



# HOUSE OF LORDS

Industry and Regulators Committee

House of Lords  
London  
SW1A 0PW  
Tel: 020 7219 2785  
[hindustryregulators@parliament.uk](mailto:hindustryregulators@parliament.uk)

18 September 2023

The Rt Hon Thérèse Coffey MP  
Secretary of State for Environment, Food and Rural Affairs  
Department for Environment, Food and Rural Affairs  
Seacole Building  
2 Marsham St  
London  
SW1P 4DF

Dear Secretary of State,

Thank you for your appearance before the Industry and Regulators Committee on 25 January 2023. The Committee published its subsequent report, *'The affluent and the effluent: cleaning up failures in water and sewage regulation'*, in March, and we thank you for the Government's response to the report in June, although we regret its dismissive brevity and complacent tone, which we believe amounts to a cursory approach to these vexing problems. We object to the apparent insinuation that our conclusions and recommendations were outside the scope of our inquiry, which appears to be an attempt to avoid parliamentary scrutiny. It is for parliamentary committees to determine the subjects of their own inquiries. Broader water policy and regulation and the relationship between the Government and regulators are highly relevant subjects when considering the work of Ofwat.

Since our report's publication there have been a number of relevant developments in water policy and regulation, including the publication of the Government's *Plan for Water* in April 2023, Water UK's apology on behalf of England's water and sewage companies for sewage spills and plans for a transformation programme in May 2023, and the Government's announcement on changes to nutrient neutrality rules in August 2023. As a number of these developments were of direct relevance to our conclusions, we launched a short follow-up inquiry into Ofwat, the water industry and the role of Government in June. We held five evidence sessions, including hearing from Water UK, water companies, Ofwat and your departmental colleagues Rebecca Pow MP (Minister for Environmental Quality and Resilience) and Davide Minotti (Deputy Director, Water Services). This letter contains the conclusions and recommendations of this follow-up work (in bold), to which we expect a written reply.

## *Investment and bills*

Our report emphasised the "huge level of investment" required to reduce storm overflow discharges, calling on the Government to set out how this investment will be funded and on companies to take the lead in meeting most of the costs. We concluded that the Government needed to give Ofwat strong, clear guidance on how trade-offs between affordability and bills should be made. The report found that water bills are likely to rise to cover investment, meaning it is "essential" that support is provided to vulnerable customers. We recommended

the introduction of a single social tariff to end the current postcode lottery of support schemes in different areas.<sup>1</sup>

In its response to our report, the Government explained that it did not intend to update its strategic guidance to Ofwat. The response also said that the Government had no plans to introduce a single social tariff, despite the Government having previously indicated that it would consult on a new affordability scheme.<sup>2</sup> The *Plan for Water* includes the acceleration of £1.6 billion of new water company infrastructure but provides little information on how the Government intends to tackle the trade-off between infrastructure investment and customer bills, instead expressing its hope to deliver “significant new investment” without “disproportionately large increases to customer bills”.<sup>3</sup>

The Government’s *Storm Overflows Discharge Reduction Plan* estimated that £56 billion of investment would be needed to meet the Government’s targets to reduce sewage discharges between 2025 and 2050.<sup>4</sup> Water UK this summer said that companies are ready to invest up to £10 billion between 2025 and 2030 to deliver on the Government’s ambitions,<sup>5</sup> which in the Committee’s analysis represents a lower annual amount than would be needed to invest £56 billion by 2050. Water UK Chief Executive David Henderson told us that this investment is “about as fast” as the sector can manage given the constraints in the supply chain and the wider economy.<sup>6</sup> Minister Pow said that the £10 billion of investment is “not new money” and represents companies responding to what the Government had already asked them to do. She acknowledged that it is “government’s and Parliament’s role to determine what we deem affordable for the public and businesses”.<sup>7</sup>

Investors raised questions about the attractiveness of further investment in the sector. In written evidence, the Global Infrastructure Investors Association (GIIA) said that the regulatory framework has “systemically restricted rather than promoted investment” through “a conscious decision to prioritise lower bills” rather than addressing long-term requirements, which has “stored up problems for the future”. GIIA called on the Government to provide guidance to Ofwat about “how to strike the balance between funding from today’s customers and from future generations”.<sup>8</sup> Ofwat Chief Executive David Black suggested that a lot of environmental investment is set by the Environment Agency through the Water Industry National Environment Programme, meaning that Ofwat does not have the discretion to disallow it.<sup>9</sup> Both Ofwat and the Minister emphasised that the sector remains attractive for

---

<sup>1</sup> Industry and Regulators Committee, [The affluent and the effluent: cleaning up failures in water and sewage regulation](#) (1st Report, Session 2022-23, HL Paper 166), p 17, 32, 43

<sup>2</sup> Industry and Regulators Committee, [Government response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent: cleaning up failures in water and sewage regulation](#) (June 2023), p 2-4

<sup>3</sup> Department for Environment, Food and Rural Affairs, [Plan for Water: our integrated plan for delivering clean and plentiful water](#) (April 2023), p 26, 36

<sup>4</sup> Department for Environment, Food and Rural Affairs, [Storm Overflows Discharge Reduction Plan](#) (August 2022), p 7

<sup>5</sup> Water UK, [Water and sewage companies in England apologise for sewage spills and launch massive transformation programme](#) (May 2023)

