WHAT THE GOVERNMENT MUST NOW DO TO FIX OUR FAILING WATER SYSTEM

Foreword

Anglers care passionately about our water environment and know only too well that it is in a dire state. Protecting the environment should be the priority of any new approach to managing our precious water resources. A healthy water system, and the biodiversity it supports, is the foundation of a healthy environment. Without this, there is no economic growth, no water for us to drink, and no places for us to enjoy being by or in water. Water truly is the fundamental building block upon which we all depend.

The angling community has seen first-hand the terrible outcomes that multiple pressures, a lack of strategic long-term direction, siloed delivery, and confusing and sometimes contradictory plans and measures have had on our rivers, lakes, and seas — and on the fish that depend on clean water environments.

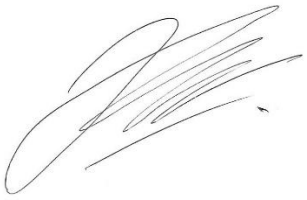
To address this, there is an urgent need to implement a more holistic, cross-sector approach to water management, encompassing all water-related sectors — not only the water services industry. The water environment is impacted by farming and land management, the effects of transport and energy, the demands for water driven by economic and population growth and climate change, and the threat of emerging chemicals such as PFAS and antimicrobial-resistant bacteria. All these factors must be included in the management of our water. Governance and regulatory structures also need to be strengthened to provide strategic direction and ensure the delivery of much-needed environmental improvements.

The changes needed must be delivered with a far greater sense of urgency, with greater powers for regulators and stakeholders, and with greater accountability for those who manage our water environment, supply our drinking water, and treat our wastewater.

With the Commission having been set up by the government, it was vital that stakeholders and communities with an interest in our water environment — how it is governed and how it is managed — were heard. This is why both the Angling Trust and Fish Legal made major contributions to the work of the Independent Water Commission ahead of the publication of its

final report in July 2025 (the Cunliffe Report). As we set out here, we supported many of its 88 recommendations, but we also have some major concerns.

While the government has already accepted a small number of the recommendations put forward by the Independent Water Commission, the responsibility for reforming the water system — and how it is governed and managed — now rests with them. We're here to help: to support them when they do the right thing, and to be a robust critical friend when they do not. This report sets out both.



Jamie Cook
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Key asks of Government

The Angling Trust and Fish Legal broadly support three of the four key elements of the Independent Water Commission's report. Namely - the creation of a single "super" regulator for water; the introduction of a regional planning and governance system for water and tackling asset health and infrastructure. These were highlighted in our original submission to the IWC which can be found here -

250508-AT-Water-Commission-Paper.pdf

However, we strongly oppose those recommendations which seek to downgrade the scope or ambition of the Water Framework Directive or further weaken existing environment protections for our rivers and waterbodies.

The Angling Trust and Fish Legal is calling for the following principles to be enshrined in the forthcoming Water White Paper:

The environment must come first

The environment must be prioritised in all new strategic approaches

Clear transition plan

There's a need for clear strategic direction in the transition period to ensure that there isn't stagnation in environmental delivery whilst the new regulator and strategic plans are being established.

Long term strategic, cross-sectoral and whole system water management

The Government must commit to achieving a more holistic approach to water management, encompassing all water sectors, and embedding long-term strategic water management

Better Monitoring

There should be greater transparency and monitoring to underpin the regulator, WFD and regional systems planners.

The new 'Super Regulator'

- Must be strong, independent, transparent and have environment protection as a clear priority.
- Adopt a whole system, cross-sectoral approach
- Have the powers it needs for effective enforcement and regulation
- Have the relevant expertise/skill sets and be adequately resourced

(There remains the question of where flood risk management would sit within any new structure.)

