

Dr Robert Seely MBE MP
Isle of Wight



HOUSE OF COMMONS

LONDON SW1A 0AA

Chani Kind
Volunteer Regional Representative
Surfers Against Sewage

24 November 2023

Dear Chani,

Please find enclosed my responses. Because your questions are very precise, the answers are taken from the law and from public documents, for the most part.

How will the Conservatives ensure that the Environment Act and other pieces of legislation are enforced to help end sewage pollution?

As you know, the duties placed on the water industry through the Environment Act are enforced by the Environment Agency (EA).¹

Water company permits will be set in line with the legally binding targets set by the Storm Overflows Discharge Reduction Plan. If water companies breach permit conditions, they face a number of enforcement actions by the Environment Agency:²

1. Civil Penalties
 - a. The Environment Civil Sanctions (England) Order 2010
 - i. Variable Monetary Penalties. The current statutory maximum variable monetary penalty is £250,000.³ The Government is consulting on removing this limit altogether.⁴
 - ii. Compliance, Restoration and Stop Notices.
2. Criminal Proceedings – Prosecution
 - a. Environmental Permitting Regulations 2010
 - i. Unlimited maximum fines for breaching environmental permits.⁵
 - ii. Up to 5 years custody for individuals.⁶

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https://assets.publishing.service.gov.uk/media/6537e1c55e47a50014989910/Expanded_Storm_Overflows_Discharge_Reduction_Plan.pdf, p.29

² <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/environment-agency-enforcement-and-sanctions-policy#enforcement-options>

³ <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/annex-1-res-act-the-environment-agencys-approach-to-applying-civil-sanctions-and-accepting-enforcement-undertakings>

⁴ https://consult.defra.gov.uk/water-industry/environmental-civil-sanctions-consultation/supporting_documents/VMP%20Consultation%20Documentv9apostWRCLEAN%20.pdf

⁵ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Environmental-offences-definitive-guideline-Web.pdf>, p.3

⁶ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Environmental-offences-definitive-guideline-Web.pdf>, p.15

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Ofwat is responsible for economic regulation. Through the Water Industry Act 1991⁷, it can enforce:

1. Penalties up to 10 percent of turnover.⁸
2. Changes to water company licences requiring companies to link dividends to company performance.

Will your government reinstate the resources of regulators and ring fence adequate budgets for monitoring and enforcement activities?

In regard to reinstating the resources of regulators, the Environment Agency's resource grant has increased from £56m in 2020/21 to £96m in 2022/23.⁹

In regard to ringfencing budgets for monitoring and enforcement activities, the Government has allocated £2.2m per year specifically for water company enforcement activity. This includes 500 sewerage inspections per year.¹⁰

Ofwat has received an additional £11m funding increase in order to hold companies accountable and oversee the next price review.¹¹

Do you agree that Ofwat must make dividend payouts contingent upon compliance with environmental regulations and permits?

Ofwat has already implemented these powers under Schedule 12 of the Water Industry Act 1991.¹²

How do you think we could achieve an end to untreated discharges affecting bathing waters, popular water usage areas and high priority nature sites by 2030?

The current schedule for ending untreated sewage discharges is as follows:

By 2035: all storm overflows discharging near bathing waters and 75 percent of storm overflows discharging into high priority sites.

By 2045: all storm overflows discharging into high priority sites.

By 2050: all remaining storm overflows.¹³

These targets are designed to be achievable but will nonetheless be the most significant environmental investment programme in water company history.

⁷ <https://www.ofwat.gov.uk/regulated-companies/ofwat-industry-overview/legislation/>

⁸ <https://www.legislation.gov.uk/ukpga/1991/56/section/22A>, 22A, (10).

