



Department for Environment Food & Rural Affairs

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Lord Hollick
Chair, House of Lords Industry and
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House of Lords
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13 December 2023

Dear Lord Hollick,

Thank you for your letter dated 18 September 2023 on behalf of the House of Lords Industry and Regulators Committee outlining the conclusions and recommendations of your follow up inquiry into Ofwat, the water industry and the role of Government. The volume of sewage discharged by water companies is unacceptable, and I want to assure the committee that improving water quality remains a Government priority. Government and regulators will not hesitate to hold companies to account if they fall short of our expectations. I have outlined the Government's response to the Committee's recommendations as below. Thank you also for your further correspondence dated 18 October 2023, our response to which can be found in the annex to this letter.

Investment and bills

Recommendation 1.

Privatisation of the water sector has unlocked £215 billion of investment, equivalent to £6 billion annually. This is almost double pre-privatisation levels and has delivered a range of benefits including a five-fold decrease in supply interruptions and leakage reducing by a third.

The next water company investment cycle – Price Review 2024 – will be the biggest and most ambitious environmental improvement programme since privatisation. Business plans show a proposed £96 billion of investment by water companies between 2025 and 2030, including an estimated £11 billion on reducing discharges from storm overflows.

New infrastructure will need to be paid for via a combination of new equity and proportionate increases in customer bills. Now draft water company business plans have been published, we expect Ofwat to look closely at these plans to ensure statutory requirements are met and customers secure the best value for their money.

Recommendation 2.

The Government has addressed this recommendation in its response, published on 5 June 2023, to the Committee's report 'The affluent and the effluent: cleaning up failures in water and sewage regulation'.¹

Recommendation 3.

The Government has given clear guidance through legislation and policy papers like the Plan for Water on what the priorities for the water sector should be. The Government also set out its strategic steer to Ofwat on priorities for the upcoming investment cycle in its Strategic Policy Statement. These recognise that a balance must be struck between investing in infrastructure to reduce environmental harm and securing water supplies for the future, without unduly impacting customer bills.

It is now up to Ofwat as the independent regulator to scrutinise proposed company plans to ensure they meet the government's requirements.

Recommendation 4.

Defra's Strategic Policy Statement (SPS)² encourages water companies to implement the recommendations of the Consumer Council for Water's (CCW) Affordability Review to improve awareness of access to existing support measures in the industry. There are no plans to introduce a single social tariff.

The Committee should be confident the Government continues to work with industry and consumer groups to protect those most struggling to pay. Ofwat has also recently issued a consultation on new guidance on how they expect companies to support vulnerable customers. This builds on their customer focused licence condition announced earlier this year, which sets the expectation that customers' needs, including those who are in vulnerable circumstances, should be identified, understood, and met by water companies in their customer service offerings. These new powers to take action against companies when customer service falls short will push companies to perform better for customers and improve public trust in the industry.

The Government also welcomed the ambitious new affordability measures put forward in water companies draft business plans submitted to Ofwat on 2 October 2023, which will triple the number of households receiving support towards paying their bills.

Financial resilience, dividends and debt

Recommendation 5.

Over recent years, as investment requirements have risen, Ofwat has taken further steps to strengthen the financial resilience of companies. This work has been bolstered by new

¹ 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 -

<https://committees.parliament.uk/publications/40187/documents/196307/default/>

² Strategic Policy Statement - <https://www.gov.uk/government/publications/strategic-policy-statement-to-ofwat-incorporating-social-and-environmental-guidance/february-2022-the-governments-strategic-priorities-for-ofwat>

powers granted to Ofwat by the Government to ensure company dividends are linked to company performance.

The water sector as a whole is financially resilient and holds among the highest credit ratings of any infrastructure sector globally. We are confident the industry is capable of raising the required investment to meet Government targets, evidenced by injections of around £2 billion of new equity into the sector since 2020.

Recommendation 6.

The Government has addressed this recommendation in its response to the Committee's report 'The affluent and the effluent: cleaning up failures in water and sewage regulation', published on 5 June 2023.

Competition

Recommendation 7.