<sup>6</sup> [Q 9](#) (David Henderson)

<sup>7</sup> [Q 64](#) (Rebecca Pow MP)

<sup>8</sup> Written evidence from the Global Infrastructure Investors Association ([OFU0005](#))

<sup>9</sup> [Q 43](#) (David Black)

investment<sup>10</sup>, but GIIA suggested that investor confidence has “deteriorated significantly and is most probably at an all-time low”.<sup>11</sup>

Witnesses to our follow-up inquiry expected water bills to rise to fund the necessary increase in investment.<sup>12</sup> Water UK David Henderson said that while some companies are funding some of the storm overflow improvements by their own means, “the large bulk” will fall on customers as it is additional spending on new activity, rather than catch-up spending on existing commitments.<sup>13</sup> Ofwat Chief Executive David Black argued that it would be “challenging” to make a distinction between companies catching up on their current obligations and where they are going beyond existing standards, suggesting that live enforcement actions by Ofwat and the Environment Agency against companies would help to establish this. Black said that Ofwat understands that all companies are planning to request a bill increase and most companies are looking at “quite significant” bill increases.<sup>14</sup>

David Henderson stressed that water companies are providing £200 million of additional support to customers struggling with their bills, explaining that all companies have a social tariff but that more investigation is needed of the full implications of moving to a single social tariff.<sup>15</sup> Water UK Director of Policy Stuart Colville said that many in the industry are supportive of a single social tariff but there is now “probably not time” to introduce one before the next Price Review, meaning that existing support will be built on due to the likely increase in bills.<sup>16</sup> The Global Infrastructure Investors Association told us that it recommended “re-initiating work on social tariffs for the sector and giving Ofwat guidance on how companies should recover costs from different categories of customer”.<sup>17</sup> DEFRA’s Davide Minotti noted that the support provided by companies can range “from £62 to £292”, showing that “some water companies are really helping their customers a lot, and others less so”.<sup>18</sup> Minister Pow said that the Government is “looking at possibly standardising the tariffs and universal eligibility criteria”, but that this would be “more like guidance” rather than a single social tariff.<sup>19</sup>

**Significant past underinvestment in the sector has left a cumulative backlog of investment in the face of the significant challenges of reducing water pollution and increasing water supply. The need for investment in the sector is huge. However, despite the publication of a National Water Strategy, the Government has not clarified its view on how this should be paid for, beyond relying on the current regulatory system. The water industry’s proposed investment, if approved, still represents less than the annual amount required to meet the Government’s storm overflows targets, showing the need for greater investment. We do not share the confidence of the regulator and the Minister that the sector will be able to attract this investment under current regulatory arrangements.**

---

<sup>10</sup> [Q 36](#) (David Black), [Q 64](#) (Rebecca Pow MP)

<sup>11</sup> Written evidence from the Global Infrastructure Investors Association ([OFU0005](#))

<sup>12</sup> [Q 3](#) (Professor Jim Hall), [Q 10](#) (David Henderson), [Q 46](#) (David Black), [Q 64](#) (Rebecca Pow MP)

<sup>13</sup> [Q 10](#) (David Henderson)

<sup>14</sup> [Q 46](#) (David Black)

<sup>15</sup> [Q 15](#) (David Henderson)

<sup>16</sup> [Q 15](#) (Stuart Colville)

<sup>17</sup> Written evidence from the Global Infrastructure Investors Association ([OFU0005](#))

<sup>18</sup> [Q 68](#) (Davide Minotti)

<sup>19</sup> [Q 68](#) (Rebecca Pow MP)

**The Government should set out what action it intends to take to increase investment in its response to this letter.**

**Decisions on the balance between affordability and investment, and between current customers and future generations, involve distributional trade-offs and strategic consequences for the country that should be guided more directly by elected politicians rather than being left to regulators. The Government's Strategic Policy Statement to Ofwat and the Plan for Water do not provide sufficient guidance to the regulator on how it should make these trade-offs, risking continued under-investment in the sector despite the strategic challenges facing it.**

**It is understandably difficult to make decisions that risk increasing bills in the current environment but continued under-investment will also have serious long-term consequences for the environment and the security of water supplies, risking the possibility of future water shortages and further degradation of the country's waterways. The Government should provide leadership and set out its view on these trade-offs clearly and urgently before decisions are made on the next Price Review.**

**We believe it is inevitable that water bills will increase, given the huge need for investment. Accordingly, we are disappointed that the Government did not proceed with a single social tariff as it had previously planned to ensure consistent support for those struggling to pay their bills. Water companies already provide social tariffs but the differences between them mean that support remains a postcode lottery at a time when financial pressures on households are increasing. It is welcome that the Government is aiming for greater standardisation of eligibility and support. However, we are concerned that the Government will only be providing standardisation through guidance, especially given low levels of public trust in water companies. Having heard evidence that it is now too late to introduce a single social tariff before the next Price Review, we urge the Government to announce its proposals on social tariffs as soon as possible.**

#### *Financial resilience, dividends and debt*

In our report, we expressed concern that a number of water companies have prioritised maximising financial returns, including by increasing debt levels, at the expense of operational performance and protecting the environment. We also called for Ofwat to consider whether to be more proactive in using its special administration powers to change the management of consistent poor performers.<sup>20</sup>

