

Welcome to what we hope will not be ...



... A REALLY CRAP EVENING

The evening's agenda

- Stephen: introduction and the law
- Paul: engineering issues
- Jenni: corporate issues

Refreshments

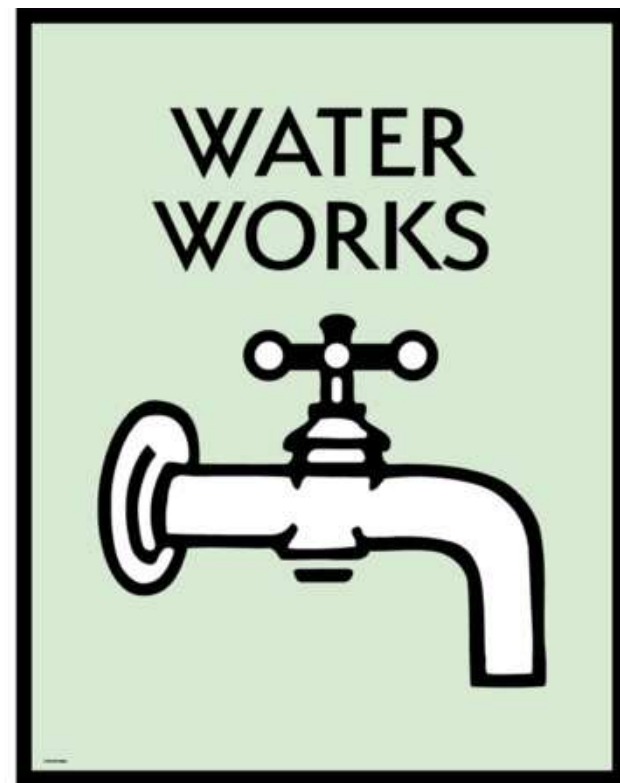
- Questions and discussion

HOW WE GOT INTO THIS
MESS AND WHAT CAN BE
DONE ABOUT IT

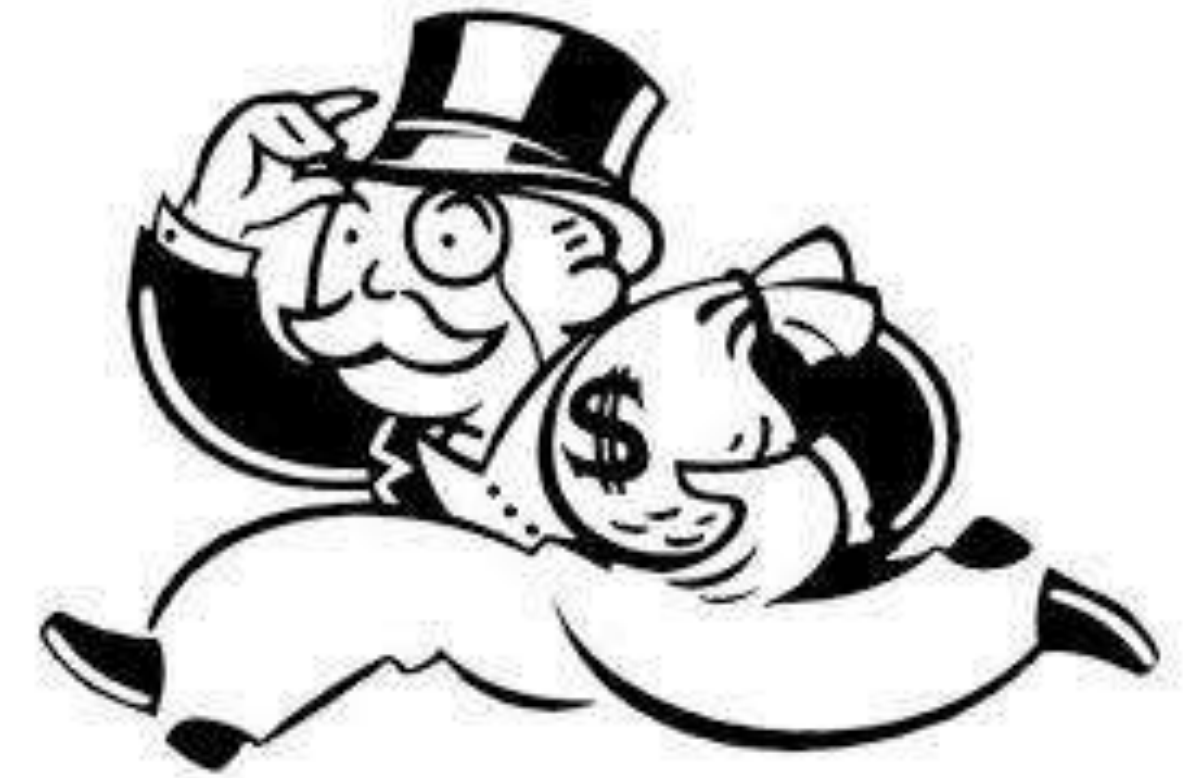


A brief history of ordure

- Victorian public health acts, created sewers
- Lack of public funding made UK “the dirty man of Europe”
- Privatisation in 1989 was intended to address lack of funding and did work for a time. Debts were written off and companies given a “green dowry”
- EU Directives on bathing waters and urban waste water treatment were important drivers
- Ofwat was created to be regulator – under section 94 Water Industry Act 1991 companies were under a duty to provide sewers and treatment to ensure their area is “*effectually drained*”
- Environment Agency set up as environmental regulator of discharges to rivers and sea
- ... so what went wrong????



