



Office for
Environmental
Protection

Complaint Report

Office for Environmental Protection

1 January 2024 - 31 March 2024

Our Approach

Our complaints process

We process complaints through a staged procedure - **receipt**, **eligibility check**, and **assessment**. This method and any decisions we make, are based on the Strategy and Enforcement Policy of the Office for Environmental Protection, which was published in June 2022.

Complaint eligibility

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.

Signposting

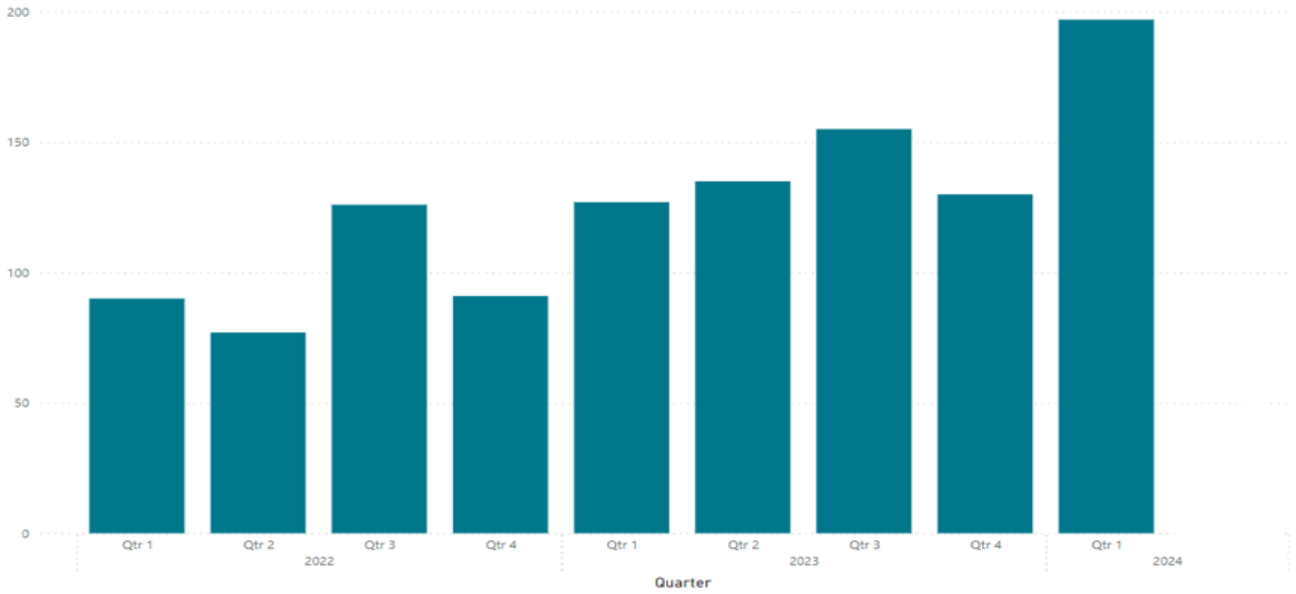
In many instances we signpost members of the public to the most appropriate public authority to either raise an initial complaint or exhaust the complaints procedure. We do this to ensure the relevant public authority is provided with the opportunity to assess and respond to matters initially. We also signpost to other organisations if the matter raised would be more appropriately dealt with elsewhere. To assist with this process, we provide a list of useful contacts on our website.