Regional System Planners/Regional Water Authorities

- Need to sit outside of, and be fully independent of, the regulator. Sit above water companies/other water sectors to direct water sector investment, operations and delivery whilst regulators oversee and enforce them.
- Must include representation from key stakeholders including fisheries, rivers groups and catchment partnerships.
- If statutory strategic plans are to replace River Basin Management Plans it is important that they do not undermine the Fish Legal / Pickering court ruling and build upon the findings for time-bound water body specific programmes of measures in order to be effective.
- If new plans created there is a need for clear consideration on how targets are set.
- They will need to be well-resourced and funded with expertise and skillsets needed.
- Organised by hydrological boundaries

Asset health and infrastructure

The Independent Water Commission identified four main issues in relation to infrastructure and supply chain resilience:

- A lack of resilience standards
- Limited understanding of the condition and location of infrastructure
- Infrastructure oversight
- Supply chain resilience

Their final report made 19 different recommendations to address failing infrastructure development, management, and asset health. The Angling Trust urges the government to take forward all of these recommendations in order to tackle the abysmal state of water industry infrastructure, much of which is approaching the point of collapse with horrendous consequences for public health, the economy and the environment.

In addition

The Angling Trust and Fish Legal are calling for an end to the developer's automatic right to connect to the water supply system when there is demonstrably no capacity to either provide clean water or waste water treatment services to the development area. This was acknowledged by the IWC and is not something the Government should dodge. Furthermore, we restate the case for a greater proportion of the monies from fines levied on polluters to be channelled back into river restoration programmes and other waterbody habitat improvements to mitigate some of the damage caused.

Where we disagree with the Commission

The Angling Trust and Fish Legal has serious concerns about the introduction of the principle of constrained discretion and the weakening of the obligations under the Water Framework Directive.

Constrained discretion

- Should not weaken environmental protection and environment delivery.
- Where constrained discretion is taken forward, there is a need to ensure that the framework is transparent, it is underpinned by robust monitoring and there is a review period.
- Does not impact on the ability of stakeholders to legally challenge where appropriate.

Water Framework Directive

- There should be no downgrading of the ambition of WFD.
- Maintain one out, all out principle and no deterioration of standards.
- WFD is good legislation but suffers from a failure of delivery due to poor implementation (see the Pickering Judgement and the recent OEP reports)
- Contrary to the IWC claims WFD already contains enough flexibility, the problems are down to poor implementation.
- We object to the proposal to introduce public health measures into WFD which is concerned with ecological health, and not whether a water is fit for recreational use.
- If Government is to create a metric/target to measure/monitor public health, ecological health should still take precedent.

The UK angling community has been at the forefront of the campaign for cleaner rivers and an end to water industry and other sources of pollution since 1948. We will continue to take polluters to court using the civil law to seek redress for our members. We will continue to robustly challenge the actions of Government and its agencies where they fail to follow the law or deliver on their responsibilities to the aquatic environment. However, we welcome the establishment of the Independent Water Commission and have engaged positively with it. We now call upon the Government not to 'kick the can down the road' but to implement those recommendations we have highlighted and to go further in those other areas.

This is a once in a lifetime opportunity to halt the decline in our rivers, seas and waterbodies. It must not be missed.

Executive Summary and recommendations

This report focuses on four key elements of the Independent Water Commission's (IWC) report:

- The creation of a single "super" regulator for water;
- An effective regional planning and governance system for water;
- The need to tackle asset health and infrastructure; and
- Changes to the structure and assessment of progress against the Water Framework Directive and other aspects of environmental law.

We have prioritised these four elements as key pillars to address and improve long-term strategic, whole system water management. We may revisit other recommendations, especially those with environmental relevance in due course as part of our continued engagement with the policy process. Other areas covered by the Independent Water Commission are important but are outside the scope and expertise of both the Angling Trust and Fish Legal. We leave others to comment on the merits or otherwise of the Water Commission's recommendations and subsequent government proposals.

The creation of a "super" regulator

Recommendation 16[1] calls for the establishment of a new integrated regulator in England. This body would combine the functions of Ofwat, the Drinking Water Inspectorate (DWI), and the water functions currently carried out by the Environment Agency (EA) and Natural England. The aim is to create a single, more coherent, and effective regulatory framework for the water sector.