The water companies



- From “H2Oowners” to overseas owned
- Priority is paying out dividends, largely overseas
- Ofwat has currently no control over dividends or profit levels
- Companies must raise capital through equity or borrowing
- The scale of debt has grown enormously, to over £50bn
- Many companies are now causing concern over financial resilience
- Almost £19 bn paid in dividends since 2010 (at 2018 prices about £57 bn – compare the estimated cost of upgrading CSOs of £56 bn)

Ofwat

- Role as economic regulator
- Approves spending plans on five year basis
- Priority has been keeping water bills low



Environment Agency

- Sets conditions on discharges
- Should ensure compliance with EU law
- But ... chronically underfunded, budget halved since 2009



And last but not least ...

- *Storm Overflows Reduction Plan 2022*
- Challenge in the High Court by Wildfish Conservation (2023)
- Ongoing investigation by Office for Environmental Protection
- *Plan for Water 2023* – package of reforms
- But will these plans stick if there is perceived electoral advantage in rowing back? (ULEZ has set a big precedent here). See Coffey's "fake meat" speech
- So what can/should I do?



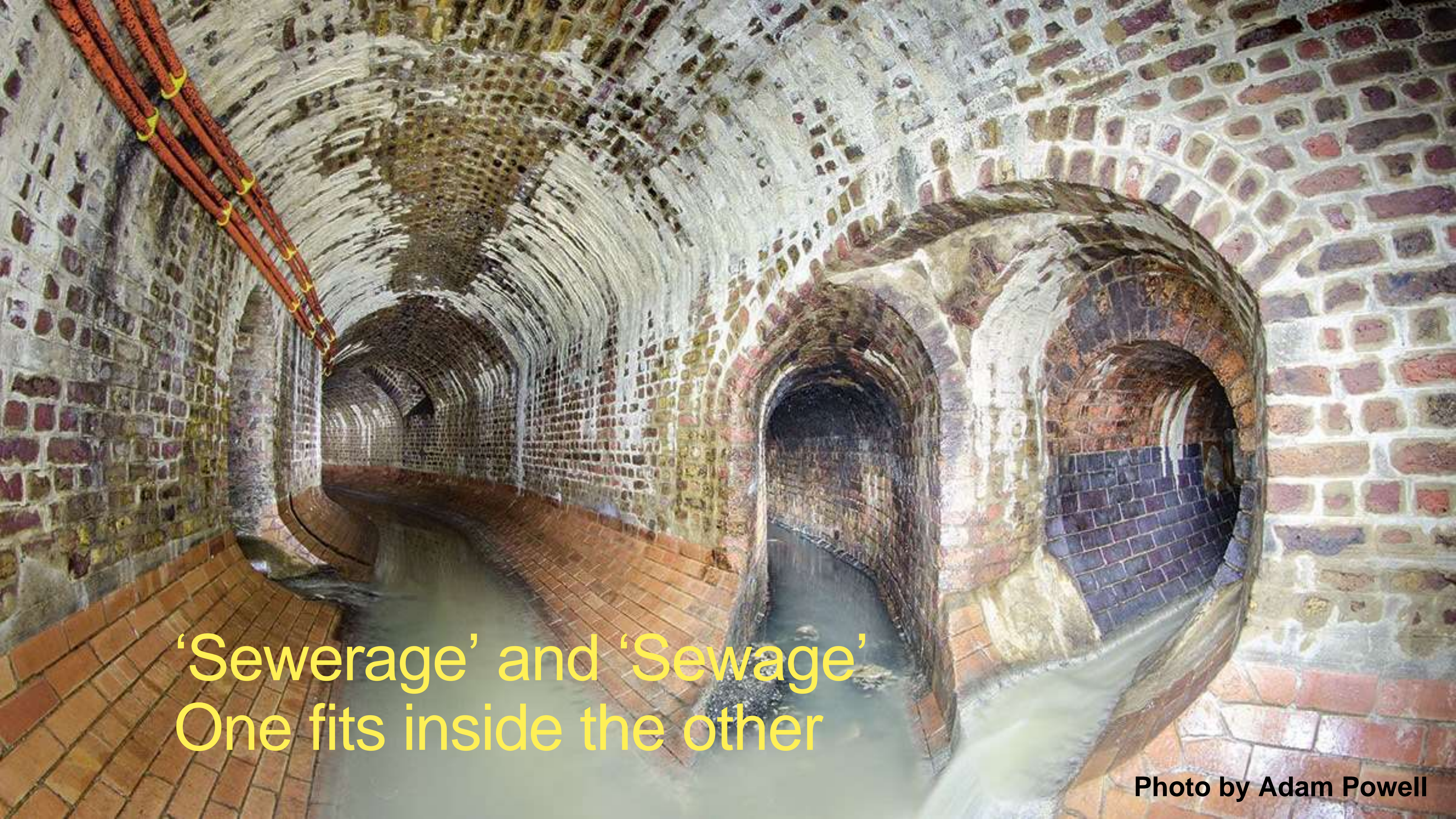
A Crap Evening

Sewage Overflows

Paul Glass - 11th October 2023



