

4th November 2021

Open Letter to MPs from Ilkley Clean River Group

Re: The Environment Bill- Duke of Wellington Clause and Associated Amendments

This briefing provides the full background on the wide public concern about the Environment Bill amendments as they relate to Storm Overflows

1. The Context of Storm Overflows

- The public has voiced its concern that untreated sewage is discharged into rivers across the UK when it rains.
- As consumers we believed we were paying for our sewage to be treated. As taxpayers we believed our regulators were protecting our river environment. As British people we have always, on sunny days, taken picnics and our children and paddled played and swum in rivers. It is part of our British culture. We now find the Environment Agency is telling us it is never safe to play and enjoy our rivers as a recreational activity.
- The rationale from the water companies is that in 'heavy' rainfall dirty water flows into treatment works at a rate that cannot be managed and so is discharged into rivers to stop back-up into people's houses
- Often in the press this is referred to as a 'Victorian' sewage system.
- The practice was allowed for extreme weather (flooding) but has become day to day practice as our climate changes and our population grows without the necessary innovation and upgrades to the sewage system.
- The Environment Agency grants permits (licences) for sewage treatment works (Storm Overflows) and combined sewage outflow (CSOs) that sets out the volume of inflow at which raw sewage can be discharged into the river.
- As context here in Ilkley raw sewage is discharged circa 120 days of the year and has been for years. That's 1/3rd of the year. Under the permit this is still 'legal'. Storm Overflows here in Ilkley are triggered at 8mm of rain. This is not heavy rainfall for which the whole process was designed but basically any rainfall.
- We also found that Yorkshire Water, our water provider, knew how often this was happening, but as it was legal was not concerned to reduce these raw sewage discharges (called 'spills' in water industry language)
- Across the UK Storm Overflows operate over 400,000 times a year¹.

Clearly the current legislation framework and regulatory process is failing.

¹ The number of storm overflows with monitoring devices has increased from 8,276 in 2019 to 12,092 in 2020 providing intelligence on over 80% of the sewerage network; The average number of spills per storm overflow was 33, although there was significant variance between water and sewerage companies (min/max average 21/59); The average duration of each overflow event was 8 hours, (min/max average 5/12 hours). <https://environmentagency.blog.gov.uk/2021/03/31/event-duration-monitoring-lifting-the-lid-on-storm-overflows/>

2. The Legal Precedent and Context

- There is legislation in place which could be strengthened: The Water Industry Act 1991 already requires water companies to “effectually deal” with sewage, rendering it innocuous before discharging the effluent to rivers, a requirement that is and had been enforceable for the last thirty years. The only circumstances in which discharges of untreated sewage direct to rivers is acceptable at law is following periods of heavy rainfall, which threaten back-flooding of sewers into domestic properties. (Salmon and Trout Conservation 2021)². The term ‘heavy rainfall’ is contestable, and we can only assume this is why this legislation is not currently being used to hold water companies to account.
- The current amendment further reduces the impact of this current legislation by requiring the reduction in the **impact** of Storm Overflows, rather than the actual number of Storm Overflows.
- Britain was previously non-compliant with legislation that prevented Storm Overflows. the Urban Waste Water Treatment Directive (1991) required that raw sewage discharges should only happen under extreme, unusual and unpredictable conditions. The UK was deemed by the European Court to be in breach of this Directive in 2012. This did not lead to any action on cleaning up our sewage system.

3. The Reliance on Regulators and Monitoring

- The current regulators have overseen this problem. At Ilkley as an example the reliance on a specific set of measures for the water means the Environment Agency (EA) deems the water quality to be acceptable. Even though our citizen science testing showed E Coli (bacteria from sewage) at the river by the sewage works to be 40 x that which is safe for human contact. This meant that despite the SOs operating 1/3rd of the year, this problem was not noticed by the EA. As you can see – it is not only what you measure, but also how the regulator ‘sees’ the data. Relying on measurement of water quality as the only measure in the Environment Bill by which to hold companies to account will not be robust enough.
- This new monitoring done by remote real-time telemetry is not installed. So the Bill is relying on a mechanism that is (a) still to be consulted on and (b) will take time to install. This kicks the solution down the road again.
- There are illegal discharges but we have found in Ilkley that as long as the water company has a plan to reduce these, agreed with the EA they are not fined. In Ilkley we discovered several illegal incidents, and it was the public outcry and news reporting that finally secured action by the EA and YW. This had been going on for years.
- There has been a requirement to put in Event Duration Monitoring i.e. data that demonstrates when a sewage outflow is operating and for how long, across the whole sewage network by March 2020. There is therefore data in the public domain about sewage discharges.
- In May 2018 the Environment Agency issued guidance that the industry must classify and rectify unsatisfactory overflows within 3 years. That has not been achieved or monitored.

² <https://salmon-trout.org/2021/09/14/oep-complaint>

- Despite this there is still no plan to reduce sewage discharges in any water company in the UK.
- In Ilkley we had to apply for Bathing Status just to get the water testing required to put pressure on the water company to clean up the river. The current plan by Yorkshire Water to secure water quality in part of the Bathing Status area is to (a) make the illegal areas of pollution complaint and (b) divert the wastewater from a CSO into the sewage treatment works, therefore increasing the problem downstream.
- Our own citizen science testing has demonstrated the direct link between the number of Storm Overflows and water quality. The number of SOs is a good proxy for water quality, is easy to measure and the data is already publicly available.

This demonstrates that the regulator is not fit for purpose in terms of regulating the sewage system and the water companies are not actively engaged in reducing storm overflows.

In our view monitoring of the 'impact' of storm overflows will (a) be contested by the water companies (b) slow down the cleaning up of our rivers whilst monitoring is put in place and whilst the metrics are agreed (c) not lead to any action by the water companies, as it hasn't to date. It has the real possibility of securing the status quo.

In addition, putting a new measurement system in place adds to the taxpayer burden as it requires the regulator to put in additional measures and then manage these. The number of storm overflows is publicly available data, and the direct link between the number of SOs and water quality is proven. No other measure is required.

4. The Costs of upgrading sewage infrastructure to ensure all sewage is treated.

- You will have seen in the press the range of views about the costs of upgrading the sewage system across the UK.
- The Defra Storm Overflow Task Force states that the actual cost of progressively eliminating the worst and most damaging sewage pollution is £3.9 - 62.7 billion
- We note that the water companies have been making profit out of this system for years when they had a duty to maintain and innovate not to pollute our rivers. The water companies have taken out billions (57bn) in dividends paid to parent companies (mostly from outside the UK) between 1991 and 2019.
- We have heard the argument that the cost of this legal obligation would be too high because of the nature of the Victorian sewage system, and the government cannot therefore require water companies to act.
- As consumers the public does think that we have already paid for the maintenance and management of our sewage system. We cannot understand how water companies have been paying CEOs over £1.5 million in salaries per head, paying dividends internally and externally, servicing huge debts, and not investing enough in the sewage system to upgrade from a Victorian system to a 21C system. No other industry in the UK has been so lapse.

³ Guardian 2020 <https://www.theguardian.com/environment/2020/jul/01/england-privatised-water-firms-dividends-shareholders>

The water companies could have been, and should have been, taking action on Storm Overflows and sewage pollution. The fact that they haven't is not a reason to water down the bill's requirements. It will only be when water companies are required to stop polluting our rivers that they will properly manage their infrastructure. Requiring a plan is not tantamount to requiring action.

As ever

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