Working with others

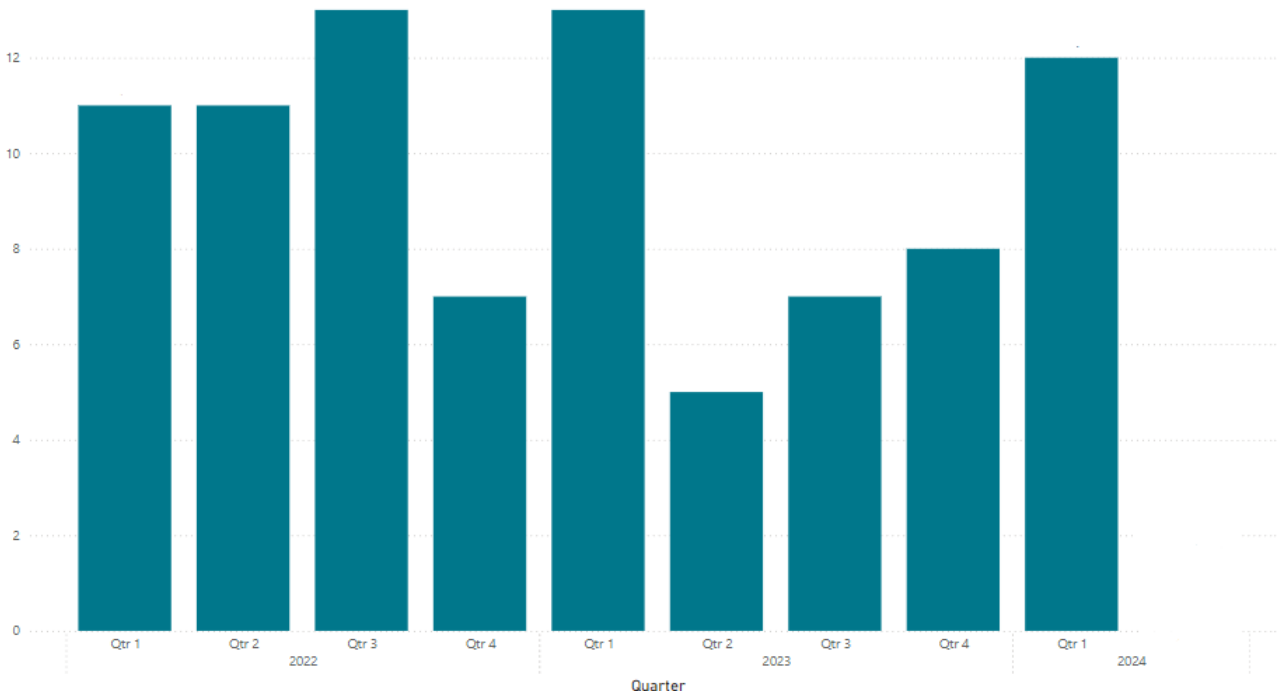
We recognise the importance of engaging with a variety of stakeholders. These include government bodies and non-departmental bodies. We also communicate with non governmental Organisations, community groups, and industry practitioners. We have Memorandums of Understanding (MOUs) with the Climate Change Committee, the Local Government and Social Care Ombudsman, the Parliamentary and Health Service Ombudsman, Environmental Standards Scotland and the Interim Environmental Protection Assessor for Wales.

Enquiry and complaint volumes

Enquiries received per quarter since January 2022



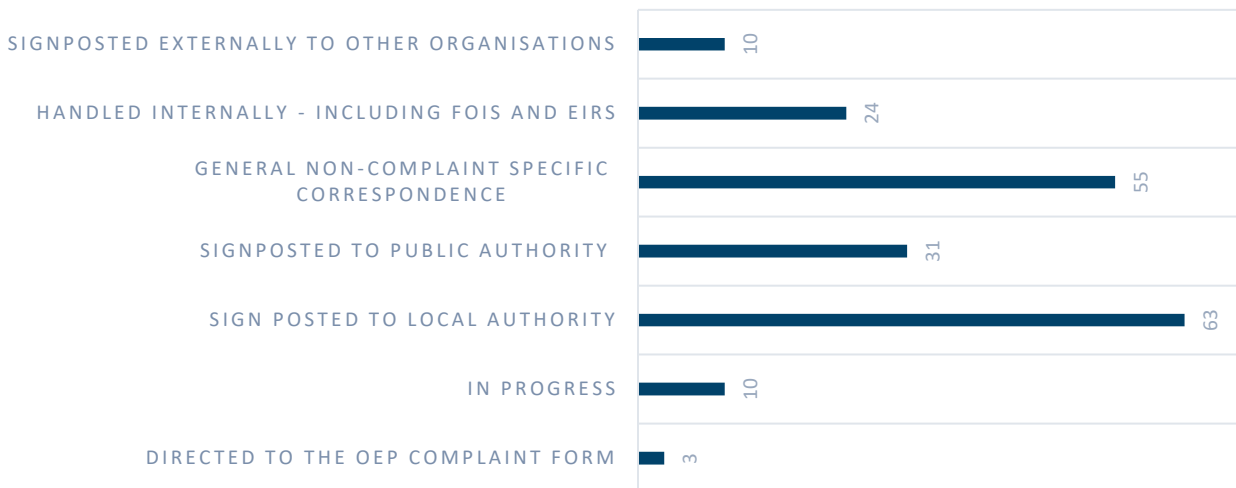
Complaints received per quarter since January 2022