Photo by Adam Powell



‘Sewerage’ and ‘Sewage’
One fits inside the other

Photo by Adam Powell

Sewerage Systems

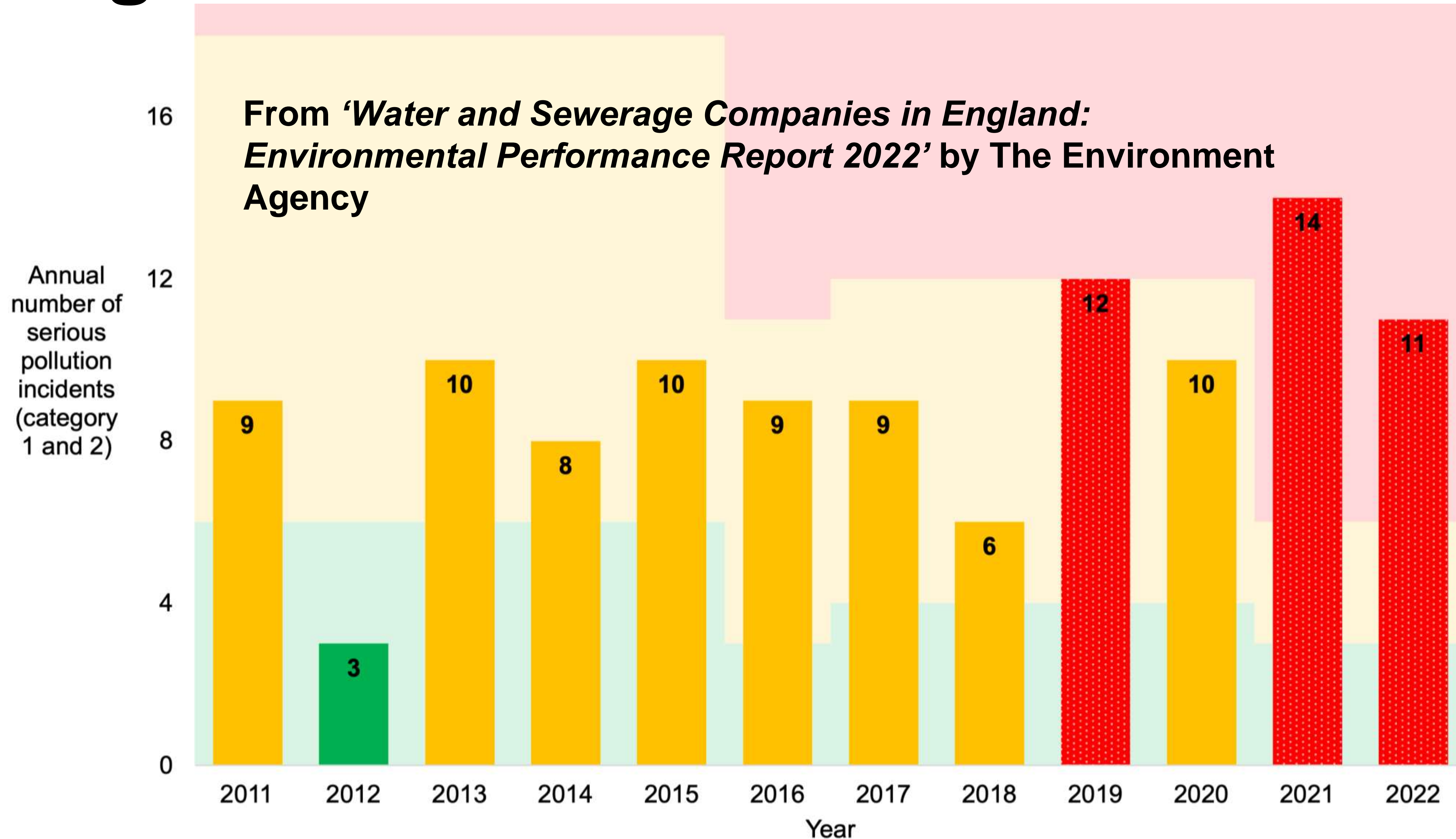
Combined (Foul + Stormwater)

Typical in British towns and cities

- Overflows (CSOs) protect property, but spill to the environment
- CSO pollution controls include
 - Debris screening
 - Storm tanks and/or increasing forward flow
 - Stormwater separation (£££)
 - Regular jetting
- Need more capital works and operating costs



Number of serious pollution incidents from Anglian Water assets



Anglian Water's CSO Plan

Monitoring

Install Event Duration Monitors (EDM's) to all 14,580 CSO's in England and Wales:-

- AWS has 1,552 (11%) CSO's
- AWS's 2022 dataset shows:
 - 68% of AWS CSO's yield EDM data (91%); 100% by end 2023?
 - 15 spills/CSO (23), 5.6 hrs/spill (5.8); or 5% of total spill hours from 11% of CSO's in England and Wales
 - for high frequency spilling CSO's, around half are due to poor maintenance



Anglian Water's CSO Plan

Investment

- Increased storage, forward flow, maintenance frequency, stormwater separation
- Spill data accuracy helps prioritise investment
- £220m during 2020-25 to reduce sewage spills
 - >100 storm tanks
 - Exploit existing data to target maintenance and operations