On 20 March 2023, Ofwat announced new powers enabling it to stop the payment of dividends if they would risk the financial resilience of the company in question, and to take enforcement action against water companies that do not link dividend payments to performance. This change requires company boards to take account of their performance –

---

<sup>20</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 56, 59

for customers and the environment – when deciding whether to make dividend payments.<sup>21</sup> In our report, we welcomed Ofwat’s proposals.<sup>22</sup>

In late June, after we had begun our follow-up work, a number of news reports raised concerns about the financial situation of Thames Water and its ability to repay its debts and suggested that the Government and Ofwat had begun discussions about using the special administration regime.<sup>23</sup> On 10 July, Thames Water published its annual results, including the announcement of a further £750 million of equity funding in the current Price Review period, subject to conditions such as “appropriate regulatory arrangements”. Thames’ shareholders also acknowledged the likelihood of additional equity support requirements in the next Price Review period (2025-30), which are expected to be in the region of £2.5 billion.<sup>24</sup>

Thames Water argued in written evidence to the Committee that the provision of additional equity “represents the largest ever equity support package provided to a water company since privatisation”. The company also emphasised that its regulatory gearing was at 77.4%, “its lowest in a decade”, in March 2023. Thames suggested that its debt structure provides efficient access to debt markets which it otherwise would not have, bringing “long term benefits to customers through lower bills”. The submission argued that Ofwat’s licence changes “may have unintended consequences which could cause poor outcomes” and “may materially reduce the attractiveness of the sector to equity investors”, potentially restricting the pool of investors at a time when the sector “is facing an unprecedented need for new investment”.<sup>25</sup>

Ofwat Chief Executive David Black told us that some of the reports about Thames Water had overstated concerns as the company’s liquidity gives it the ability to weather its present issues but noted that investors have become “more concerned about the successful turnaround of the company”. He stressed that financial issues are most acute at Thames and that other companies Ofwat has raised concerns about, such as Southern Water and Yorkshire Water, are raising equity. Black argued that Ofwat now has the safeguards to stop cash moving out of companies, which it did not have previously, while noting “huge resistance” to these safeguards from companies and investors. He said that there is a high bar for special administration to be used and emphasised that private equity funding still has a role in the sector, but argued that there is a need for engaged, long-term investors.<sup>26</sup>

Minister Pow said that Thames Water is “nowhere near” requiring special administration, stressing the greater certainty provided by shareholders with its annual results. She told us that there is “a balance that has to be struck” between regulatory intervention and investor attractiveness, arguing that investors “want certainty and clear guidance”.<sup>27</sup> Accordingly, the Global Infrastructure Investors Association told us that it recommends the establishment and reinforcement of “outcomes-based 2050 targets” as part of a long-term plan for the sector.<sup>28</sup>

---

<sup>21</sup> Ofwat, [Ofwat announces new powers on water company dividends](#) (March 2023)

<sup>22</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 59

<sup>23</sup> Sky News, [Ministers weigh contingency plan for collapse of Thames Water](#) (June 2023)

<sup>24</sup> Thames Water, [Thames Water Utilities Limited Full Year Results for the twelve months ended 31 March 2023](#) (July 2023)

<sup>25</sup> Written evidence from Thames Water ([OFU0003](#))

<sup>26</sup> [QQ 33-35, Q 45](#) (David Black)

<sup>27</sup> [Q 59](#) (Rebecca Pow MP)

<sup>28</sup> Written evidence from the Global Infrastructure Investors Association ([OFU0005](#))

**We continue to welcome Ofwat’s new powers in relation to financial resilience and dividends. The current situation at Thames Water only strengthens the argument that it has been too easy for companies to get themselves into financial difficulty. However, these regulatory requirements do further affect the attractiveness of the sector to investors at exactly the point at which investment needs to sharply increase. Faced with high debt levels, an investment backlog and increasingly reluctant equity owners, it is possible that some companies will be in an uncertain position for some time. Even with its new powers, we believe Ofwat will find it difficult to ensure the required investment while managing the financial positions of these companies.**

**Long-term certainty is crucial in increasing the attractiveness of the sector and we call on the Government to provide long-term, outcomes-based targets for the key areas of investment need in the sector, particularly in relation to infrastructure investment.**

### *Competition*

In our report, we recommended that the Government should consider legislating to ensure that special purpose vehicles<sup>29</sup> can be used much more frequently.<sup>30</sup> In response, the Government said that it is working with Ofwat to explore its recommendations in this area<sup>31</sup>, while the *Plan for Water* sets out that the Government will be supporting innovative financing arrangements and encouraging companies to use more competitive tendering.<sup>32</sup>

Witnesses outlined their expectation that there will be a greater use of competition in the provision of large water infrastructure projects.<sup>33</sup> The National Infrastructure Commission’s Ed Beard said that it would be helpful for the Government to amend the thresholds by which projects can qualify for competitive processes<sup>34</sup>, while Stuart Colville said that Water UK can see the argument for amending thresholds<sup>35</sup>. Ofwat Chief Executive David Black said that Ofwat foresees a greater use of competition and special purpose vehicles but stressed that Ofwat is already using its Direct Procurement for Customers (DPC) regime, through which companies put large projects out for competitive tender.<sup>36</sup> Minister Pow said that work is underway on this topic but stressed the pathfinder projects running through the DPC route.<sup>37</sup>

**We welcome that the Government is actively working on increasing competition in the provision of water infrastructure, given the financial and practical constraints faced by water companies. We reiterate our view that the Government should legislate to remove the scale and complexity test from the Water Industry Act 1991 and the Specified Infrastructure Project Regulations to**

---

<sup>29</sup> Special purpose vehicles allow third parties to compete to provide new water infrastructure rather than it being built by the incumbent water company, as in the case of the Thames Tideway Tunnel project.

