



SEWAGE POLLUTION AND THE ENVIRONMENT BILL

EXECUTIVE SUMMARY

- UK rivers and the ocean are being routinely polluted by raw sewage flowing from Combined Sewage Overflows (CSOs)
- This pollution degrades the environment, killing biodiversity and preventing natural habitats from storing carbon. It also puts water users at risk of contracting serious illness
- The Environment Bill, despite governments recent amendments, does not go far enough to tackle sewage pollution
- The Environment Bill should be further strengthened to place a legal duty on water companies to stop the discharge of raw sewage

OVERVIEW

Despite years of investment, sewage and agricultural pollution still plague the UK's rivers and the ocean¹. Only 16% of inland waterways in England meet "good ecological status", none of them pass the chemical tests² and the UK now ranks last for bathing water quality in Europe.³ Water users who interact with water to improve both their physical and mental health are also being put at risk of contracting harmful illnesses including viruses and antimicrobial resistant bacteria.⁴

The overwhelming cause of this pollution is the UK's outdated sewage infrastructure which cannot handle the pressures of increasing population, urbanization and climate change. Water companies are therefore routinely relying on Combined Sewer Overflows (CSOs).

¹ Gowen, P., Eades, S. (2020). Sand, Sea and Sewage Analysis. Marinet Limited. Executive Summary. [online] Available at: <http://www.marinet.org.uk/campaign-article/sand-sea-and-sewage>

² Salvidge, R. *All England's rivers fail to meet legal water quality standards*, accessed 10 October 2020, http://www.endsreport.com/article/1694741?utm_source=website&utm_medium=social

³ Harvey, Fiona (2021) UK ranked last in Europe for Bathing Water Quality in 2020. The Guardian <https://www.theguardian.com/environment/2021/jun/01/uk-ranked-last-in-europe-for-bathing-water-quality-in-2020>

⁴ Leonard, A.F.C., Zhang, L., Balfour, A.J., et al. (2018) Exposure to and colonisation by antibiotic-resistant *E. coli* in UK coastal water users: Environmental surveillance, exposure assessment, and epidemiological study (Beach Bum Survey), *Environment International*, Vol.114, pp.326–333

Figures released by the [Environment Agency in March 2021](#) revealed that in 2020 Water companies discharged raw sewage into English coastal and inland waters [403,171 times, for a total of 3.1 million hours](#).⁵ Surfers Against Sewage 2020 Water Quality Report found 2,523 CSO discharges into English coastal bathing waters between October 2019 and September 2020.⁶

For more information on the causes and effects of sewage pollution see [Surfers Against Sewage briefing: Water Quality and Sewage Pollution](#).

THE ENVIRONMENT BILL

PROGRESS MADE

Over the last year, there has been significant public attention on sewage pollution with [44,691 people signing the EndSewagePollution petition](#) delivered to George Eustice Secretary of State for DEFRA.

There has also been growing political will for action to prevent the further destruction of the aquatic environments, with over 130 MPs⁷ pledging support for the [Sewage \(Inland Waters\) Bill](#), which would place a duty on water companies to ensure untreated sewage is no longer discharged into England's inland waters.

In response to this growing pressure the government have introduced an [amendment to the Environment Bill](#) which sets three legal duties;

1. A duty on government to publish a plan by September 2022 to reduce sewage discharges from storm overflows;
2. A duty on government to report to Parliament on progress on implementing the plan; and
3. A duty on water companies to publish data on storm overflow operation on an annual basis.

Whilst we welcome this amendment, and the intent behind it, we believe the government's proposals need further strengthening to ensure swift and effective action is taken to end sewage pollution.

PROPOSED AMENDMENTS

The amendments in Appendix 1 (A.1.0) have been put forward by the Duke of Wellington with the support of a broad coalition of partners including Surfers Against Sewage, Salmon and Trout Conservation, The Rivers Trust, Wildlife and Countryside Link Windrush Against Sewage Pollution, The Angling Trust and many others.