NO ENTRY
UNLESS AUTHORIZED
PERSONNEL
CONTACT THE WARDEN
ON 03457145145

WARNING
DO NOT TOUCH
THIS EQUIPMENT
IT IS LIVE
ELECTRICITY

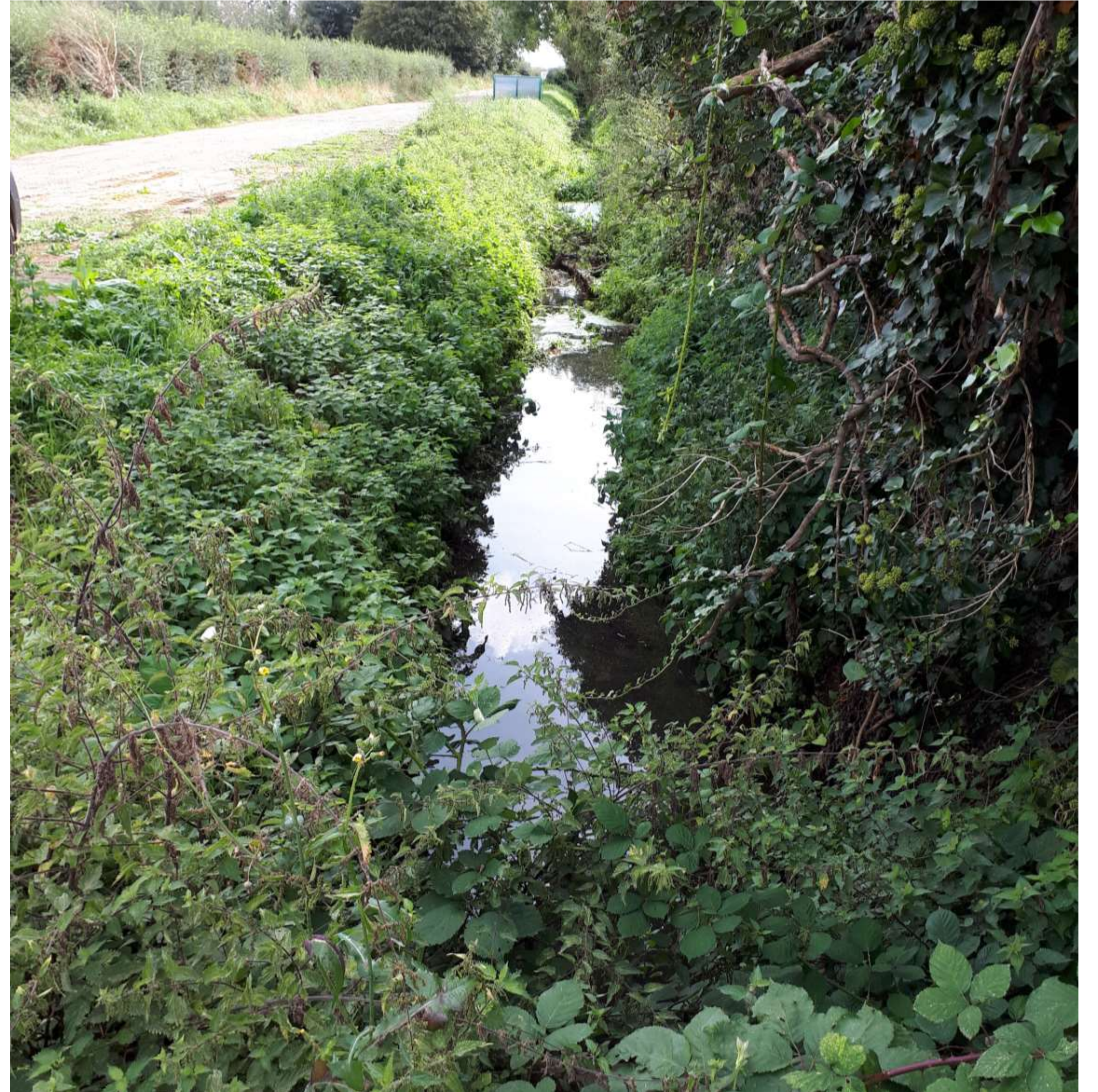
MILLITON WATCH
03457145145



Local CSO's...

Cottenham/Histon Road SP

- CSO is next to sewage pumping station on Cottenham Road south of Cottenham village
- Discharges to tributary of Beach Ditch
- Year 2022
 - 5 spills (*AW 15, all 23*)
 - 5.0 hrs/spill (*AW 5.6, all 5.8*)
 - monitor working 100% of year