<sup>30</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 29

<sup>31</sup> [Government response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 3

<sup>32</sup> [Plan for Water: our integrated plan for delivering clean and plentiful water](#), p 64

<sup>33</sup> [Q 3](#) (Ed Beard), [Q 11](#) (Stuart Colville), [Q 48](#) (David Black)

<sup>34</sup> [Q 3](#) (Ed Beard)

<sup>35</sup> [Q 11](#) (Stuart Colville)

<sup>36</sup> [Q 48](#) (David Black)

<sup>37</sup> [Q 70](#) (Rebecca Pow MP)

**allow special purpose vehicles to be used much more frequently. We urge the Government to complete its work on this issue and act in a timely manner, including by setting clear thresholds for when the different competitive models should be used. We request an update on this in response to this letter.**

### *Future water supply*

In our report, we found that insufficient investment left the UK “lacking appropriate plans and infrastructure to deal with future demand”. Under present plans, the UK will not have built a single new major reservoir between 1991 and 2029. We recommended that the Government should accelerate the planning process for reservoirs, including by designating the National Policy Statement (NPS) for Water Resources Infrastructure.<sup>38</sup>

The Government published the National Policy Statement (NPS) alongside the *Plan for Water* in April 2023.<sup>39</sup> The Government’s response to our report argued that the NPS will “bring further clarity to the planning process and be a key enabler for accelerating water supply infrastructure”.<sup>40</sup> Witnesses welcomed the publication of the NPS<sup>41</sup>, including Professor Jim Hall of the National Infrastructure Commission, who said that the “scale of ambition” on water supplies is changing. However, he expressed concern that the scale of investment needed to address storm overflow discharges could see investment into strategic water resources “squeezed out”.<sup>42</sup>

Ofwat Chief Executive David Black raised a different concern around water companies’ capacity to deliver major projects, arguing that this will be controversial and challenging for the sector as it has relatively little experience in taking major projects forward and has low public standing.<sup>43</sup> Minister Pow stressed that a number of water resources projects are under way, including reservoirs and water transfer schemes, and argued that the new NPS will help deliver “a lot of the schemes that we need”. However, she noted that “there is an issue in having enough people to do the work and the right materials”.<sup>44</sup>

In our report, we also called on the Government to set out how it envisions meeting targets to reduce water demand, including by making water metering compulsory.<sup>45</sup> In the *Plan for Water*, the Government set out a number of potential actions and policies to address water pollution, including improving water efficiency standards for new homes, developing minimum water efficiency product standards for appliances that use water and strengthening consumer information on water usage. The Government encouraged water companies to increase smart meter installations but has not made metering compulsory.<sup>46</sup>

---

<sup>38</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 3, 65

<sup>39</sup> Department for Environment, Food and Rural Affairs, [National Policy Statement for Water Resources Infrastructure](#) (April 2023)

<sup>40</sup> [Government response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 3

<sup>41</sup> [Q 6](#) (Professor Jim Hall), [Q 19](#) (David Henderson), [Q 53](#) (David Black)

<sup>42</sup> [Q 6](#) (Professor Jim Hall)

<sup>43</sup> [Q 53](#) (David Black)

<sup>44</sup> [Q 77](#) (Rebecca Pow MP)

<sup>45</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 68-70

<sup>46</sup> [Plan for Water: our integrated plan for delivering clean and plentiful water](#), p 69

Professor Jim Hall said that the National Infrastructure Commission has expressed “doubt and concern” that the actions and policies in the Plan will add up to the water demand reduction targets within it. Professor Hall said that another 4 billion litres per day of water supplies are needed to provide resilience to extreme drought, while the Commission’s Ed Beard explained that a third of this would be addressed by reducing water demand, a third through new water supplies and a third through addressing leakage.<sup>47</sup> Water UK Chief Executive David Henderson said that there is more to be done on water efficiency standards for appliances. Henderson also said that while “metering works”, it may not be appropriate everywhere and he would rather there was no need for compulsion.<sup>48</sup> Ofwat Chief Executive David Black said that there will be a “big step-up” in metering but it will not happen across the country, adding that the regulator would welcome compulsory metering.<sup>49</sup> Minister Pow said that metering “is one area that can help” and increasing smart metering is “definitely accelerating”, although she did suggest that metering could “encourage some people to use more water, because they think they can pay for it”. She also emphasised “a lot of other measures” in this area, including a call for evidence on the water efficiency of appliances.<sup>50</sup>

**We welcome the Government’s publication of the National Policy Statement for Water Resources Infrastructure, which should help large water infrastructure projects to move more smoothly through planning processes. However, it is a concern that construction supply chains may struggle to deliver the infrastructure needed to meet the expected increase in water demand. In its response to this letter, we urge the Government to commission the National Infrastructure Commission to assess issues in the construction supply chain that will impact strategically critical infrastructure delivery.**