The Government has addressed this recommendation in its response to the Committee's report 'The affluent and the effluent: cleaning up failures in water and sewage regulation', published on 5 June 2023.

The Government will consider the Committee's recommendation on setting clear thresholds when using different competitive models as part of ongoing work with Ofwat.

Future water supply

Recommendation 8.

The Government will continue to ensure all relevant stakeholders are engaged on supply chain pressure impacting infrastructure delivery. Where risks are identified, we will ensure appropriate measures are put in place to mitigate, including using existed processes such as Ofwat's Regulators Alliance for Progressing Infrastructure Development (RAPID).

Recommendation 9.

The Plan for Water sets out Government's commitment to delivering policies such as water efficiency labelling and reviewing building regulations, which will help achieve a 20% reduction in the use of public water supply per person by 2038. We recently confirmed our plans to introduce mandatory water efficiency labelling in 2025, which will save around 1,200 million litres of water a day in the first 10 years. Water company performance commitments (e.g., on leakage) set by Ofwat will ensure appropriate financial incentives or penalties for wholesale water companies to deliver the statutory water demand target.

Our Plan for Water and Environmental Improvement Plan sets out our expectation that the industry moves towards smart metering. We also wrote to water companies in March 2023 setting out that "we expect water companies to consider how to rapidly increase installation of meters for household and non-household customers (even where they cannot charge by metered volume). We also expect companies to quickly move towards all new and replacement meters being 'smart', where this is the best value for

customers and the environment.” Around half of households in England now have a water meter. This is set to rise to 83% by 2045. In June this year, Ofwat announced their final decision to bring forward £2.2 billion of new infrastructure starting in the next two years. This included seven smart metering schemes with an overall installation of 462,000 smart meters to increase drought resilience.

In our 2021 Written Ministerial Statement on reducing demand for water, we set out we will make no changes to existing rules around when people can be charged for their water use through water meters to ensure that metering programmes are justified by water companies and achieve customer support. Water companies in seriously water stressed areas may implement wider water metering programmes where it is shown within their Water Resources Management Plans that there is customer support, and it is cost effective to do so. Using the latest evidence, the Environment Agency has published its recommendation that additional areas in the South, East and the Midlands should be designated as in serious water stress. This strikes the right balance between the need to protect water supplies and importance of water companies reducing leakage before expanding the use of water meters.

National Infrastructure Commission

Recommendation 10.

The Government agrees with the Committee’s view of the National Infrastructure Commission and the work they undertake to drive forward infrastructure.

The Government welcomed the publication of the second National Infrastructure Assessment published on 18 October 2023, building on its previous studies. This continues the strong role the Commission plays in monitoring and driving progress in delivering water infrastructure and we will continue to work closely together.

The scope and scale of the National Infrastructure Commissions is always be kept under consideration to ensure they are robustly equipped to provide their impartial expert advice.

Regulatory powers and resources

Recommendation 11.

The Government recognises the importance of protecting the nation's natural environment and we are investing accordingly. Defra and its agencies received an additional £4.3 billion in the latest Spending Review in October 2021. At SR21, we increased EA’s enforcement budget for water quality to allow the EA to undertake 4,000 more farm inspections and 500 sewage treatment works inspections a year.

On the 16 May 2023, Ofwat announced that its enforcement capacity would be trebled, following the approval of an £11.3m funding budget increase from HM Treasury.

Wet wipes

Recommendation 12.

The Government have not previously consulted on a proposed ban of wet wipes containing plastic. In 2021, there was a Call for Evidence a range of single use plastic products, including wet wipes. 96% of respondents supported a proposed ban on wet wipes containing plastic.

The Government is acting swiftly on the issue. Delivering on our commitment in the Plan for Water, we launched the consultation on the proposed ban of wet wipes containing plastic on 14 October 2023. The consultation is being held jointly with the devolved administrations and is required to bring forward the necessary legislation.

