

ERCS representation to ESS

Sewage sludge regulation

Paper apart

4 November 2022

Introduction

1. This paper apart sets out the background to a representation from ERCS to ESS on the limited regulation of the use of sewage sludge.
2. The purpose of this representation is to request that ESS carries out an investigation into the effectiveness of the current legal regime on sewage sludge and issues an improvement report with specific recommendations to ensure that sewage sludge is effectively regulated.

Background to this representation

3. We have been contacted by members of the public in Falkirk in relation to the application of sewage sludge on agricultural land. They have encountered problems arising from this activity over the course of several years. Their concerns include odour nuisance, the human health and the environmental impacts of the use of sludge, the limited regulation of the practice and poor practices by those using sludge.
4. We enclose copies of recent reports commissioned by the Scottish Government regarding the environmental and human health risks and impacts associated with the use of sludge in Scotland (enclosures 1 to 4).

5. ESS may also be aware that a similar review carried out by the Environment Agency raised concerns about the contents of sludge and risks it poses to the environment and human health.¹
6. In February 2016, the Scottish Government published its final recommendations following a review of the storage and spreading of sewage sludge on land in Scotland ('the Sludge Review' – enclosure 5).
7. The Sludge Review noted that public complaints had been made to the authorities, principally to SEPA, regarding the use of sewage sludge on land. The Sludge Review acknowledged that "stakeholder feedback indicates that there is a need for greater consistency, and greater public confidence, in the way sewage sludge is handled and used."²
8. The Sludge Review's recommendations included that:
 - The Safe Sludge Matrix should be incorporated into law in Scotland.³
 - The Safe Sludge Matrix should be updated.⁴
 - A 'fit and proper person' test for all operators who are 'allowed to undertake handling, storage, transportation and spreading of material for both agricultural and land restoration purposes' should be introduced.⁵
 - 'Whole project life' licences for long-term land restoration projects should be introduced, with SEPA as the designated regulator for such licences.⁶

¹ See <https://unearthed.greenpeace.org/2020/02/04/sewage-sludge-landspreading-environment-agency-report/>.

² 'Review of the Storage and Spreading of Sewage Sludge on Land in Scotland (The Sludge Review): Final Recommendations', Paragraph 15.

³ Ibid.

⁴ Ibid.

⁵ Paragraph 17.

⁶ Paragraph 18.

- Where the storage of sewage sludge causes long-term odour problems, SEPA should have the power to have exempt activities, such as storage of sewage sludge, stopped immediately and the sludge removed.⁷
- The Scottish Government and SEPA should investigate reducing the on-site agricultural use storage time limit for sewage sludge from 6 months, with a view to introducing risk-based case by case variance of time limits.⁸
- There should be tighter monitoring of operators by SEPA in general, allowing SEPA to intervene where necessary.⁹

9. We understand that there has been limited – if any – implementation of the recommendations of the Sludge Review.

Correspondence with the Scottish Government

10. We understand that in order to implement the recommendations of the Sludge Review, a consultation will first be required.

11. Two written parliamentary questions have been asked by MSPs to the Scottish Government in order to obtain a consultation start date. Both responses from the Scottish Government referred to a consultation on the implementation of the recommendations of the Sludge Review in “the coming months”.¹⁰

⁷ Paragraph 22.

⁸ Paragraph 23.

⁹ Paragraph 24.

¹⁰ On 12 July 2021, Gillian Mackay MSP asked question S6W-01191, “To ask the Scottish Government what action it has taken to (a) consult on and (b) implement the recommendations in its paper, Review of the Storage and Spreading of Sewage Sludge on Land in Scotland (The Sludge Review).” Michael Matheson MSP answered the question on 4 August 2021 as follows, “The legislative changes recommended by the review are being introduced via the Integrated Authorisation Framework regulations, however the progression of the regulations was paused due to Covid-19. We have now recommenced taking this work forward and a consultation process will take place in the coming months.” On 4 March 2022, Stephen Kerr MSP asked question S6W-06979, “To ask the Scottish Government what action it will be taking further to the release of the James Hutton Institute report on the

12. On 12 July 2022 we wrote to Mairi McAllan MSP, Minister for Environment, Biodiversity and Land Reform (enclosure 6). We asked Ms McAllan to confirm the consultation start date and to clarify the scope of the consultation.
13. On 5 August 2022 we received a response which stated that the consultation was scheduled for October 2022 (enclosure 7).
14. On 17 October 2022 we received an email from a member of the Scottish Government's Zero Waste Team. Said email explained that the consultation paper on the changes to sewage sludge legislation has been "put back until January 2023" (enclosure 8).
15. We are concerned that the Scottish Government appears to have deprioritised the reforms which it accepts are necessary in this area, and that the consultation date will be further delayed beyond January 2023. Given the history of delay to the implementation of the recommendations of the Sludge Review, we have little confidence that the Scottish Government will adhere to the January 2023 date.
16. The members of the public from Falkirk are concerned that little progress has been made since the Sludge Review was published, and the issues which the Review identified in terms of the use of sewage sludge remain unchanged.

impacts of sewage sludge." Mairi McAllan MSP answered the question on 22 March 2022, "Whilst there was no new evidence in the James Hutton Institute report to suggest a significant risk to human health or wellbeing in respect to the use of sewage sludge, my officials will continue to engage with both SEPA and Scottish Water regarding the report, to ensure the risk assessment and appropriate, recommended mitigations are in place. The legislative changes recommended by the review of the Storage and Spreading of Sewage Sludge on Land in Scotland (The Sludge Review), are being introduced via the Integrated Authorisation Framework regulations, which are currently being progressed and will be consulted on in the coming months."

Outcomes sought from this representation

17. We respectfully request that ESS carries out an investigation into the matters raised in this representation, with a view to issuing an improvement report which includes comprehensive, specific and time-limited recommendations, to ensure that the Scottish Government strengthens the applicable law relating to the use of sewage sludge.

Annex – documents enclosed with this representation

1. Rupert Hough *et al*, 'Human Health Risk Assessment of Potentially Hazardous Agents in Land-Applied Sewage Sludge' (2018).
2. James Hutton Institute, 'The impacts on human health and environment arising from the spreading of sewage sludge to land (CR/2016/23): Sewage sludge processing systems in Scotland' (2018).
3. Steve Peirson, 'A Comparison of Odour Emission Rates from Three Different Types of Sewage Sludge Cakes (Bio-solids)' (2018).
4. Rupert Hough *et al*, 'Community Concerns regarding the Impacts on Human Health and the Environment arising from the spreading of Sewage Sludge to land' (2018).
5. Scottish Government, 'Review of the Storage and Spreading of Sewage Sludge on Land in Scotland (The Sludge Review)' (2016).
6. ERCS letter to Mairi McAllan MSP dated 12 July 2022.
7. Scottish Government letter dated 5 August 2022.
8. Scottish Government update email dated 17 October 2022.