**Although the Plan for Water sets out proposals for reducing water demand, we share concerns that these policies are likely to be insufficient to meet the Government’s targets. We continue to believe that providing a financial incentive to reduce water usage is the best approach. We again call on the Government to introduce compulsory metering, which increases awareness of water usage and on average leads to a reduction in bills. If the Government does not intend to do so, it should explain its reasoning in response to this letter.**

*National Infrastructure Commission*

The National Infrastructure Commission has conducted assessments of many areas of water infrastructure, including future water supplies<sup>51</sup> and surface water flooding.<sup>52</sup> However, the Commission’s Ed Beard explained that it is the Government that commissions studies from the NIC on particular areas, while Professor Jim Hall said that the Commission’s remit “does not actually allow us to reopen settled government policy”, which was why the Commission has not conducted work on storm overflow discharges. Professor Hall said that the Commission will publish the second National Infrastructure Assessment later this year and will review what its next work areas will be, and accepted that there is a sense of urgency

---

<sup>47</sup> [Q 6](#) (Professor Jim Hall, Ed Beard)

<sup>48</sup> [Q 20](#) (David Henderson)

<sup>49</sup> [Q 53](#) (David Black)

<sup>50</sup> [Q 76](#) (Rebecca Pow MP)

<sup>51</sup> National Infrastructure Commission, [Preparing for a Drier Future](#) (April 2018)

<sup>52</sup> National Infrastructure Commission, [Reducing the risk of surface water flooding](#) (November 2022)



about storm overflows.<sup>53</sup> Asked why the NIC had not conducted pilots on catchment- and nature-based solutions, Beard said that the NIC is “a very small organisation” and does not have the capacity to run pilots.<sup>54</sup>

**We welcome the work of the National Infrastructure Commission in setting out infrastructure and investment needs in this area. The Commission is a rare beacon of competence, and we regret that its remit has not enabled it to conduct work on some other key issues facing the sector, such as reducing storm overflow discharges. In its response to this letter, the Government should set out the role it envisages the Commission playing in monitoring and driving progress in delivering water infrastructure. This should include a consideration of the merits of placing the Commission on a statutory basis and the adequacy of its resources.**

### *Regulatory powers and resources*

In our report, we recommended that the Government should deliver on its proposals to increase the limit on Variable Monetary Penalties.<sup>55</sup> We expressed concerns about the resources available to the Environment Agency for enforcement, calling on the Government to ensure it has adequate powers to use its new powers and prosecute criminal behaviour in the sector. We also called for greater individual accountability for the senior management of water companies, recommending that the Government give Ofwat powers to bar the directors of companies that are responsible for serious pollution incidents from continuing to work in the sector.<sup>56</sup>

The Government has since consulted on removing the limit on Variable Monetary Penalties and widening the range of offences they can be applied to<sup>57</sup>, subsequently laying regulations to bring the proposals into effect.<sup>58</sup> In the *Plan for Water*, the Government set out that it is increasing the Environment Agency’s enforcement capacity by “an extra £2.2 million a year”<sup>59</sup>, while Ofwat’s response to our report explained that the Government has approved increased funding of £11.3 million for the regulator for 2023-24 and 2024-25. Ofwat also said that it can make applications to disqualify directors if they have breached competition law or if their conduct makes them unfit to be involved in the management of a company, while the Environment Agency can apply for director disqualification following a conviction for a pollution offence.<sup>60</sup>

Ofwat Chief Executive David Black told us that Ofwat is “reflecting on the role that company directors play” and will look at using its powers in relation to disqualifying directors. He stressed that Ofwat has “real concerns about the conduct of boards” and has introduced leadership and governance principles and licence changes, which have led to “some progress”

---

<sup>53</sup> [Q 2](#) (Ed Beard, Professor Jim Hall)

<sup>54</sup> [Q 5](#) (Ed Beard)

<sup>55</sup> Variable Monetary Penalties are civil sanctions that the Environment Agency can levy on water companies for environmental offences.

<sup>56</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 54

<sup>57</sup> Department for Environment, Food and Rural Affairs, [Consultation on strengthening environmental civil sanctions](#) (April 2023)

<sup>58</sup> [Draft Environmental Civil Sanctions \(England\) \(Amendment\) Order 2023](#)

<sup>59</sup> [Plan for Water: our integrated plan for delivering clean and plentiful water](#), p 25

<sup>60</sup> Industry and Regulators Committee, [Ofwat response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent](#) (May 2023), p 1, 6

but he hopes to see continued improvements.<sup>61</sup> Minister Pow said that prosecuting directors requires a “very high standard of proof”, which is why there has been more focus on penalising companies. The Minister also stressed the increased resources given to the regulators but acknowledged that the increase in funding for the Environment Agency had followed cuts in the past.<sup>62</sup>

**We welcome the Government’s action in removing the limit on the Variable Monetary Penalties that the Environment Agency can levy and in providing more resources for Ofwat and the Environment Agency. It is vital that the regulators have the necessary resources to hold water companies to account, and the adequacy of their funding should be kept under close review. The Government should not allow the current tight fiscal environment to justify cutting their grants, as has happened in the past.**