In Wales, recommendation 17[2] calls for a new economic regulator to be set up, or responsibility passed to Natural Resource Wales.

We have consistently advocated for a fundamental reset of water sector oversight and governance. Our submission to the commission demonstrates strong alignment with the proposal for a single, integrated water regulator.

While we do not raise specific concerns about the *principle* of an integrated regulator, the Government's commitment to dissolving Ofwat is very light on the detail. Therefore, we have several key demands for its implementation to ensure it genuinely serves environmental protection. They include:

- Ensuring environmental outcomes are a priority for the new regulator.
- Adequate and sustainable resourcing.
- Effective enforcement and the principle of "polluter pays" is central to their approach.
- Robust data and monitoring.
- Addressing the separation of flood risk and management.
- Avoidance of functional splits and silos.
- Effective expertise and prioritisation.

[1] The UK Government should establish a new integrated regulator in England. This should combine the functions of Ofwat, DWI, and water functions from the Environment Agency and Natural England.
[2] The Welsh Government should establish a new economic regulatory function in Wales that can align directly with the Welsh Government's strategic direction and guidance. The Commission's view is that the better course, subject to consultation, would be to embed this into NRW alongside the wider regulatory functions for water in Wales, though a small freestanding body, as in Scotland, might also be considered.

- An approach to “constrained discretion” based on law and not operational convenience.

An effective regional planning and governance system for water

Recommendation 1[3] of the Independent Water Commission call for the creation of a new national water strategy. For too long, water has been managed in sectoral and policy silos, trying to balance multiple objectives and priorities and growing demands and pressures on water. There is an urgent need for a long-term, integrated and cross-sectoral approach to water management. We agree that this should be across all water sectors, not just the water industry, to consider other water users that rely on, or impact the water system such as, but not limited to agriculture, land use, energy transport and housing. We are also supportive of the 25-year horizon, with 5- and 10-year milestones to provide a clear long-term direction with embedded 5-yearly reviews and that this should have a statutory underpinning in England and Wales.

Recommendation 2[4] will require the Secretary of State to give a clearer direction as to the priorities the national strategy sets out, and to what purpose our water system is managed. This would replace the strategic policy statement that is issued to Ofwat every five years, with a broader statement covering all regulatory and system planning functions.

We welcome the IWC recommendation for a revision of the SPS framework to provide better strategic guidance to the regulators. However, it is crucial that there a clear prioritisation of the protection and enhancement of the environment and ecological health within the MSWIP ahead of other concerns. These need to be clearly linked to legal targets, with transparent mechanisms for monitoring to ensure that the priorities it sets out are delivered. There is also a need for greater strategic guidance on other parts of the water sector as the pressures on water health will not be fixed through a narrow focus on the water industry alone.

Recommendation 3[5] calls for comprehensive system planning bodies to be set up at a regional level in England (Wales would have a national body). We welcome the introduction of these regional systems planners, or regional water authorities (RWAs) to tackle the ‘missing middle’ and facilitate the translation of national targets into strategic regional delivery. However, to be effective, there are several key roles and responsibilities these new authorities need. These are:

1. The need for the RSPs to be independent from the single regulator.
2. A focus on delivery.
3. Lead on statutory regional plans (water environment, water supply).
4. Funding oversight.
5. Clear mechanisms to communicate between RSPs and catchment-based groups.
6. Hydrological boundaries for the regions, not water company or pollical administrative boundaries that change periodically.

[3] The UK and Welsh government should each bring forward a new, long-term, cross-sectoral, and systems-focused National Water Strategy for England and Wales respectively.
[4] The UK and Welsh governments should revise the legal framework for the Strategic Policy Statement and replace this with a new Ministerial Statement of Water Industry Priorities (MSWIP), directing all water industry regulatory and systems planner functions.
[5] A comprehensive systems planning framework should be introduced for England and Wales, with responsibility for integrated and holistic water system planning. In England, the systems planners should be regional – or ‘regional water authorities’. In Wales, the systems planner should be a national authority.