⁵ Laville, S., and McIntyre, N. (2020) Exclusive: water firms discharged raw sewage into England's rivers 200,000 times in 2019, *The Guardian*

⁶ Slack, A., Tagholm, H., and Field, A. (2020) *2020 Water Quality Report*, 2020, <https://www.sas.org.uk/wp-content/uploads/SAS-Water-Quality-Report-Digital-v1.pdf>

⁷ Full list of supportive MPs available at <https://www.sas.org.uk/EndSewagePollution-SewageBill>



These amendments seek to strengthen the government amendment put forward by the Minister for the Pacific and the Environment, Lord Goldsmith of Richmond Park, by giving effect to key measures of the Sewage (Inland Waters) Bill.

The Dukes amendments will make the changes detailed in red below. The comments in the side bar indicate the effect of these amendments, and why they are needed.

The list of amendments as will appear on the marshalled list are included as Appendix 1 (A.1.0.)

After Clause 78

Insert the following new Clause—

“Storm overflows

In Part 4 of the Water Industry Act 1991 (sewerage services), after Chapter 3 insert—

“CHAPTER 4

STORM OVERFLOWS

(141ZA) Duty to take steps to ensure untreated sewage is not discharged from storm overflows

(1) A sewerage undertaker must take all reasonable steps to ensure that untreated sewage is not discharged from storm overflows.

(2) The Secretary of State, the Director and the Environment Agency must exercise their respective functions under this and any other Act to secure compliance with the duty in (1).

141A Storm overflow discharge reduction plan

(1) The Secretary of State must prepare a plan for the purposes of—

- (a) reducing discharges from the storm overflows of sewerage undertakers whose area is wholly or mainly in England, and
- (b) reducing the adverse impacts of those discharges.

(2) The reference in subsection (1)(a) to reducing discharges of sewage includes—

- (a) reducing the frequency and duration of the discharges, and
- (b) reducing the volume of the discharges.

(3) The reference in subsection (1)(b) to reducing adverse impacts includes—

- (a) reducing adverse impacts on the environment, and
- (b) reducing adverse impacts on public health.

Commented [HS1]: The insertion of a new clause, is designed to make clear the overarching duty on the sewerage undertakers is to take all reasonable steps to ensure that untreated sewage is not discharged into controlled waters. The discharge of untreated sewage, while designed into the Victorian system we have inherited, is not something we should accept over the longer term and we should take all steps to ensure that the management of infrastructure today progressively reduces our reliance on discharging untreated sewage, and thereby protects receiving waters.

The amendment also includes a requirement on the Secretary of State, Ofwat and the Environment Agency to exercise their respective functions under existing enactments to help secure compliance with that overarching aim, to end the discharge of untreated sewage over the medium to long term.

(4) The plan **may must** in particular include proposals for—

- (a) reducing the need for anything to be discharged by the storm overflows;
- (b) treating sewage that is discharged by the storm overflows;
- (c) monitoring the quality of watercourses, bodies of water or water in underground strata into which the storm overflows discharge;
- (d) obtaining information about the operation of the storm overflows; and
- (e) the use of nature-based solutions to achieve the purposes in (1)**

(4A) The plan must include measures to increase progressively and ensure the continuous monitoring by 2025 from the storm overflows of sewerage undertakers whose area is wholly or mainly in England and the publication of any data so obtained in as close to real time as possible.

(5) When preparing the plan the Secretary of State must consult—

- (a) the Environment Agency,
- (b) the Authority,
- (c) the Council,
- (d) Natural England,
- (e) sewerage undertakers whose area is wholly or mainly in England, or persons representing them, and
- (f) such other persons as the Secretary of State considers appropriate.

(6) The Secretary of State must publish the plan before 1 September 2022.

(7) The Secretary of State may at any time revise the plan, having consulted the persons referred to in subsection (5), and must publish any revised version.

(8) The plan, and any revised version of it, must be laid before Parliament once it is published.

141B Progress reports on storm overflow discharge reduction plan

(1) The Secretary of State must publish reports (“progress reports”) relating to the plan under section 141A.

(2) A progress report is to contain the Secretary of State’s assessment of—

- (a) the progress made, during the period to which the report relates, in implementing the proposals in the plan (or any revised version of it), and
- (b) the effect of that progress on the matters referred to in section 141A(1)(a) and

(b).

(3) The first progress report must relate to the period of three years beginning with the day on which the plan under section 141A is first published.