*Wet wipes*

In our report, we concluded that the water industry should educate consumers about the problems flushed wet wipes cause, but that policy intervention may also be needed. We recommended that the Government considers banning the sale of wet wipes that are not rapidly biodegradable.<sup>63</sup>

As part of a call for evidence on single-use plastic items published in 2021, the Government examined a number of policy options in relation to wet wipes containing plastic, including a ban, mandatory labelling on packaging and extending producer responsibility.<sup>64</sup> 96% of respondents stated that they would support a ban. However, in its January 2023 response to the call for evidence, the Government suggested that it “remains unclear” how effective a ban would be in reducing sewer blockages but that it “will be carefully considered”.<sup>65</sup> In the *Plan for Water*, the Government announced plans to publish a further consultation on changing the law to ban the sale of wet wipes containing plastic.<sup>66</sup>

Chief Executive David Henderson said that Water UK is happy with the banning of wet wipes containing plastic, “because they are a very big issue”.<sup>67</sup> Minister Pow said that the Government is already working on how to bring forward the consultation “rapidly” but suggested that some businesses “are not quite so happy” with the proposal and stressed the importance of educating the public. She said that she would like to bring forward the ban and that the Government is “endeavouring” to do this “as soon as possible”.<sup>68</sup>

**We are dismayed that the Government has delayed the implementation of its proposed ban on the sale of wet wipes containing plastics by announcing a second consultation. The Government has already consulted on this issue and found clear**

---

<sup>61</sup> [Q 41](#) (David Black)

<sup>62</sup> [Q 74](#) (Rebecca Pow MP)

<sup>63</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 39

<sup>64</sup> Department for Environment, Food and Rural Affairs, [Call for evidence on commonly littered single-use plastic items](#) (November 2021), p 8-10

<sup>65</sup> Department for Environment, Food and Rural Affairs, [Summary of responses and government response to the call for evidence on commonly littered single-use plastic items](#) (January 2023)

<sup>66</sup> [Plan for Water: our integrated plan for delivering clean and plentiful water](#), p 57

<sup>67</sup> [Q 9](#) (David Henderson)

<sup>68</sup> [Q 65](#) (Rebecca Pow MP)

**public support for the proposal. Further delay is unnecessary and deeply damaging to the environment.**

### *Nature- and catchment-based solutions*

In our report, we concluded that nature- and catchment-based solutions can be a cost-effective and environmentally friendly form of delivery.<sup>69</sup> We recommended that nature- and catchment-based solutions should form a larger part of the next iteration of Ofwat's Price Review and the Environment Agency's Water Industry National Environment Programme (WINEP)<sup>70,71</sup>.

In its response, the Government reiterated previous work on using a more outcomes-based approach to the WINEP, allowing greater environmental benefits.<sup>72</sup> In the *Plan for Water*, the Government announced its intention to deliver "long-term catchment action plans with new funding for local groups to improve all water bodies in England" and to align water and flood planning with local nature recovery strategies.<sup>73</sup> Ofwat's response indicated that it wants companies to make "a step change increase in the use of nature-based solutions" at the next Price Review and has made "a suite of changes" to its methodology to facilitate this. This includes providing a "more level playing field" between traditional solutions and nature- and catchment-based solutions by setting a longer-term operating expenditure allowance.<sup>74</sup>

Most witnesses spoke in support of the potential of nature- and catchment-based approaches.<sup>75</sup> The National Infrastructure Commission's Professor Jim Hall argued that issues such as surface water flooding are not problems that water companies can "solve on their own". He recommended joint, time-bound, costed plans between local authorities, water companies and other relevant stakeholders with associated funding.<sup>76</sup> Sarah Jenner, Strategic Catchment Lead at United Utilities, explained that the biggest advantages of these approaches are the wider benefits they deliver, but argued that these may have multiple beneficiaries and require co-funding to get them off the ground. She said that the recent devolution deal for Greater Manchester gave the area's combined authority a role in integrated water management planning, which could help to make "big steps forward" by creating governance within that geography.<sup>77</sup>

Another barrier to the adoption of nature-based solutions is the prescriptive nature of some government and regulatory targets. Water UK's Stuart Colville explained that one target in

---

<sup>69</sup> Nature- and catchment-based solutions see water companies use natural means or otherwise work within a catchment to reach a desired regulatory outcome rather than building new infrastructure.

<sup>70</sup> The Water Industry National Environment Programme (WINEP) drives environmental investment by water companies during each Price Review period.

<sup>71</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 34

<sup>72</sup> [Government response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 4

<sup>73</sup> [Plan for Water: our integrated plan for delivering clean and plentiful water](#), p 23-24

<sup>74</sup> [Ofwat response to the House of Lords Industry and Regulators Committee Report: The affluent and the effluent](#), p 4-5

<sup>75</sup> [Q 6](#) (Professor Jim Hall, Ed Beard), [Q 16](#) (David Henderson, Stuart Colville), [Q 31](#) (Ruth Barden, Sarah Jenner), [Q 49](#) (David Black, Iain Coucher), [Q 71](#) (Rebecca Pow MP). Written evidence from Anglian Water ([OFU0002](#)) and the Royal Society for the Protection of Birds ([OFU0004](#))

<sup>76</sup> [Q 3](#) (Professor Jim Hall)