Enquiries: Key Statistics

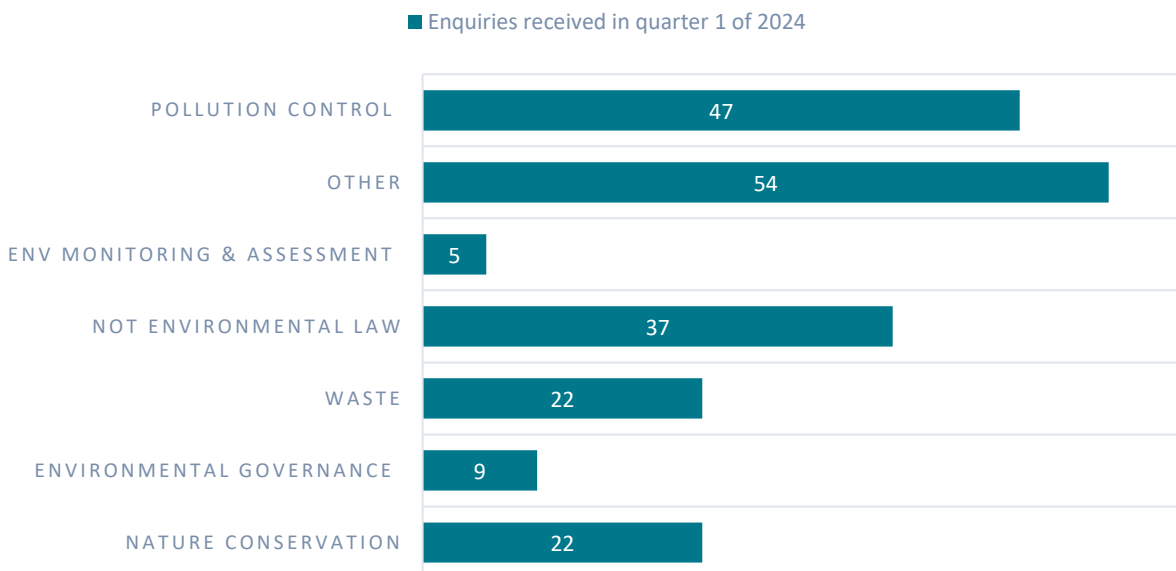
69 enquiries were received in January 2024, 67 were received in February 2024, and 60 were received in March 2024.

ENQUIRIES BY OUTCOME, QUARTER 1 2024



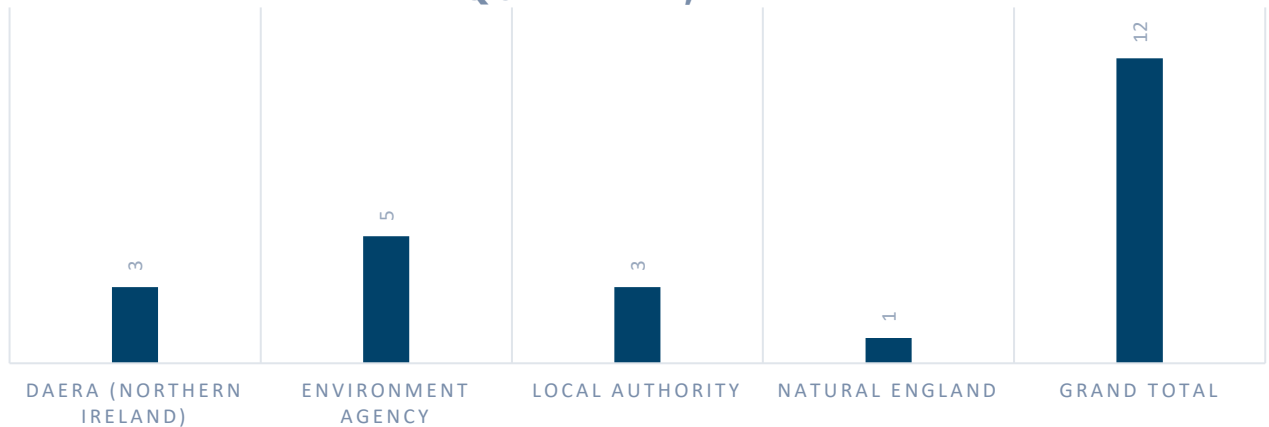
Pollution control continues to be the most frequent topic of enquiry.