Additional actions are being taken to tackle the environmental issues caused by the incorrect disposal of both plastic and non-plastic containing wet wipes. Earlier in the year, the Environment Secretary wrote to the manufacturers and retailers of wet wipes across the UK to set out her concerns around the labelling of wet wipes as 'flushable'. Additionally, Defra will support Water UK's 'Bin the Wipe' campaign to help reduce pressure on the sewerage system.

Nature- and catchment-based solutions

Recommendation 13.

Catchment plans will bring together partners within the catchment to deliver the Plan for Water catchment-by-catchment and community-by-community. Catchment plans will need strong governance and leadership to convene a broad range of stakeholders in their catchment and ensure actions are taken on the ground. We are developing options for catchment governance and leadership with stakeholders to make sure we assign responsibilities to most suitable organisations. Relevant Environment Agency and Natural England expertise will be fundamental to developing and delivering catchment plans.

Recommendation 14.

The Government recognises wastewater is a major source of nutrient pollution and it is critical that the water industry plays a part in reducing nutrient loadings to the water environment. This is why we have set legally binding targets in the Environment Act and a new duty to achieve stringent nutrient pollution standards in the Levelling Up and Regeneration Bill. Whilst we have set out clear expectations for the level of nutrient reductions to be achieved, we have not required that water companies achieve these standards through using specific technologies, and water companies may use nature-based solutions as part of the wastewater treatment process to reduce nutrient loads.

In addition, on 29 August 2023, the Government introduced several amendments to the Levelling Up and Regeneration Bill to provide a greater level of flexibility in how water companies reduce nutrient pollution in designated catchments, with the aim of maximising benefits for the environment while minimising costs on water bill payers. These amendments enable the use of catchment-level approaches – such as catchment permitting – where appropriate.

Recommendation 15.

Defra strongly supports the use of nature and catchment-based solutions to achieve benefits for the environment and the public, and we set this out in our Strategic Policy Statement to Ofwat in February 2022. We expect companies and regulators to work towards delivering these solutions in PR24 as a matter of preference; so long as risks are understood, controlled, and proportionate to the potential benefits. With respect to Storm Overflows, the Government's Storm Overflows Discharge Reduction Plan is clear that we expect water companies to prioritise a natural capital approach, considering carbon reduction and biodiversity net gain, as well as catchment level and nature-based solutions in their planning. This is in recognition of the carbon-intensiveness of traditional solutions such as increasing storage capacity.

We also want to see water companies make use of nature-based solutions as part of their wastewater treatment processes, where appropriate. In line with this, we recently inserted provisions into the Levelling Up and Regeneration Bill requiring water companies to consider the use of nature-based solutions, such as integrated wetlands, as part of the duty to upgrade wastewater treatment works to the highest technical level in designated catchment areas by April 2030.

Sustainable drainage systems

Recommendation 16.

The review and decision for making sustainable drainage systems (SuDS) mandatory in new developments was published on 10 January 2023. Government has accepted the review's recommendation to implement through Schedule 3 of the Flood and Water Management Act 2010.

The Government is looking at how best to implement, considering scope, threshold, and process, whilst being mindful of the cumulative impact of new regulatory burdens on the development sector. Implementation is expected during 2024 following public consultation.

Planning policy already requires SuDS be included in all new major developments (over 10 homes), unless there is clear evidence this would be inappropriate. This is in addition to requirements SuDS be given priority in new developments in flood risk areas.

Plan for Water

Recommendation 17.

The Plan for Water is ambitious and comprehensive in nature. The suite of policies it sets out are detailed, integrated, and wide-ranging: aiming at transforming the way we manage our waters, as well as addressing water quality and water supply pressures. This approach marks a step-change in how we manage our waters. The Plan for Water also sets out the delivery pathway to meet the four Environment Act targets on wastewater, agriculture, water from abandoned metal mines, and water demand.

Delivery of the Plan for Water is already underway and is being supported by a formal delivery programme and a significant programme of funding. Defra have already delivered key actions including announcing the lifting of the cap on environmental penalties, writing to industry on the labelling of wet wipes as 'flushable' and bringing forward a consultation on a ban on wet wipes containing plastic. Collaboration and integration are at the heart of the Plan for Water, and Defra will continue to work closely across Government, including ALBs and regulators, to deliver our water commitments.