The need to tackle asset health and infrastructure

There has been too little focus on the health of the country's water and sewage infrastructure asset health. Leakage rate from our water supply infrastructure is too high, there is a serious risk that the country will not be able to supply enough water to meet our needs, with a shortfall in supply over demand of over 5bn litres of water per-day by 2055[6]. In addition, the use of combined sewage overflow and sewage overflows from treatment works is still occurring too frequently (including emergency overflows), much of which is illegal.

Fixing and maintaining water sector assets can help close the supply/demand gap, reduce the need for new infrastructure, and help to protect the environment. There is also a need to "future proof" our water supply and wastewater infrastructure, to make it more resilient to both short-term shocks such as catastrophic infrastructure failures and security risks (e.g. cyber-attacks) and long-term challenges such as climate change and population growth.

The Independent Water Commission identified four main issues in relation to infrastructure and supply chain resilience:

- A lack of resilience standards;
- Limited understanding of the condition and location of infrastructure;
- Infrastructure oversight; and
- Supply chain resilience.

We support the government taking these recommendations forward.

Recommendation 66 calls for, "*Statutory resilience standards, covering system, infrastructure and supply chains, should be developed and adopted for the water industry in England and Wales.*"

Recommendation 67 requires, "*The UK and Welsh Governments should strengthen the requirements on companies to map and assess the health of their assets, and the regulator should ensure metrics for asset health are sufficiently forward-looking*."

Recommendation 68 seeks, "*The regulator's oversight of infrastructure resilience and asset health should be strengthened, under its supervisory approach. This should include the appointment of a Chief Engineer on the board of the regulator in England and Wales respectively.*"

To implement these recommendations, the government will need to bring forward new legislation. We urge them to do so at the earliest opportunity and for this to be a key part of the Water Reform Bill they have stated they wish to introduce in the next session of Parliament.

Recommendation 69 calls for, "*The regulator should conduct a sector-wide risk assessment of critical supply chain dependencies in England and Wales*." This does not require new legislation and can be done under existing powers and duties. We call on the government and regulator to carry out this risk assessment as soon as possible. For it to commence under the existing regulatory structure (i.e. Ofwat) and for it not to wait for the new "super-regulator" to be created.

[6] England faces 5 billion litre public water shortage by 2055 without urgent action - GOV.UK (accessed 21/10/2025)

Changes to the structure and assessment of progress against the water framework directive and other aspects of environmental law.

We oppose the majority of changes the Independent Water Commission suggest to the Water Framework Directive, what it covers, how it is implemented, and how progress against its objectives is monitored and assessed.

The Directive is not prescriptive; it leaves member states with flexibility to comply as long as they reach the outcomes required which in this case is the requirement to reach 'Good' status (ecological & chemical). It therefore can deliver the flexibility requested in the IWC recommendations.

The Water Framework Directive is a good piece of law, its interpretation and application by the government and regulators is what has failed. In light of *R (Pickering Fishery Association) v SSEFRA and EA*[7], if the government and the EA were to now apply the law as it should be to the programmes of measures and River Basin Management Plans (RBMPs), there would be no need for any substantive reforms to WFD as it would start to achieve what it was designed to two decades ago.

In addition, we disagree that the "one-out all-out" principle is flawed. Here, we note the comments made by the Office for Environmental Protection (the government's own environmental watchdog) that the one-out all-out principle:

> "*Is largely a question of how the legislation is (or should be) applied and its outcomes communicated rather than its intended or inevitable effect. One-out, all-out is not a legal constraint in this regard because there is no requirement to achieve overall Good Status where an exemption can be justified in the Environmental Objectives. In addition, utilising the provisions on exemptions, different objectives can be set for the individual elements that apply to a water body. One-out, all-out should not, therefore, push authorities towards a sub-optimal outcome if the provisions on exemptions are used correctly. This should allow resources to be applied in the most effective way*."[8]

What is more, not establishing the true status of water bodies and potentially misleading public perception as to their health would be even more damaging.

