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4 June 2014

From Dan Rogerson MP

Parliamentary Under Secretary of State for Water, Forestry, Rural Affairs and Resource Management

Thank you for your letter of 23 April on behalf of Councillor James Mills, Chairman of the Environment Overview and Scrutiny Committee at West Oxfordshire District Council, who expresses concern about flooding and drainage issues and recommends a change in law to protect households from sewerage system failures.

Councillor Mills notes that water companies are obliged to make alternative provision to customers in the event of a failure in the drinking water supply, but there is no comparable requirement in the event of a sewerage system failure. There are no plans to introduce such a requirement for sewerage companies.

Water and sewerage companies (WaSCs) have a legal obligation to provide effectual drainage of their areas under section 94 of the Water Industry Act 1991. Where a WaSC fails to exercise this duty, the Secretary of State is empowered to intervene to enforce compliance. This power is exercised by Ofwat. If it appears to Ofwat that a company has failed to comply with this duty, Ofwat is required, with certain exceptions, to issue an enforcement order requiring the company to put matters right.

The Consumer Council for Water (CCWater), the representative body for water consumers, has a statutory duty to investigate complaints about water and sewerage companies that have failed to satisfactorily perform their statutory duties, and may make recommendations on suitable redress. CCWater can also refer complaints to Ofwat. Once the complaint is referred to Ofwat, it will consider the matter and decide whether or not enforcement action is appropriate.

To reduce the risk and impact of surface water flooding, Government plans to, among other things, increase the uptake of sustainable drainage systems (SuDS) in new developments. SuDS are an effective way to reduce the risk of surface water flooding, SuDS do this by slowing the rate of surface water run-off and improving infiltration.

Schedule 3 of The Flood and Water Management Act 2010, once implemented, will establish a SuDS Approving Body (SAB) in each county or unitary authority. SABs will

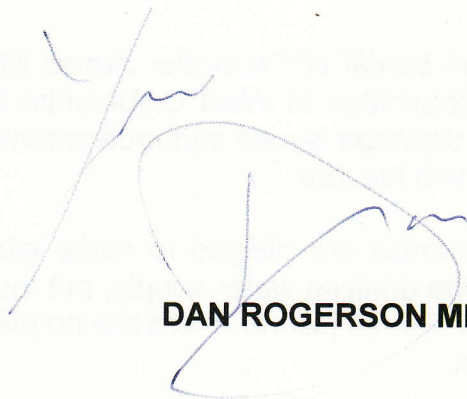


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approve drainage systems before construction begins, according to new National SuDS Standards, and adopt and maintain SuDS that serve more than one property. We will also amend the automatic right under section 106 of the Water Industry Act 1991 to connect surface water drainage to the public sewer, making it conditional on the SAB approving the drainage plans. SuDS are identified as a priority in England's National Planning Policy Framework.

The Government remains committed to implementing SuDS at the earliest available opportunity, but not in a way that affects development. While several departments are working hard on this, it has become clear that we will not be in a position to implement Schedule 3 to the Flood and Water Management Act 2010 from October 2014, as we had hoped. A statement will be made in the summer which will set out in greater detail our plans for implementation. However, we would still expect that the secondary legislation setting out the implementation date would be laid in Parliament approximately six months before that date.

You may also be aware that the Water Act 2014 included a measure to make clear that WaSCs can use SuDS to fulfil their statutory duty to effectually drain an area. The Water Act gained Royal Assent on 14 May 2014.



DAN ROGERSON MP



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