(4) Subsequent progress reports must relate to successive periods of five years after the period referred to in subsection (3).

Commented [HS2]: The issues outlined as being part of the plan (a-e) are all essential components of the plan and not optional elements. The over-arching aim of progressively reducing overflows cannot be achieved without all these elements being addressed.

Commented [HS3]: This clause includes a specific reference on the face of the Bill to nature-based solutions, such as the use of managed wetlands or sustainable urban drainage systems (SUDS), to help reduce and mitigate the impact of discharges of untreated sewage. By specifically including nature-based solutions, the sewerage undertakers are directed to consider application of these solutions which also assist with storing carbon and supporting biodiversity.

Commented [HS4]: This places a requirement on sewerage undertakers to include, in their plans, measures to increase progressively and ensure the continuous monitoring of all discharges of untreated sewage and stormwater into rivers, lakes, streams and coastal waters and the publication of that data in a publicly accessible format, as close to real-time as is possible. This will allow water users to make an informed judgement on whether to enter the water. It is recommended that the progressive implementation initially prioritises sites that are most heavily used by people.



(5) A progress report must be published within 12 weeks following the last day of the period to which it relates.

(6) A progress report must be laid before Parliament once it is published.

141C Annual reports on discharges from storm overflows

(1) A sewerage undertaker whose area is wholly or mainly in England must publish annual reports in relation to the undertaker's storm overflows ("storm overflow reports").

(2) A storm overflow report must specify, for each of the sewerage undertaker's storm overflows—

(a) the location of the storm overflow;

(b) the watercourse, body of water or underground strata into which the storm overflow discharges;

(c) the frequency and duration of discharges from the storm overflow in the period to which the report relates;

(d) where the information is available, the volume of each discharge in that period;

(e) information on any investigations that have taken place or improvement works that have been undertaken in relation to the storm overflow during that period;

(f) the extent to which the frequency and duration of discharges from the storm overflow has met the duty in section 94(1)(b);

(g) the likely period during which the duty in section 94(1)(b) is not expected to be met in relation to the storm overflow; and

(h) any adverse impacts on the environment or public health of any discharges from the storm overflow.

(3) Storm overflow reports are to relate to successive calendar years, starting with 2021.

(4) A storm overflow report must be published by a sewerage undertaker before 1 April in the year after the calendar year to which it relates.

(5) A storm overflow report must—

(a) be in a form which allows the public readily to understand the information contained in the report, and

(b) be published in a way which makes the report readily accessible to the public.

(6) The duties of a sewerage undertaker under this section are enforceable under section 18 by—

(a) the Secretary of State, or

(b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.

141D Environment Agency reports

Commented [HS5]: This amendment is a specific recognition of the current failure to meet the duty in section 94(1)(b) to effectually treat sewage, and places a requirement on sewerage undertakers to assess the likely period during which that duty is expected not to be met going forward.

This is an express recognition on the face of the Bill that this is a historic problem that should have been addressed by now. Report should not therefore shy away from accepting that fact and addressing how long the public can expect the duty in section 94(1)(b) not to be met.

Amendment (h) ensures that in addition to reporting on the frequency and volume of discharges the undertaker must also report on the effect that these discharges have on the environment and the health of water users.

(1) The Environment Agency must publish annual reports in relation to the operation of storm overflows of sewerage undertakers whose area is wholly or mainly in England.

(2) A report under this section must specify—

- (a) the location of the storm overflows;
- (b) the watercourse, body of water or underground strata into which the storm overflows discharge;
- (c) the frequency and duration of discharges from the storm overflows in the period to which the report relates;
- (d) where the information is available, the volume of each discharge in that period;
- (e) the extent to which the frequency and duration of discharges from storm overflows has met the duty in section 94(1)(b);
- (f) an assessment of the likely period during which the duty in section 94(1)(b) is not expected to be met in relation to storm overflows;
- (g) any adverse impacts on the environment or public health of any discharges from storm overflows.

(3) Reports under this section are to relate to successive calendar years, starting with 2021.

(4) A storm overflow report must be published by the Environment Agency —

- (a) before 1 April in the year after the calendar year to which it relates, and
- (b) in such manner as the Environment Agency thinks fit.