ENQUIRIES BY TOPIC, QUARTER 1 2024



Complaints: Key Statistics

PUBLIC AUTHORITIES SUBJECT TO COMPLAINT: QUARTER 1, 2024



Category of complaints submitted since January 2021

Environmental Category	% of complaints where category mentioned
Pollution control	37%
Nature conservation	23%
Environmental monitoring and assessment	16%
Waste and resources	9%
Other	7%
Not environmental law	5%
Environmental governance	3%

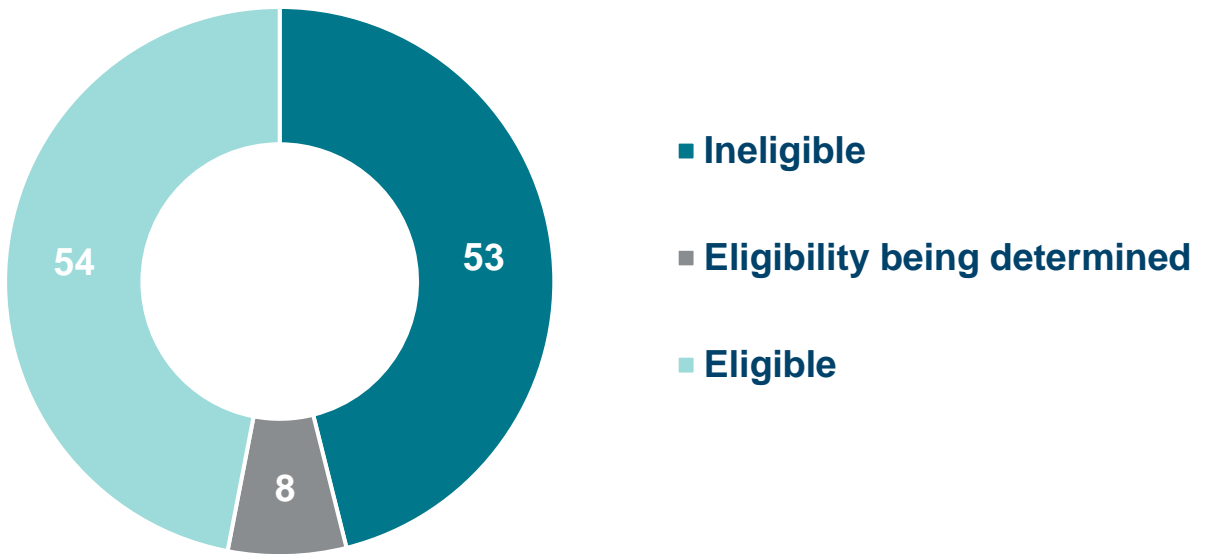
The first quarter of 2024 was one of the busier ones for the OEP. We received a total of 12 complaints – nine in January, two in February and one in March.

Of the complaints received in quarter one of 2024: the Environment Agency was the public authority that was most frequently complained about with five complaints; DAERA three complaints and three complaints related to local authorities. A further complaint was about Natural England.

