



The OEP  
County Hall  
Spetchley Road  
Worcester  
WR5 2NP

[www.theoep.org.uk](http://www.theoep.org.uk)

**Our reference: CMS - 243**

WildFish  
Admin Office  
PO Box 2412  
Salisbury  
SP2 2QN



11 September 2023

Dear Mr Measham,

**Investigation into the roles of Ofwat, the Environment Agency and the Secretary of State for Environment, Food and Rural Affairs in the regulation of combined sewer overflows (CSOs) in England.**

We write further to our previous correspondence in relation to Wildfish's complaint and the OEP's investigation into the regulation of CSOs. Under the Environment Act 2021, the OEP has a duty to keep complainants informed about the handling of their complaint.

As a result of information gathered during the investigation to date, we believe that there may have been failures to comply with environmental law by all three of the public authorities. We have issued Information Notices to each of the above public authorities setting out the details of those possible failures.

The OEP can serve an information notice, requiring that public authorities provide certain information, if we have reasonable grounds for suspecting that the authority has failed to comply with environmental law and where we consider that the failure, if it occurred, would be serious.<sup>1</sup>

The public authorities have two months to respond to the Information Notices. The responses will allow them to set out whether they agree with the OEP's view, and whether they agree or not, set out any proposed remedial action or practical measures to address the issues.

For the Environment Agency, the potential failures relate to the requirements of the Urban Waste Water Treatment (England and Wales) Regulations 1994 ("the 1994 Regulations") and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ("the 2017 Regulations") and the Agency's resulting role in devising guidance, setting permit conditions for CSOs, and reviewing and enforcing of such conditions.

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<sup>1</sup> [3.2 Our powers: bespoke enforcement functions | Office for Environmental Protection \(theoep.org.uk\)](#)

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For Ofwat, the potential failures relate to its interpretation of sewerage undertakers' duties in section 94 of the Water Industry Act 1991 ("the 1991 Act") to effectually deal with sewage and Ofwat's duty under section 18 of the 1991 Act to make enforcement orders where sewerage undertakers fail to comply with such duties.

For the Secretary of State, the potential failures relate to the requirements of the 1994 Regulations and the 2017 Regulations, and the Secretary of State's duty to make enforcement orders under section 18 of the 1991 Act where sewerage companies fail to comply with their own duties under section 94 of the 1991 Act to effectually deal with sewage.

We will consider the responses from all three public authorities in detail before deciding next steps.

Our public statement will shortly be available on our website - [News | Office for Environmental Protection \(theoep.org.uk\)](#)

Yours sincerely

*Joe Hayden*

Joe Hayden

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