141E Interpretation of Chapter 4

(1) In this Chapter, references to a storm overflow of a sewerage undertaker are to any structure or apparatus—

- (a) which is comprised in the sewerage system of the sewerage undertaker, and
- (b) which, when the capacity of other parts of the system downstream or of storage tanks at sewage disposal works is exceeded, relieves them by discharging their excess contents into inland waters, underground strata or the sea.

(2) References in this Chapter to discharges from a storm overflow ~~do not~~ include discharges occurring as a result of—

- (a) electrical power failure at sewage disposal works,
- (b) mechanical breakdown at sewage disposal works,
- (c) rising main failure, or
- (d) blockage of any part of the sewerage system downstream of the storm overflow.

(3) Section 17BA(7) (meaning of sewerage system of a sewerage undertaker) applies for the purposes of subsection (1).”

Commented [HS6]: This amendment replicates the above amendment to 141C and places the same duties on the Environment Agency.

Commented [HS7]: Many overflows are a result of the failures listed (a) to (d) and it is important that this information is captured in the reporting. This deletion is required to avoid this Interpretation section effectively removing from the scope many of the typical issues associated with CSOs – ie pump failure, blockages, electrical failure – which are typically behind much of the trouble with CSOs.

If these scenarios are taken out of scope, all we are left with here is 'pure' sewage works under-capacity issues, but, the CSO problem is a complex mix of such under-capacity as well as poor maintenance of pumps and tanks, and poor operational practices at works.



A.1.0 APPENDIX 1: AMENDMENTS AS TABLED

THE DUKE OF WELLINGTON

As an amendment to Amendment 165

166. Before inserted section 141A, insert—

(141ZA) Duty to take steps to ensure untreated sewage is not discharged from storm overflows

(1) A sewerage undertaker must take all reasonable steps to ensure that untreated sewage is not discharged from storm overflows.

(2) The Secretary of State, the Director and the Environment Agency must exercise their respective functions under this and any other Act to secure compliance with the duty in (1).

Member's explanatory statement

The purpose of the amendment is to try to eliminate, not simply reduce, the discharge of untreated sewage into rivers. And to ensure that the various agencies use their existing powers of enforcement.

168. In inserted section 141A(4), leave out “may” and insert “must”

Member's explanatory statement

The purpose of the amendment is to ensure the various provisions (a) (d) are included as essential elements and are not optional in the plan.

169. In inserted section 141A(4), at end insert—

“(e) the use of nature-based solutions to achieve the purposes in subsection (1)”

Member's explanatory statement

The purpose of the amendment is to require the consideration and inclusion in the plan of nature-based solutions.

170. In inserted section 141A, after subsection (4) insert—

“(4A) The plan must include measures to increase progressively and ensure the continuous monitoring by 2025 from the storm overflows of sewerage undertakers whose area is wholly or mainly in England and the publication of any data so obtained in as close to real time as possible.”

Member's explanatory statement

The purpose of this amendment is to ensure that timely information is accessible to the public and can minimise the risk of harm.

172. In inserted section 141C(2), at end insert—

“(f) the extent to which the frequency and duration of discharges from the storm overflow has met the duty in section 94(1)(b);

(g) the likely period during which the duty in section 94(1)(b) is not expected to be met in relation to the storm overflow; and

(h) any adverse impacts on the environment or public health of any discharges from the storm overflow.”

Member’s explanatory statement

This amendment aims to address any failures of sewerage undertakers to meet the duty in section 94(1)(b) of the Water Industry Act 1991 to prevent effectively overflows.

173. In inserted section 141D(2), at end insert —

“(e) the extent to which the frequency and duration of discharges from storm overflows has met the duty in section 94(1)(b);

(f) an assessment of the likely period during which the duty in section 94(1)(b) is not expected to be met in relation to storm overflows;

(g) any adverse impacts on the environment or public health of any discharges from storm overflows.”

Member’s explanatory statement

This amendment seeks to place a requirement on the Environment Agency to meet the duty in section 94 (1) (b) to prevent effectively overflows and it places a requirement to report how long this will continue and acknowledge the potential harm caused.

174. In inserted section 141E(2), leave out “do not”

Member’s explanatory statement

The purpose of the amendment is to remove technical failures as a justification for untreated sewage discharges.