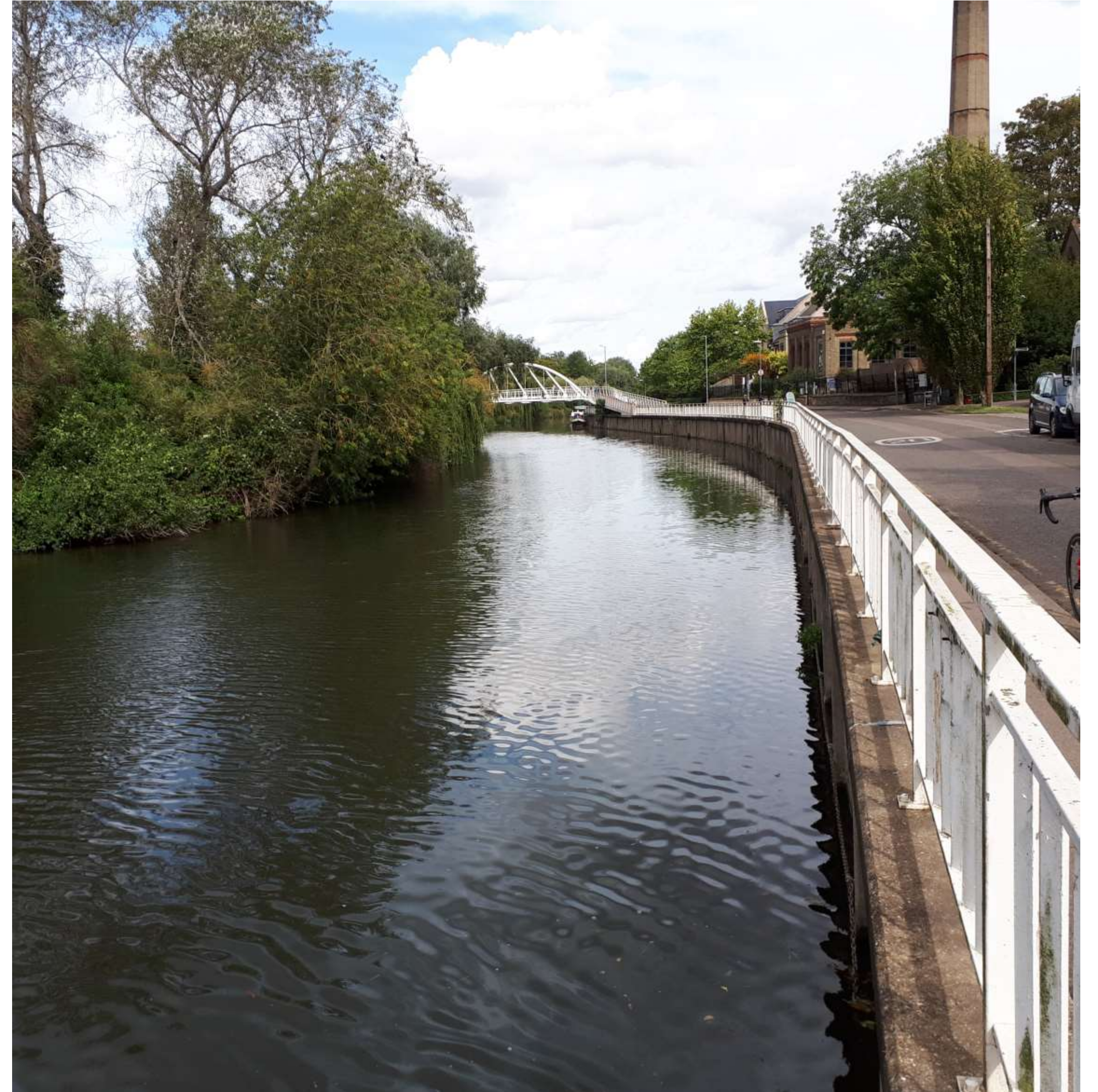




Local CSO's...

Riverside PS Cambridge

- Located at old outfall of city's sewerage system
- Year 2022
 - 2 spills (*AW 15, all 23*)
 - 0.4hrs/spill (*AW 5.6, all 5.8*)
 - Monitor working for 95.7% of year



**AWS clears 40,000 sewer
blockages each year**

....That's once/15mins

<https://youtu.be/J31m2Tr2-Jg>

What Can Householders Do...?

....Be Aware

In AW's area:-

- Sewer blockages cause 40% of pollution events
- >Half of blockages caused by FOG or 'unflushables'

Householders - please:-

- Flush only Pee, Poo, and Paper
- Challenge 'flushable' product manufacturers
- Report pollution immediately



A Crap Evening - Takeaways

1. CSO's are
 - here to stay
 - not the main cause in AW's region of sewage pollution
2. Most sewage pollution incidents in AW's region likely to have been caused by
 - lack of maintenance or operational faults
 - sewer blockages
3. Householders can help



Welcome to what we hope will not be ...



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Is it down to corporate governance?

A director of a company must act in the way he considers, in good faith, would be most likely to promote **the success of the company for the benefit of its members as a whole**, and in doing so **have regard** (amongst other matters) to—

(a)..(b)..(c)...

(d)**the impact of the company's operations on the community and the environment...** (e)...(f)...

(section 172 Companies Act 2006)

‘Success of the company’?



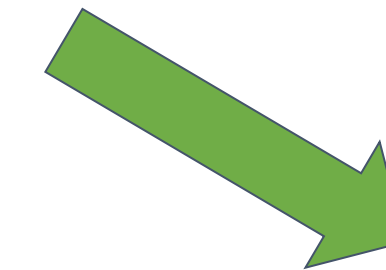
Source of environmental risk to companies?