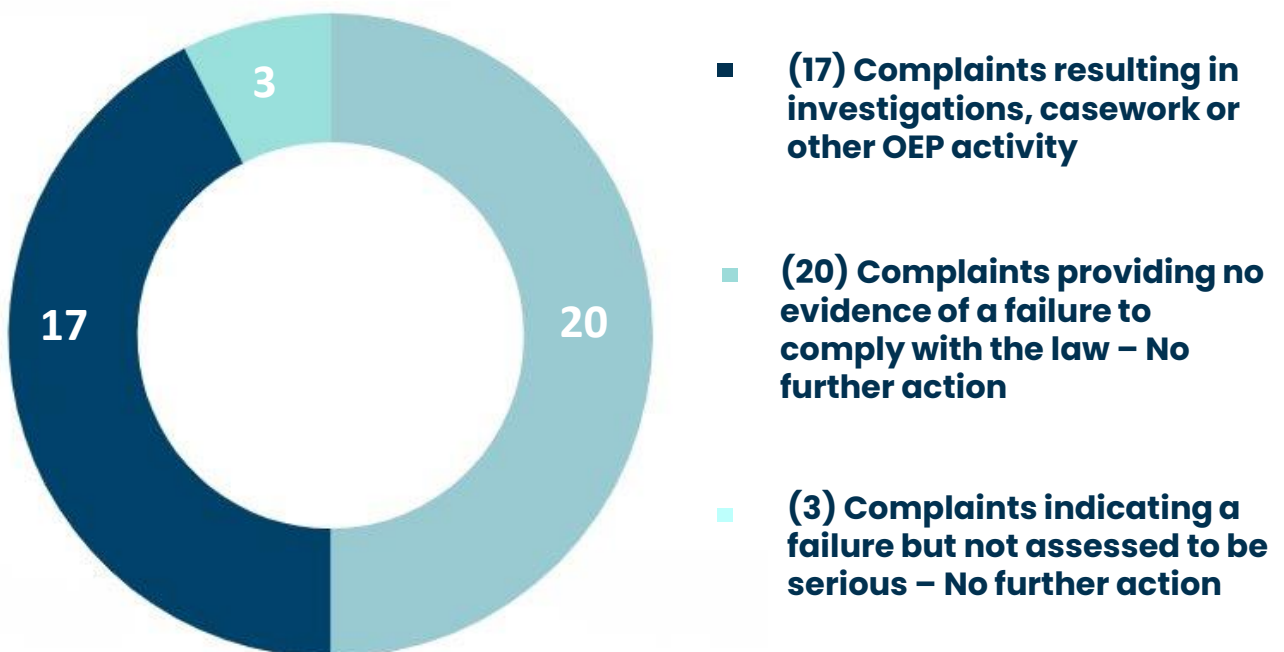
Complaints: Eligibility and Outcomes

By 31 March, we determined that 54 of the 115 complaints received by the OEP met the eligibility criteria outlined in the Environment Act 2021. The primary reason (in over 65% of cases) for ineligibility was failure to complete the public authority complaints process. We have concluded assessments in relation to 40 of those eligible complaints.

Eligibility status of complaints as of 31 March 2024



Assessment outcomes for eligible complaints



New enforcement activity and outcomes

Between 1 January and 31 March 2024 the OEP launched two new investigations, and progressed a number of interventions/early resolutions.

New Investigations

Classification and adaptation of Special Protection Areas (England)

An investigation into whether the Department for Environment, Food and Rural Affairs (Defra) and/or Natural England has failed to comply with environmental law in relation to the classification and adaptation of the Special Protection Area network, the implementation of recommendations in SPA reviews, and general duties to protect and maintain wild bird populations.

Classification and adaptation of Special Protection Areas (Northern Ireland)

An investigation into whether the Department of Agriculture, Environment and Rural Affairs' (DAERA) has failed to comply with environmental law in relation to the classification and adaptation of the Special Protection Area network, the implementation of recommendations in SPA reviews, and general duties to protect and maintain wild bird populations.

Ongoing Investigations

DAERA guidance on assessing applications for ammonia emitting agricultural developments

An investigation into whether the Department of Agriculture, Environment and Rural Affairs' (DAERA) Standing Advice on Livestock Installations and Ammonia fails to comply with environmental law.

Regulation of combined sewer overflows (CSOs)

An investigation into the roles of Ofwat, the Environment Agency and the Defra Secretary of State in the regulation of combined sewer overflows (CSOs) in England.

Intervention/early resolutions

As a small organisation with a wide remit it would not be possible or appropriate for us to investigate every eligible complaint that we receive. Furthermore, while the OEP has formal investigation and enforcement powers, these measures may not always represent the most effective means of resolving non-compliance.

