or call 03300 416 581