⁹ [https://www.pru.org.uk/Work-Request/Environment-Agency-Funding-\(1\)](https://www.pru.org.uk/Work-Request/Environment-Agency-Funding-(1))

¹⁰ <https://www.gov.uk/government/news/water-company-fines-to-be-channelled-into-environmental-improvements#:~:text=Under%20the%20new%20plans%2C%20ringfenced,the%20main%20channel%20of%20rivers.>

¹¹ [https://www.pru.org.uk/Work-Request/Water-Company-Enforcement-\(Dividends-and-Fines\)](https://www.pru.org.uk/Work-Request/Water-Company-Enforcement-(Dividends-and-Fines))

¹² <https://www.ofwat.gov.uk/ofwat-announces-new-regulatory-controls-on-water-company-dividends/>

¹³

https://assets.publishing.service.gov.uk/media/6537e1c55e47a50014989910/Expanded_Storm_Overflows_Discharge_Reduction_Plan.pdf

How will the Government remove barriers to the adoption of nature-based solutions and ensure successful en masse roll out of innovative solutions from water companies?

In regard to nature-based solutions, the Storm Overflows Discharge Reduction Plan expects that water companies will “prioritise...nature-based solutions in their planning.”¹⁴ As far as I can see, the Government is encouraging adoption of nature-based solutions wherever possible.

In regard to innovative solutions, as you know, Ofwat has approved Southern Water’s Pathfinder expenditure in order to find innovative solutions to ending the practice of storm overflows.

How will the Government ensure from the Scottish Highlands, to the southern coast, that we get accurate and accessible real-time water quality information provided by all water companies? I appreciate and thank them that Southern Water are leading on combined sewage overflow event duration monitors and plan to roll out to all not just bathing waters. This is more at the national level and policy level.

Section 81 of the Environment Act 2021 mandates 100 percent event duration monitoring (EDM) coverage of combined sewer overflows.¹⁵ The Environment Agency is required to publish EDM data.¹⁶

We will have almost complete transparency in terms of the use of combined sewer overflows.

How will the Government get clear about the requirements for designation of bathing water status and actively support community groups through the process?

Bathing waters are designated based on the following requirements:

- Must be a coastal or inland water.
- Must have over 100 bathers per day during the bathing season (15 May to 30 September).
- Must have toilet facilities bathers can use during the bathing season, within a short distance of up to about 500m from the site.

For applications which meet the criteria, DEFRA invites comments from a variety of stakeholders. Following consultation, DEFRA makes a final decision on whether the site can be designated as a bathing water.

Guidance for community groups is available at the following address:

<https://www.gov.uk/government/publications/bathing-waters-apply-to-designate-or-de-designate/designate-a-bathing-water-guidance-on-how-to-apply>.

¹⁴

https://assets.publishing.service.gov.uk/media/6537e1c55e47a50014989910/Expanded_Storm_Overflows_Discharge_Reduction_Plan.pdf, p.22

¹⁵ <https://www.legislation.gov.uk/ukpga/2021/30/section/81/enacted>

¹⁶ <https://environmentagency.blog.gov.uk/2021/03/31/event-duration-monitoring-lifting-the-lid-on-storm-overflows/>

How can we ensure that the Government are world-leading in the bathing water testing regime, which tests for emerging threats to humans, such as antibiotic-resistant bacteria, viruses, microplastics and the effects pollution is having on the environment?

The UK's bathing water testing regime is designed around internationally-approved standards.

Bathing water samples are tested based on the standards developed by the World Health Organisation.¹⁷ Bathing waters must meet the standards set out in the Bathing Water Regulations 2013. These regulations are based on EU Directive 2006/7/EC (Bathing Water Directive).

Nevertheless, the Plan for Water does highlight the role of emerging pollutants.¹⁸ I agree that we should explore how monitoring could cover a greater degree of pollution and how monitoring could become live-timed, i.e. instantly updatable and available on an app or at the beach or location.

What plans and policies does the Government have about the transparency of data for treated sewage discharge sites?

Wastewater treatment sites are overseen by the Environment Agency. Water companies monitor the quality of treated wastewater and submit relevant data.¹⁹

Under the Urban Wastewater Treatment Directive, DEFRA must publish a situation report on the treatment of urban wastewater and assess compliance with regulations. The data is available online.²⁰

My questions

I saw the recent adjustment to DEFRA ensuring that water company fines will go to them not the Treasury and the EA consultation for unlimited fines for water companies. How do we ensure that the money in DEFRA comes back to the Isle of Wight in projects? Do you sit on any DEFRA steering groups?

