



Department
for Environment
Food & Rural Affairs

Consultation on the proposal to remove Instow from the list of designated bathing waters **Summary of responses**

March 2018



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Background

The objective of the Bathing Water Regulations 2013 (S.I. 2013/1675) (“the Regulations”) is to protect bathers’ health against faecal pollution. Popular beaches and inland waters that attract a large number of bathers are designated as bathing waters and water quality is monitored for compliance with the standards that are set out in Schedule 5 of the Regulations. Monitoring is carried out during the bathing season, which in England runs from 15 May to 30 September.

The Environment Agency (EA) has proposed Instow for de-designation as a bathing water under Regulation 13 (2)(b), which states that the appropriate agency must issue permanent advice against bathing in respect of a bathing water if *“having consulted the local authority that controls the bathing water, the appropriate agency advises the appropriate Minister that it considers that it would be infeasible or disproportionately expensive for the bathing water to achieve a classification of “sufficient” and the appropriate Minister accepts that advice.”* The EA considers that it would be infeasible to improve water quality to achieve a “Sufficient” classification.

Instow Parish Council, the local authority responsible for managing the beach, is in favour of de-designation.

Detailed information is available in the bathing water profile for Instow:

http://environment.data.gov.uk/bwq/profiles/profile.html?_search=instow&site=ukk4304-34000

Analysis of responses

Defra held a national consultation on the proposal to remove Instow from the list of bathing waters between 28 March and 9 May 2017. There were 31 responses to the consultation.

- Six responses were in favour of de-designating Instow as a bathing water;
- 22 responses were opposed to de-designation;
- One respondent had no objection to the proposal but noted that this should not be taken as an acceptance of poor water quality;
- One respondent commented that, as the consultation did not indicate the cost of implementing each of the three scenarios that were described or what level of reduction in faecal pollution would be needed to achieve Sufficient classification it was not possible to comment on the suitability of the options.
- One response did not express a view on the proposal.

A further response, which opposed de-designation, was submitted anonymously and therefore was not eligible to be included in the total.

Of the 22 respondents who opposed de-designation, 21 offered an explanation as to why they held this view.

Fifteen commented on the high number of people using the beach and its importance to the local tourism economy. Five of these referred to the popularity of the estuary for water sports and felt that the designation should be retained to protect those using the whole estuary for recreation.

- The Regulations do not apply to areas used for water sports.

One commented that the number of bathers quoted in the consultation is underestimated.

- It should be noted that low usage is not the reason for considering de-designation at this site; the proposal is based on the infeasibility of improving water quality to achieve a classification of "Sufficient".

Five respondents questioned whether water company pollution could be contributing to low water quality.

- Since the late 1980s South West Water has invested £75 million in capital improvements to its infrastructure across the catchment, mainly targeted at bathing and shellfish waters. Major improvements have been made to the sewerage system, including the installation of secondary treatment and ultraviolet disinfection at the sewage treatment works, and there has been a successful campaign to correct misconnections to the surface water system.

One respondent commented on the improvement work planned by South West Water that is due for completion by April 2019. They felt that no decision should be made until the work has been completed and its impact assessed.

- The assessments already carried out by the EA indicate that the available improvements that can be carried out by the water company will not raise the classification to Sufficient.

Another respondent queried the statement in the bathing water profile for Instow that pollution is higher after heavy rain because the profile does not include rainfall data.

- Instow is one of the bathing waters covered by the EA's Pollution Risk Forecasting system, where pollution is known to increase after heavy rainfall because contaminants from livestock, sewage and urban run-off are carried into the sea by streams and rivers. Although rainfall data is not available in the profile, it provides a daily pollution update during the bathing season to warn when the system has predicted a risk of increased pollution.

Four respondents referred to the impact of pollution from agriculture and felt that farmers should be encouraged to farm in a way that protects water quality from pollution.

- Since 2013 the Devon Agricultural Pollution Project has been working with the Catchment Sensitive Farming partnership to deliver advice and grants to farmers throughout much of the catchment, concentrating on faecal contamination and livestock management. A total of £1.4 million has been spent on agricultural improvements, drawn from a combination of EA Grant in Aid, Catchment Sensitive Farming and farmers' own contribution.