Further, we do not think the call from the Independent Water Commission to include public health considerations in any revision of WFD to be the right approach. Regulatory stakeholders have responded that GES has the ability to "obscure…wider human health benefits within a catchment"[9]. The IWC also note that not all public health risks are managed under WFD. However, this is intentional. WFD is not meant to ensure that waterbodies are fit for human use, it is a framework designed to "protect, and where necessary, restore water bodies in order to reach good status and prevent deterioration. Good status means both good chemical and good ecological status"[10]. The focus is not on the status for human use, and it should not be in future.

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[7] *[2025] EWCA Civ 378*
[8] P.109, OEP WFD Review
[9] NRW response to the call for evidence – see para 227, IWC
[10] See objectives summarised at https://environment.ec.europa.eu/topics/water/water-framework-directive_en

As we made clear in our response to the call for evidence "*At the most basic level the water environment should be recognised for the unique ecosystem that it is. It supports a wide variety of animal and plant life and without first protecting the survival of the ecosystem it is not possible for the water system to successfully fulfil any other purpose (such as recreation or business needs)*". The priority right now is to ensure that waterbodies are ecologically healthy.

Detailed look at the four key issues

A single “super” regulator for water

In both England and Wales, the IWC recommends significant regulatory reform, aimed at creating a more coherent and effective regulatory framework for the water sector. In both countries, new combined regulators are proposed to combine economic and environmental responsibilities.

Recommendation 16 states that *“the UK Government should establish a new integrated regulator in England. This should combine the functions of Ofwat, DWI, and water functions from the EA and NE.”*

For Wales, Recommendation 17 calls for the Welsh government to *“establish a new economic regulatory function in Wales that can align directly with the Welsh Government’s strategic direction and guidance. The Commission’s view is that the better course, subject to consultation, would be to embed this into NRW alongside the wider regulatory functions for water in Wales, though a small freestanding body, as in Scotland, might also be considered.”*

The UK Government has already accepted the IWC’s recommendation to scrap Ofwat and create a new combined regulator combining the functions of Ofwat, DWI and water functions from the EA and NE in England. The picture is less clear in Wales, and we welcome the IWC’s proposal for further consultation on the mechanism for embedding a new economic regulatory function within NRW.

Areas of support

The Angling Trust has consistently advocated for a fundamental reset of water sector oversight and governance. Our submission to the commission demonstrates strong alignment with the proposal for a single, integrated water regulator:

Abolishing Ofwat: The Angling Trust's Broken Water Report (2021) explicitly called for the abolishing of Ofwat and we have been campaigning for it ever since. We urged the Commission to give serious consideration to the establishment of a single water regulator with direct responsibility for the entire industry covering supply, wastewater, drinking water standards, financial probity, prices and investment. Therefore, we strongly support the scrapping of Ofwat and creation of an integrated regulator.

Addressing Ofwat's Narrow Focus: A primary driver for our support is the criticism that Ofwat has historically interpreted its brief too narrowly, focusing almost solely on keeping customers' bills as low as possible. This has resulted in a reduction in the level of investment from water companies, and the subsequent increase in pollution and decline of the water environment. An integrated regulator, in principle, would be better equipped to balance competing objectives and prioritise environmental outcomes alongside economic efficiency.

Enhancing Expertise and Capacity: We highlighted Ofwat's historical lack of engineering and environmental expertise to make crucial judgments, and documented the lack of funding and capacity for the Environment Agency. We believe an integrated regulator with enhanced engineering, financial, and environmental expertise, adequately resourced outside of public sector pay controls, is crucial for effective oversight and driving improvements.