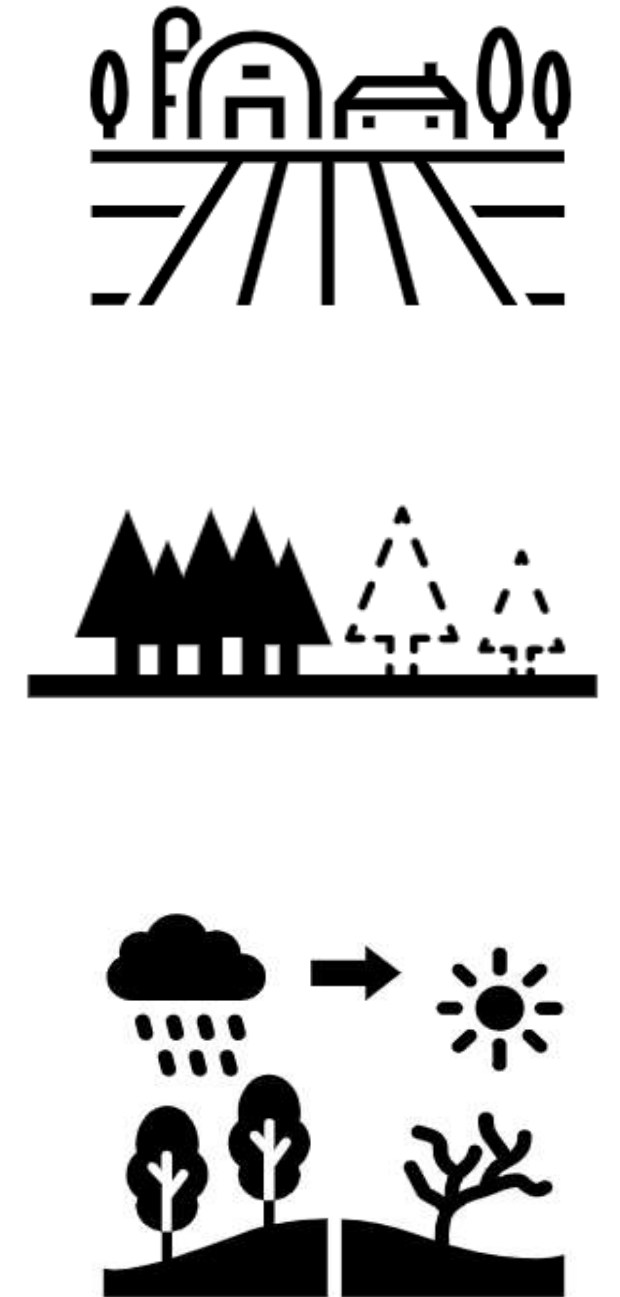
Biodiversity underpins 'ecosystem services'
(e.g. replenishing stocks of natural resources, pollination, water purification)



US\$44 trillion of economic value
(over half global GDP)
is dependent on ecosystem services



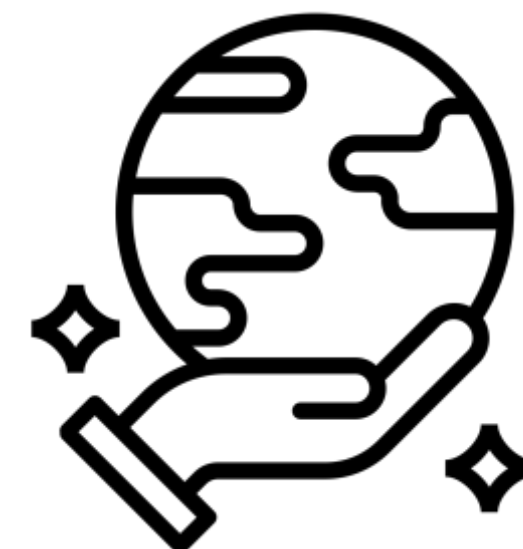
Business activities contribute to the five drivers of biodiversity loss



Biodiversity loss is occurring at 10 to 1000 times higher than that of the past ten million years



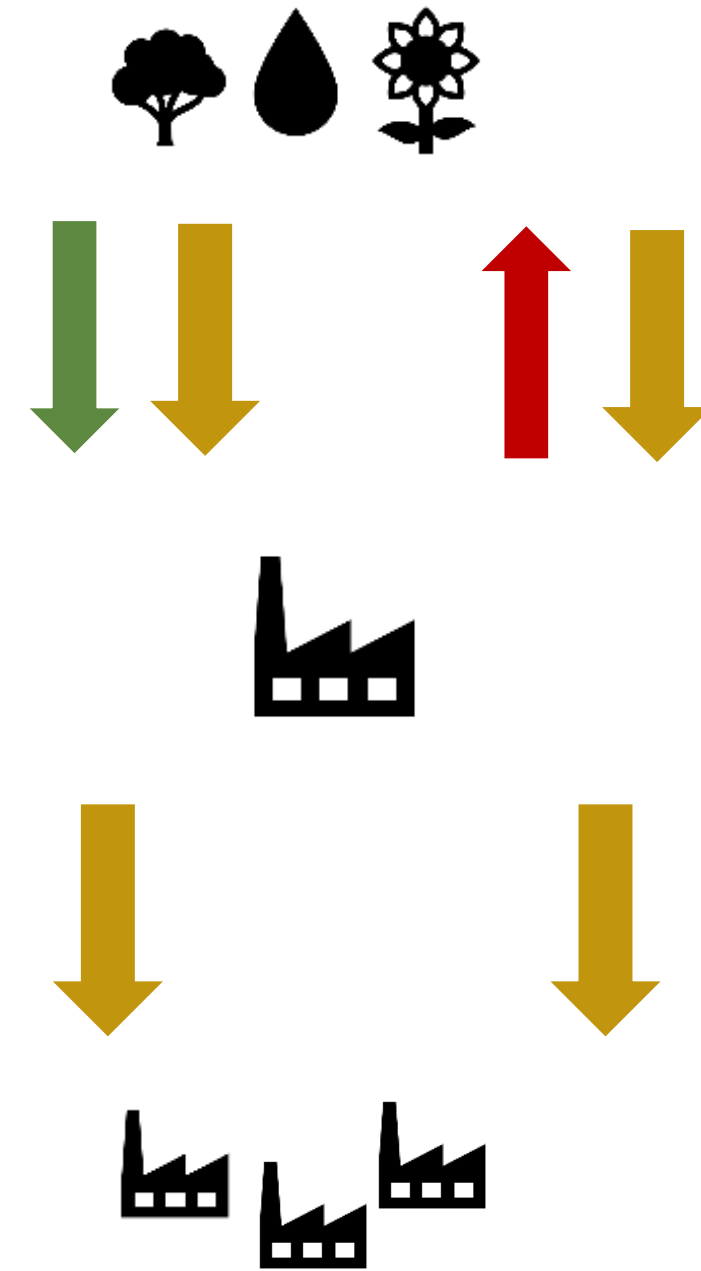
Biodiversity risk = business and financial risk



Environmental risks for companies?