Recommendation 18.

The Government has a clear vision for the sector, and this has been communicated to regulators appropriately through legally binding targets, plans and policies we have brought together by the Plan for Water, and the Strategic Policy Statement to Ofwat.

With these steers provided, we must now respect the independence of our regulators. It is now for Ofwat to review plans and ensure they strike the right balance of pace and investment, while protecting customer bills in line with their methodology.

I wish to extend my thanks to you and the committee for your inquiry into these vital issues.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Robbie Moore', with a horizontal line underneath the name.

ROBBIE MOORE MP

Parliamentary Under Secretary of State for Environment, Food, & Rural Affairs

Annex: Government Response to the committee's letter to Lord Benyon (dated 18 October 2023)

This annex contains the Government's response to the letter dated 18.10.2023 from Lord Hollick and the Industry and Regulators Committee requesting additional information following the debate in the House of Lords chamber on 16.10.2023.

Question 1: If the Government decides to ban wet wipes containing plastic following its current consultation on this, when can we expect the ban to take effect? [Lord Hollick]

Any details of a subsequent ban, subject to consultation, will be announced in the government response which will be published following closure of the consultation.

Question 2: Could the Government explain its approach to nature- and catchment-based solutions in further detail, including the use of water butts with slow-release valves and the designation of farmland to be inundated during heavy storms? [Lord Agnew of Oulton]

Nature-based Solutions, Natural Flood Management and Sustainable Drainage Systems (SuDS) all offer mechanisms that extend the range of options we have available to deal with environmental risks.

Regarding water butts with slow-release valves, these would normally be considered in the context of SuDS. The aim being to deploy them to offset inundation of combined sewerage and or surface water drainage systems due to water from roofs.

The review and decision for making SuDS mandatory in new developments was published on 10 January 2023. The Government has accepted the review's recommendation to implement through Schedule 3 of the Flood and Water Management Act 2010. The Government is now looking at how best to implement, considering scope, threshold and process, whilst being mindful of the cumulative impact of new regulatory burdens on the development sector.

Implementation is expected during 2024 following public consultation. The consultation will include gathering opinion on the draft National Standards for SuDS in England that will set out the hierarchy for how water run-off from developments must be discharged, including collection for non-potable use.

Regarding farmland for floodwater storage, farmers and land managers have an increasingly important role to play in reducing the risk of flooding, including through measures to slow the flow of water through catchment and protect vulnerable areas. All three of the Environmental Land Management schemes will provide payments for managing land and water in a way that reduces flood risk to local communities.

There is no designation of farmland to be inundated, but in some cases the Environment Agency creates a temporary flood storage area on private land using its powers under the Water Resources Act 1991.

The area is designed in liaison with land managers and operated by the Environment Agency to temporarily store water away from the watercourse helping protect communities,

infrastructure, and businesses (including agriculture) downstream from flooding. Landowners are entitled to compensation to cover the losses and damages they incur when such a scheme is carried out on their land.

The Government supports the wider adoption of such measures as part of providing a more effective response to surface water and fluvial flooding overall, especially in the context of enhancing resilience to a changing climate.

Question 3: What steps are the Government and the Environment Agency taking in response to the finding of the Environment Agency that the environmental performance of water companies in 2022 fell to the lowest level seen since assessments began? [Baroness Bowles of Berkhamsted]

This year's Environmental Performance Assessment (EPA) showed that some water companies are underperforming and are responsible for several serious pollution incidents. This is unacceptable and the Government along with its regulators will hold water companies to account if they do not meet standards by meeting with underperforming water companies to ensure they have concrete and actionable plans to do better.

Question 4: When do the Government expect to use the new power for unlimited fines for water companies, and do they expect this will lead to different outcomes? [Baroness Hayman of Ullock]

Reforms to civil penalties will come into force on 1 December 2023, making it easier and quicker for environmental regulators to issue fines where companies breach regulations but the threshold for criminal prosecution has not been met. We expect these changes to address the 'justice gap' that exists between the current civil penalties regime and full criminal prosecutions.