Our assessment process is designed to prioritise formal investigation and enforcement action according to how large an effect our action could have, how likely we are to have that affect, whether it is a strategic fit for the organisation and our capacity and capability to deliver.

As part of the assessment process we will evaluate the substance of a complaint to determine whether there is scope to resolve instances of non-compliance through alternative means such as co-operation, dialogue and agreement with public authorities.

In certain cases resolving non-compliance through alternative means may achieve many of the same outcomes associated with formal investigation or enforcement but in a much shorter time frame.

If evidence suggests that we can achieve compliance through alternative means and without formal enforcement, we will consider that approach where appropriate. This could involve us pursuing what we would describe as an intervention, where we may ask the relevant public authority to take certain actions with us monitoring their compliance.

Where we take this approach we endeavour to publish our activity on our website, which can be found here: [Investigations | Office for Environmental Protection \(theoep.org.uk\)](https://www.theoep.org.uk/investigations)

Intervention/early resolutions – Q1 2024

Regulation of water abstraction in the River Crumlin

We received a complaint alleging that the Northern Ireland Environment Agency's (NIEA) are failing to effectively regulate water abstraction from the River Crumlin in accordance with its statutory duties, highlighting specific failures to determine a water abstraction application submitted in 2007.

Whilst this complaint focussed on one specific location, our assessment of available information highlighted a more widespread issue with a number of abstractions and impoundment applications having not been determined by the NIEA over a significant period of time.

Through early engagement we were able to secure agreement from the NIEA that they would provide and work to a time-bound action plan to fully determine the outstanding deemed consents and ensure ongoing compliance in future. We will continue to monitor progress against this plan.

Compliance with obligations imposed on the Secretary of State for Environment, Food and Rural Affairs under the Nitrate Pollution Prevention Regulations 2015 ('the Nitrate Regulations')

We received a complaint alleging failures by the Environment Agency and the Department for Environment, Food and Rural Affairs regarding regulations controlling nutrient pollution from agricultural sources

During our assessment of this complaint, the OEP identified additional potential failures to comply with obligations to review the Nitrate Regulations, and publish a report of that review, and regarding the offering of derogations under the Nitrate Regulations. Defra is now progressing a post-implementation review of the Nitrate Regulations and has committed to publishing the relevant reports later this year. The OEP will be monitoring the Secretary of State's compliance with these obligations going forward.

Approach to assessment/approval of grassland derogations

We also received a complaint alleging that the Environment Agency are failing to carry out appropriate assessments before granting a grassland derogation under the Nitrate Regulations and that the EA is failing to consult Natural England regarding individual grassland derogations

We have written to the EA requesting confirmation that a site-specific Habitats Regulation Assessment will be adopted for every grassland derogation. We also requested details of the information that will be considered in carrying out these assessments, and confirmation that the EA has updated its approach to assessing likely impacts on SSSIs.

Horizon scanning

The Complaints & Investigation team service a wide range of enquiries and complaints. We have identified the following topics that are currently undergoing further consideration:

Summary

Defra's approach to the emergency authorisations

We are currently assessing whether Defra may have failed to comply with environmental law when the derogation for the use neonicotinoid pesticide in 2023 and 2024.

Defra's guidance on the Farming Rules for Water

We are awaiting the judgement in relation to an ongoing judicial review which may address the alleged failures identified in this complaint. We will review the judgement to determine our next steps.

Assessment of Monitoring Environmental Law water report compliance

Following publication of the OEP's water report we will review the responses of relevant public authorities to determine next steps with regards to highlighted compliance issues.

Monitoring of compliance with statutory deadlines

We are continuing to monitor and review our approach in relation to a number of missed statutory deadlines, including requirements under the Climate Change Act 2022 and DAERA's obligation to publish an Environmental Improvement Plan in accordance with the Environment Act 2021.

Review of Environment Agency's (EA's) approach to compliance monitoring

We are continuing to review the EA's approach to the regulation of permitted waste and installations facilities. We intend to publish a report later this year.

More Information

For more information about our complaint procedure and definitions, please

visit our website: www.theoep.org.uk

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