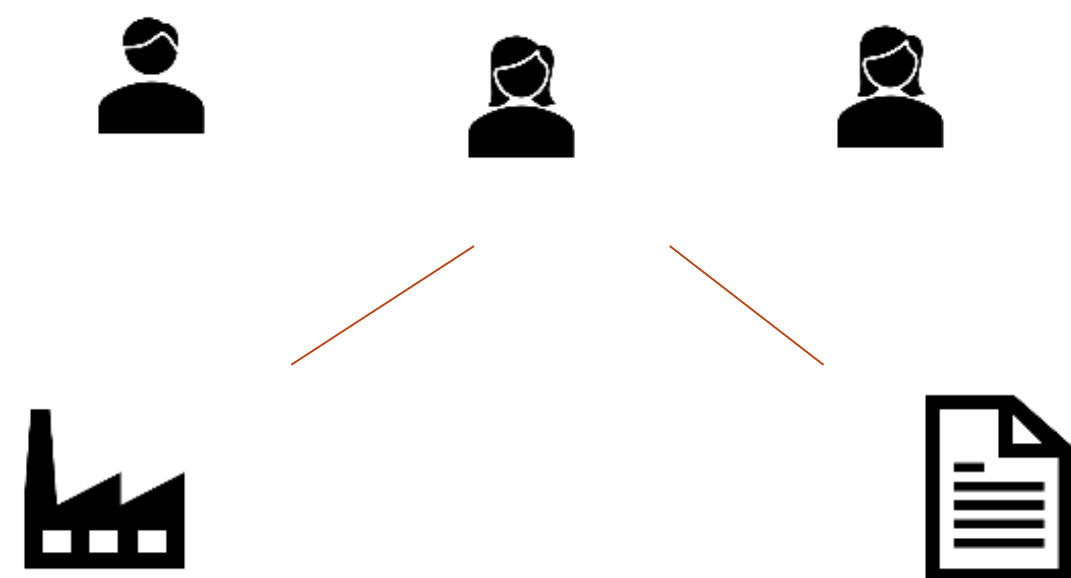
Companies **depend on** ecosystem services to produce goods and services.

Dependencies give rise to **risks and opportunities** to the company, as loss of ecosystem services can affect their business.



Companies can be responsible for **impacts** on biodiversity.

Impacts give rise to **risks and opportunities** to the company. (An impact may affect an ecosystem service on which the company depends or affect others, causing reputational or legal risk).



Company directors must consider material risks as part of their **duties** to their company.

So a company can create risks through its environmental impacts, which directors should ensure the company manages.

Can anything be done - legal action?

Shareholders can bring an action on behalf of the company if directors' are not fulfilling their duties.

Very hard to meet the procedural hurdles:

- likely to need majority of shareholders;
- directors would have to be so unreasonable no reasonable director could have made that decision in circumstances.

Recent Shell case - ClientEarth bought shares in Shell and brought a case for mismanagement of duties in relation to climate risk and emissions reduction strategy.

ClientEarth[®]



Can anything be done - greenwashing claims?

Greenwashing: advertising of environmental performance that is misleading, unsubstantiated or that omits significant information.

Sanctions?

- Regulatory action (Complain to Advertising Standards Authority)
- Claims by shareholders (if share value misrepresented)
- Reputational - naming and shaming by NGOs or media?



THE TIMES Today's sections Past six days Explore Times Radio

Investors grow wary of 'greenwashing'

Lara Wildenberg

Tuesday October 10 2023, 12.01am, The Times



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ASA Ruling on Anglian Water Services Ltd t/a Anglian Water

Upheld | Television | 14 June 2023

You're here: Home > Codes and rulings > Rulings > Anglian Water Services Ltd

Ad description

A TV ad and video on demand (VOD) ad for Anglian Water:

a. The TV ad, seen in September and October 2022, featured a girl who said "Right now Anglian Water is creating wetlands to clean water using nature and make homes for wildlife. By building a really long pipe to bring water to places that need it most, while protecting nature too. And huge tanks to collect rain so there's less chance of floods in the future. In fact, everything they do today is for tomorrow ..." A male voice-over said, "Never still, never stop. Anglian Water. Love every drop." The ad included various scenes of a wetland and the wildlife living there, fields and wildlife, tanks collecting rainwater, a wind turbine, and an Anglian Water van with text on the side that stated "100% Electric 0% Emissions".

Rights of nature?

Legal personality granted to a natural asset enabling it to bring legal action in its own right.

Probably not realistic in the UK as a legal tool in the imminent future.



The age of extinction Rivers

This article is more than 7 months old

River Ouse may become first in England to gain legal rights

Lewes council passes motion recognising Sussex river's rights to protection, amid growing concerns over pollution of waterways



The River Ouse flowing into Lewes, East Sussex, UK. It is sometimes filled with effluent from sewage plants along its course during heavy rain. Photograph: Peter Cripps/Alamy

The River Ouse is on course to be the first river in England to be granted legal rights, as part of a [growing movement](#) to bolster protection for nature through the law.

The age of extinction is supported by



About this content

Isabella Kaminski

Wed 1 Mar 2023 15:15 GMT



Who can take action?