Under the new plans, water company fines will be ringfenced for environmental and water quality improvements through the Water Restoration Fund.²¹ Allocations have not been published. I will, as always, advocate for the Island in any government funding decisions. I do not sit on any DEFRA steering groups.

¹⁷ <https://environmentagency.blog.gov.uk/2022/12/02/bathing-water-sampling/>

¹⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1164375/plan_for_water.pdf, p.11

¹⁹ <https://www.gov.uk/government/publications/waste-water-treatment-works-treatment-monitoring-and-compliance-limits/waste-water-treatment-works-treatment-monitoring-and-compliance-limits>

²⁰ <https://www.gov.uk/government/publications/wastewater-treatment-in-england>

²¹ <https://www.gov.uk/government/news/new-plan-for-cleaner-and-more-plentiful-water#:~:text=Under%20the%20plan%2C%20fines%20from,they%20cause%20to%20the%20environment.>

The Storm Overflows Reduction plan is present, but the interested parties haven't met about it. Can you get to sit on this kind of group to ensure the targets filter down to the Isle of Wight?

The Storm Overflows Discharge Reduction Plan has been widely consulted upon. The Government initially consulted on the Plan between 31 March and 12 May 2022. The consultation received 21,831 responses. Between 12 June and 24 July 2023, the Government consulted on further changes to the Plan. 846 responses were received.²²

The Plan is legally binding through the Environment Act and relevant parties are legally obliged to meet the targets it sets. The targets apply to all areas of England including the Isle of Wight.

How can we get to the point sustainable urban drainage (SUDS) is not just completed to the letter of the amendment of the Flood and Water Management Act, but installed and maintained for the long term at every opportunity? Can you advise how we can tap into existing funds and expertise outside of Southern Water? I want the IOW to be a beacon of hope for slowing the flow and thus stopping or at very least significantly reducing combined sewage overflow spills. SUDS would also help with the other sources of pollution too, mitigate flooding and trap carbon.

As you mention, the Government has committed to make sustainable drainage systems mandatory. This will be implemented through Schedule 3 of the Flood and Water Management Act 2010. Connection to the public sewer will be conditional on any drainage systems being approved.²³

I have been in discussions with Southern Water and the Isle of Wight Council to improve sustainable drainage on the Island. Southern Water have proposed a re-greening of the area outside County Hall incorporating sustainable drainage, as well as sustainable drainage systems in central Newport and Ryde.

As always, I fully agree that the Island should be a leading site for slowing the flow and reducing storm overflows.

With the planning theme as well, why aren't water companies statutory consultees? Resident groups have reached out to me about getting a Southern Water endorsement, but I get met with 'sorry we aren't statutory consultees'.

Water companies are statutory consultees at the local plan stage but not at the planning application stage. However, I agree that water companies should be statutory consultees on individual planning applications.

²² <https://consult.defra.gov.uk/water-industry/storm-overflows-discharge-reduction-plan-1/>

²³ <https://www.gov.uk/government/news/new-approach-to-sustainable-drainage-set-to-reduce-flood-risk-and-clean-up-rivers#:~:text=Schedule%203%20provides%20a%20framework,the%20lifetime%20of%20the%20development.>

I am aware that Southern Water encourages planning authorities to consult with them on any development proposals above 10 dwellings. This can include applying planning conditions which ensure that the developer covers the costs of new infrastructure.²⁴

There is also further advice to planning authorities to ensure that water/sewerage companies are consulted where water quality is likely to be a concern.²⁵

How can the automatic right to connect to the storm drains be removed?

Following a review, the Government plans to make the right to connect surface water runoff to public sewers conditional on the drainage system being approved. These plans are expected to be implemented in 2024 through Schedule 3 of the Flood and Water Management Act 2010.²⁶

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Seely', with a horizontal line underneath.

Dr Robert Seely MBE MP

²⁴ <https://www.southernwater.co.uk/media/4516/how-we-engage-in-the-planning-process.pdf>

²⁵ <https://questions-statements.parliament.uk/written-questions/detail/2021-01-08/134334/>

²⁶ <https://www.gov.uk/government/news/new-approach-to-sustainable-drainage-set-to-reduce-flood-risk-and-clean-up-rivers>