<sup>77</sup> [QQ 21, 27](#) (Sarah Jenner)

the Environment Act 2021 refers specifically to reducing the amount of phosphorus in treated water as it exits sewage works, “thereby preventing us using nature-based solutions elsewhere in the catchment”. He explained that the Levelling Up and Regeneration Bill includes “a very specific” limit on the nutrients emitted from wastewater treatment works, “thereby principally promoting concrete and steel solutions” rather than nature- and catchment-based approaches.<sup>78</sup> The Royal Society for the Protection of Birds (RSPB) argued that the use of annual spill numbers in the Government’s storm overflow targets also introduce “a clear bias towards traditional hard engineering solutions in demonstrating compliance, which we expect to be the default in water company planning under the WINEP”. The RSPB also raised concerns about the requirement in the Levelling Up and Regeneration Bill, suggesting it “wholly ignores the wider catchment or waterbody as a target for improvement”.<sup>79</sup>

Witnesses also raised concerns about regulators’ levels of confidence in nature- and catchment-based approaches. Ruth Barden, Director of Environmental Solutions at Wessex Water, said that regulators have “a bit of nervousness or hesitation” about whether nature-based solutions have the same “robustness and rigour” as mechanical and chemical solutions. For instance, she said that despite being permitted by the Environment Act, the Price Review 2024 (PR24) WINEP guidance does not allow nature-based solutions to reduce the incidence of storm overflow discharges.<sup>80</sup>

Anglian Water explained in written evidence that the regulatory framework is “largely focused on outputs”, with water companies facing “financial penalties for failing to hit specific outputs by a target date”, which is “much easier to do using traditional solutions, as the outcomes are more consistently certain and such solutions are generally faster to deliver”. This means that companies “must take a risk in order to opt for a nature-based solution”. The company called for a focus on outcomes such as river health, rather than specific end of pipe outputs.<sup>81</sup> The RSPB argued that “certainty of capacity is not the same as certainty of performance” and stressed that “grey infrastructure assets operate within an ecological and commercial context that is riddled with uncertainties”. The charity argued that catchment and nature-based solutions are an “opportunity to diversify the supply chain and focus concrete, chemicals and the relevant engineers where they are needed most”, given there is “a massively expanded programme with a limited pool of skills and material”.<sup>82</sup>

Ofwat Chief Executive David Black said that Ofwat welcomes catchment-based solutions but noted the challenges in “getting confidence that they can deliver” the required environmental outcomes and the problems created by some legislative targets. He argued that water companies can “do more to work in partnership with local government” but that there is no national model that can be rolled out because the issues vary in different local areas.<sup>83</sup> Minister Pow explained that the Government has set up a catchment plan group, arguing that the “main focus” of the *Plan for Water* is to work on a catchment basis. She said that this would bring together the Government, Ofwat, Natural England and the Environment Agency “because we need a joint approach on all this”. However, she acknowledged that the Government will “be herding a lot of cats”.<sup>84</sup>

---

<sup>78</sup> [Q 16](#) (Stuart Colville)

<sup>79</sup> Written evidence from the Royal Society for the Protection of Birds ([OFU0004](#))

<sup>80</sup> [Q 26](#) (Ruth Barden)

<sup>81</sup> Written evidence from Anglian Water ([OFU0002](#))

<sup>82</sup> Written evidence from the Royal Society for the Protection of Birds ([OFU0004](#))

<sup>83</sup> [QQ 49-50](#)

<sup>84</sup> [Q 72](#) (Rebecca Pow MP)

**With the large number of plans and bodies that have to be navigated to deliver nature- and catchment-based schemes, it is crucial that there is strong co-ordination to bring partners together, and clear leadership and governance within localities. We support the Government’s plans to deliver long-term catchment action plans with new funding, and we hope that the Government will play a leadership role in bringing bodies together. The Government should provide clarity on governance by designating the Environment Agency as the lead coordinator of catchment plans.**

**It is disappointing that legislative targets, such as the phosphorus target in the Environment Act 2021, are drawn so tightly as to prevent the use of nature- and catchment-based solutions. It is further concerning that the Government continues to propose such restrictive targets in legislation currently proceeding in Parliament, such as the Levelling Up and Regeneration Bill. The Government should review its water pollution targets and amend them if necessary to ensure they can be addressed by nature- and catchment-based solutions. It should also ensure that future legislative targets do not preclude the use of nature- and catchment-based approaches.**

**We welcome that Ofwat and the Environment Agency have amended their approaches and expect a greater use of nature-based solutions in the next Price Review (PR24) and Water Industry National Environment Programme (WINEP). It is a concern, however, that the regulators’ lack of confidence is holding back nature- and catchment-based approaches, in particular in relation to reducing storm overflow discharges. While it is important to have confidence that activity is delivering value, the focus on concrete, steel and certainty has not driven positive outcomes in relation to storm overflows. We recommend that the Environment Agency amends its PR24 WINEP guidance to promote nature-based solutions to reduce the incidence of storm overflow discharges, and urge water regulators to work quickly to establish the value that these approaches can provide.**