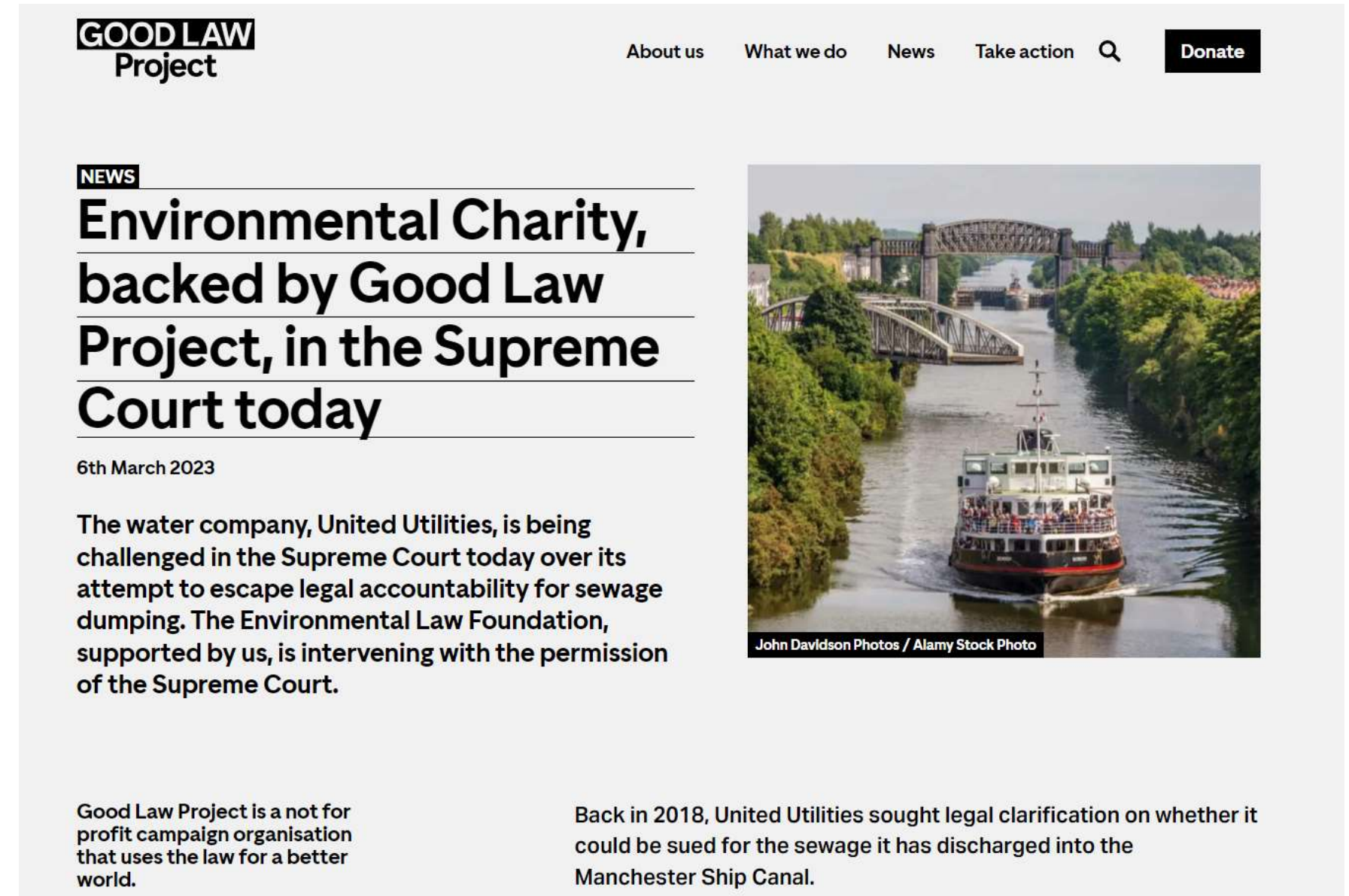
Landowners

Minority shareholders (limited chance of success)

NGOs (supporting landowners or minority shareholders)

Consumer complaints

Right of citizens to a healthy environment?




GOOD LAW Project About us What we do News Take action [Donate](#)

NEWS
Environmental Charity, backed by Good Law Project, in the Supreme Court today

6th March 2023

The water company, United Utilities, is being challenged in the Supreme Court today over its attempt to escape legal accountability for sewage dumping. The Environmental Law Foundation, supported by us, is intervening with the permission of the Supreme Court.



John Davidson Photos / Alamy Stock Photo

Good Law Project is a not for profit campaign organisation that uses the law for a better world.

Back in 2018, United Utilities sought legal clarification on whether it could be sued for the sewage it has discharged into the Manchester Ship Canal.



FINANCIAL TIMES

UK COMPANIES TECH MARKETS CLIMATE OPINION WORK & CAREERS LIFE & ARTS HTSI

Climate legislation [+ Add to myFT](#)

Portugal's Gen-Z sues dozens of governments over climate change

Six plaintiffs aged 11-24 have taken legal action at the European Court of Human Rights



Ruth Delbaere, left, and members of the global civic movement Avaaz gather in front of the European Court of Human Rights with messages of support from around the world for the six applicants in the Duarte Agostinho vs 32 governments case © Pascal Bastien/Avaaz/AP

The High Court ruled that United Utilities could not be subject to private legal action for the discharges.

We've [previously written](#) about how this decision closed off legal challenges by private individuals and businesses who are affected by sewage dumping.

In effect, it leaves enforcement action down to the regulators to carry out. But, as we have seen, the Environment Agency and Ofwat are toothless following years of Government [underfunding](#) and inaction.



THANK YOU