Another respondent commented that the Nitrate Vulnerable Zone (NVZ) is poorly enforced around the estuary, with nitrogen rich organic matter being spread during the closed period between September and January.

- If this happens, it would not affect bathing water quality during the bathing season when water quality is monitored. NVZs offer additional environmental protection from pollution from agriculture. The rules are enforced by the EA and the Rural Payment Agency. Any concerns about a pollution event can be reported to the EA's incident hotline (Telephone: 0800 80 70 60).

Four respondents referred to dogs fouling the beach.

- There are no requirements for controlling dogs in the Regulations.

Two respondents were concerned that poor water quality at Instow could affect nearby bathing waters.

- Instow is an estuarine bathing water and its situation on the confluence of the Taw and Torridge rivers means that it receives less dilution from the sea than the nearest bathing waters, Westward Ho! and Saunton Sands, which are in coastal locations. The bathing water profile for Westward Ho! indicates that the estuary may have an impact on water quality at certain stages of the tide, but it is not referred to in the profile for Saunton Sands. Both were classified as Excellent in 2017. The bathing water profiles for can be seen at the following links:
http://environment.data.gov.uk/bwq/profiles/profile.html?_search=westward&site=uk4307-33900
http://environment.data.gov.uk/bwq/profiles/profile.html?_search=saunton&site=uk4304-34100

The response from Devon Wildlife Trust opposed de-designation but did not refer to bathing. The estuary supports the only population in southern England of freshwater pearl mussels, which are particularly susceptible to agricultural pollution, and is part of the "Restoring Freshwater Mussel Rivers in England" project, which is delivered through a partnership between Devon Wildlife Trust, the Freshwater Biological Association and Westcountry Rivers Trust. The project works in partnership with local communities and stakeholders, and there is concern that de-designation as a bathing water would reduce efforts to improve water quality and would be perceived as a weakening of government commitment. Two other respondents also referred to the protection of wildlife and sea life.

- As there are commercial shellfisheries in the estuary, it is designated as a Shellfish Protected Area under the Water Framework Directive (2000/60/EC) and is

protected by the Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016 (S.I. 2016/138). The limits for intestinal enterococci and *E.coli* set by the Bathing Water Regulations focus on human health, whereas the Water Framework Directive is designed to protect the ecological health of the water body. Additionally, the estuary is within the Bideford to Foreland Point Marine Conservation Zone, which was designated in 2016. This means that specific features within the area are protected and, where necessary, regulators will manage marine activities. Detailed information is available here: <https://www.gov.uk/government/publications/marine-conservation-zones-bideford-to-foreland-point>. The ecology of the estuary and the shellfish growing within it would not be affected by the de-designation of Instow as a bathing water.

The response from the Marine Conservation Society (MCS) commented that, as the consultation did not indicate the cost of implementing each of the three scenarios that were described or what level of reduction in faecal pollution would be needed to achieve Sufficient classification, it was not possible to assess whether improvement is infeasible or disproportionately expensive. Another respondent also commented that the consultation does not give costings for each scenario.

- The consultation document states that none of the measures proposed in the scenarios, including catchment scale landscape change, would improve water quality to achieve Sufficient classification. Costings were not given because the proposal to remove Instow from the list of bathing waters is based on the infeasibility of improving water quality to the level of Sufficient classification rather than the cost of trying to do so.

Two respondents commented that monitoring should be maintained in order to provide public information on water quality.

- If the bathing water is de-designated Instow Parish Council, as the responsible local authority, would be required by the Regulations to display a notice at the beach stating that permanent advice against bathing has been issued and that the site is no longer a bathing water, and give the reasons.

MCS suggested in its response that, in the event of de-designation, permanent advice against bathing should be issued for longer than the statutory period of one bathing season.

- There is no provision in the Regulations to require this advice to be provided for a longer period.

Final decision

The EA has assessed that it is technically infeasible that the water quality at Instow can meet the minimum classification of 'Sufficient' and therefore will be removed from the list of designated bathing waters in line with Regulation 13(2)(b) before the start of the 2018 bathing season and permanent advice against bathing will be introduced at the beach.

List of respondents

Devon Wildlife Trust

Instow Parish Council

Marine Conservation Society

South West Water

Taw Torridge Estuary Forum

26 private individuals