### *Sustainable drainage systems*

Our report welcomed the Government’s intention to enact Schedule 3 of the Flood and Water Management Act 2010, which aims to ensure that developers in England are not able to connect to existing sewer networks without designing appropriate sustainable drainage systems. This would bring England in line with Wales, where most construction work is required to have sustainable drainage systems that comply with national standards.<sup>85</sup> The Government published a review of implementing the Schedule in January 2023, which set out that a public consultation will be launched in late 2023 with implementation expected during 2024.<sup>86</sup>

The National Infrastructure Commission’s Professor Jim Hall said that “the priority is to deal with surface water flooding through sustainable drainage systems”, while noting that “one

---

<sup>85</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 38

<sup>86</sup> Department for Environment, Food and Rural Affairs, [The review for implementation of Schedule 3 to The Flood and Water Management Act 2010](#) (January 2023)

cannot solve the whole problem in every place” with them.<sup>87</sup> United Utilities’ Sarah Jenner told us that sustainable drainage systems “could bring water quality benefits, reduce flood risk, improve amenity and the liveability of our cities... and bring biodiversity benefits”.<sup>88</sup> Minister Pow reiterated that the Government is going to consult on the implementation of Schedule 3, “which will help us with our surface water”.<sup>89</sup>

In a separate but related area, the Government announced on 29 August 2023 that it plans to relax rules on nutrient neutrality which block building development in protected areas where the nutrients polluted from new developments, which often flow into rivers, could not be mitigated. As part of a package of environmental measures accompanying the announcement, the Government re-announced its intention to consult this year on new sustainable drainage requirements.<sup>90</sup> The government amendment to the Levelling-up and Regeneration Bill that would have enacted the proposals was rejected by the House of Lords on 13 September 2023.<sup>91</sup>

**We continue to welcome the Government’s intention to enact Schedule 3 of the Flood and Water Management Act, which will ensure that housing developers in England are given greater responsibility for mitigating the impact of their developments on the water and sewage system. The urgency of implementing sustainable drainage requirements would be further increased by the Government’s proposals to relax nutrient neutrality requirements, which have the potential to further increase pressures on the water environment. While we recognise the importance of increasing housing development, it is important to ensure that environmental regulation is coordinated with the planning system.**

**In the event that the Government brings forward these proposals again in the future, the enactment of Schedule 3 should be brought forward as soon as is practical to mitigate these impacts and ensure similar protection by requiring nutrient pollution to be dealt with before developments are built. The Government should set out in its response to this letter whether it will ensure that the introduction of sustainable drainage requirements takes place before any relaxation of nutrient neutrality rules. Sustainable drainage systems should be nature-based to the greatest practical extent and the implementation of Schedule 3 must be flexible enough to allow them.**

### *Plan for Water*

In our report, we recommended that the Government should publish a National Water Strategy that approaches water policies in a holistic, co-ordinated way and sets clear expectations on the water environment and water supplies, as previously policy and regulation was too siloed.<sup>92</sup> Witnesses generally agreed that the *Plan for Water* was welcome, in particular for bringing together the broad set of issues facing the sector.<sup>93</sup> However, we heard concerns

---

<sup>87</sup> [Q 3](#) (Professor Jim Hall)

<sup>88</sup> [Q 21](#) (Sarah Jenner)

<sup>89</sup> [Q 73](#) (Rebecca Pow MP)

<sup>90</sup> Department for Levelling Up, Housing and Communities, [100,000 more homes to be built via reform of defective EU laws](#) (August 2023)

<sup>91</sup> House of Lords Debate, 13 September 2023, [Columns 1077-1083](#)

<sup>92</sup> [The affluent and the effluent: cleaning up failures in water and sewage regulation](#), p 14

<sup>93</sup> [Q 1](#) (Professor Jim Hall), [Q 9](#) (David Henderson, Stuart Colville), [Q 53](#) (David Black)

that the policies in the Plan may not be sufficient to meet the Government's targets and ambitions in relation to reducing water demand.<sup>94</sup>

**Overall, we welcome the Plan for Water, which fulfils our recommendation for a national strategy that considers the issues facing the sector holistically. However, we are concerned that there is insufficient policy or drive to meet the Government's targets and what appears to be a lack of leadership demonstrating deep-rooted complacency. We are also concerned that the ability of the sector and regulators to deliver Government targets may fall short of what is required.**

**While the Government has begun to set out its vision for the sector, it is crucial that it shows a greater level of determined leadership going forward. In particular, the Government must provide firmer policy detail and greater guidance to regulators, who cannot be left to resolve these huge challenges by themselves.**

We would appreciate a response to our conclusions and recommendations in writing within 20 working days. Given the relevance of our recommendations to their organisations, I have sent copies of this letter to David Black, Philip Duffy and James Heath, respectively the Chief Executives of Ofwat, the Environment Agency and the National Infrastructure Commission. I am also copying this letter to Rebecca Pow MP, Minister for Environmental Quality and Resilience in your department, Sir Robert Goodwill MP, Chair of the Environment, Food and Rural Affairs Committee in the House of Commons, Philip Dunne MP, Chair of the Environmental Audit Committee in the House of Commons, Baroness Parminter, Chair of the Environment and Climate Change Committee in the House of Lords, and Lord Moylan, Chair of the Built Environment Committee in the House of Lords.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Hollick', with a stylized flourish underneath.

Lord Hollick  
Chair of the Industry and Regulators Committee

---

<sup>94</sup> [Q6](#) (Professor Jim Hall)