

Using the law to fight against sewage discharges Or The Law V The shitters! A simple guide to help everyone fight for a cleaner environment.

Back in December three manhole covers in and around Porthtowan started leaking raw sewage. We're talking liquid with lumps of human faeces and toilet paper. It was bubbling up out of the manhole covers onto the road where cars were then driving through it and spraying this over those cars, other traffic and pedestrians. The discharge down in the sand dunes formed a pool of the poop before it drained into the stream and then onto the beach.

These discharges had occurred before for at least four years. The local villagers (myself included), Parish and Cornwall councillors had met with South West Water and we had listened to reasons why it was happening and what was being done. But yet again the manholes were discharging and no-one was doing anything. I saw red or brown! I phoned the Environment Agency Pollution hotline (0800 80 70 60), South West Water and tried Cornwall Council (though no-one available as a Sunday). Nothing happened and then two days later it rained and the discharges were off again. Back on the phone and this time I quoted one law and the recommendations of a Coroner's inquest. I made it very clear to all concerned that if the problem wasn't rectified then I would seek a judicial review of their decisions. The Environment Agency had already responded that discharges from manhole covers are "illegal and unauthorised". It is one thing for CSOs to discharge but they are in licensed locations and should have warning signs on them. They should also trigger an electric record of the time and duration of the discharge. A cynic would say that for a water company to be able to discharge from a manhole prevents the CSOs operating and being logged.

The result was that South West Water cordoned off the discharge in the dunes, though no-one took responsibility for warning the public about the one in the road other than our local village social media work and the local radio stations and press (always good to go the media). South West Water had sewage tankers in 24-hour operation to reduce and then when under control stop the discharges. These carried on for ten days. They then removed the old manhole covers and installed sealed units that cannot discharge and will now, if the flow is too much, cause the CSOs to discharge. So those discharges will be logged (excuse the pun).

There were two things that I stated very clearly to the authorities and I think they have power, power that we can all use to protect our environment and the health of our communities. (I don't know for certain whether quoting these and threatening legal action did force the work but no-one seemed to have done anything before it was threatened).

1. The Environmental Protection Act 1990 Section 79 Statutory Nuisance (e). basically says that if there is a deposit or accumulation that is prejudicial to health or a nuisance then the statutory body shall (no discretion) issue an abatement notice against the polluter. This law was

the subject of a successful Judicial Review of Carrick District Council. The case was a key early success and Surfers Against Sewage were heavily involved supporting the claimants and liaising with the lawyers Leigh Day and Co and working with the media. The case is on record as Carrick V Delaney and Shelley and was taken by two amazing women Sarah Delaney and Rachel Shelley who simply wanted to be able to let their children play on the beach without the gross revulsion and/or health risk of sewage related debris being all over the beach. The Judicial Review was at the High Courts in London and set case precedent for the whole of the UK.

2. The Coroner's Inquest into the tragic death of 8 year old Heather Preen. Heather died of E Coli 0157 poisoning in 1999. Shortly after her death we (at SAS), were contacted by her parents to see if we could support them in anyway. We were also contacted by local surfers who told us of a CSO on the promenade at Dawlish. When we visited the location the CSO was clear and there was a large puddle of water with bits of human faeces and toilet paper that was on the public footpath between Dawlish and Dawlish Warren. The family confirmed that they walked along the footpath and came into contact with the contaminated puddle. We were called and gave evidence at the Coroners Inquest. During the inquest it was concluded that E.Coli 0157 can be found in sewage. The jury returned a verdict of "Death by Misadventure" not "natural causes". The Coroner recommendations called for:
 - A national database to be set up to collate and gather information on all cases of E.Coli 0157.
 - That UV disinfection should be added to the sewage treatment works for Dawlish.
 - That warning signs be erected at all Combined Sewer Overflows.

It is the second bullet point here that is relevant to sewage discharges onto the streets and beaches whether from a CSO or a random overloaded manhole. To not warn would be against the recommendations of a Coroner. If another person were to suffer such a tragic death and the water company had not acted then there could be the potential of a charge of corporate manslaughter through gross negligence.

So those are the two levers or sticks which we can all use to ramp up pressure where and when it is needed. Some water companies are better than others and act more proactively, but if they don't then hopefully we can all be a bit better armed to call for and force action.

Thanks and massive respect to all who have ever worked for or supported Surfers Against Sewage. It is that collective knowledge that is used here. Also to the Preen family, Sarah Delaney and Rachel Shelley, Charlie Hopkins the lawyer and Leigh Day and Co.

Chris Hines – February 2019. Chris was a co-founder of SAS in 1990 and headed up the organisation from 1990 to 2000. He has no involvement now other than paying his membership, something he encourages everyone to do.