Prioritising Asset Health and Resilience: We have repeatedly stressed the shocking lack of resilience standards in the water sector and the ticking time bomb of deteriorating critical infrastructure leading to more major pollution incidents. We explicitly restate the need for the NIC (replaced by NISTA) to set resilience standards for the water sector as a whole and that, preferably, these should be put on a statutory basis. An integrated regulator with a whole firm view would facilitate a better understanding of asset conditions and long-term investment needs. Our recommendation was included here, though the asset mapping was not appointed to NISTA. The key concern will be to ensure that asset mapping happens quickly, independently, and is properly funded to ensure rigorous investigations take place on the whole network.

Concerns and Key Demands for Implementation

While we do not raise specific concerns about the *principle* of an integrated regulator, we have several key demands for its implementation to ensure it genuinely serves environmental protection:

Prioritising Environmental Outcomes: Our paramount concern would be that the integrated body truly prioritizes environmental protection and that its enhanced powers translate into effective enforcement and a reversal of environmental decline. We have consistently emphasized the vital importance of maintaining the WFD and the retention of the apex target and 'one out all out principle'. Any regulatory flexibility or constrained discretion must be used to achieve environmental outcomes more effectively, not to compromise them.

Effective Enforcement and "Polluter Pays" Principle: We strongly advocate for stronger regulation of wastewater, swifter enforcement, and the polluter pays principle being rigorously applied. We would want to see that increased enforcement powers lead to a significant increase in actions against polluters.

Robust Data and Monitoring: We call for comprehensive, agile and collaborative catchment monitoring that brings together data from various stakeholders in an open and accessible way. The confirmed move away from Operator Self-Monitoring (OSM) to mandatory third-party monitoring is strongly welcomed. Crucial to the decline in monitoring by the EA has been significant budget cuts over the past decade. The new regulator must have a significant uplift in funding in order to effectively monitor the water environment beyond the EA's efforts. The EA has made advances in utilising data and analysis produced by citizen science initiatives such as the Angling Trust's Water Quality Monitoring Network in recent years. Progress must accelerate under the new regulator, recognising that citizen science can offer a cost-effective, robust part of the monitoring system.

Separating flood risk and management: It deliberately leaves flood risk and management with the residual Environment Agency. Flood functions would remain at EA, while planning, enforcement, and environmental water-related responsibilities shift to the new regulator. This split risks confusion over who is responsible for critical water-related issues, especially in emergencies. Complex events like flooding often intersect with pollution, water supply and environmental health. Divided oversight could slow responses, create grey areas, and complicate emergency coordination. There could be a negative impact on progress towards other objectives, including ensuring the new regulator's staff have the expertise required and are adequately resourced. The EA's multidisciplinary teams currently handle interlinked aspects like water quality, environmental permits, and flood risk. Splitting these responsibilities could dismantle synergies, hinder knowledge continuity, and reduce effectiveness.

Constrained discretion: The notion of 'constrained discretion' refers to a framework designed to grant regulators greater flexibility in determining the most effective ways to achieve statutory outcomes within specific local contexts, while operating within a defined set of constraints. The primary concern is that constrained discretion could become a loophole that weakens environmental protection, especially in circumstances where a regulator might under-resourced and under-funded. The Government must not make decisions based on the false notion that the regulators need greater discretion to deliver objectives set out in the new National Water Strategy. In reality, the regulators are already afforded flexibility under the WFD; for instance, new modifications to the physical characteristics of a surface water body are exempt from the WFD environmental objectives where any environmental damage is outweighed by the overriding public interest. In citing the need for new reservoirs as a potential reason for constrained discretion, the IWC has chosen to ignore the fact that this existing discretion in the WFD could be applied to the building of new reservoirs to fulfil public water supply needs.

Furthermore, any application of constrained discretion needs to be subject to the precautionary principle, proportionality principle (which afford states a large degree of discretion) and other tenets of international law. Increased discretion at the same time goes against the fundamental principle that decisions of the regulator must also remain challengeable via public law (or some other legal mechanism) to allow the public to hold the regulator to account.

The constraints will be set by the content of the new National Water Strategy, for which recommendations are made with little reference to the WFD. Combined with later recommendations which could significantly weaken the WFD, especially the abandoning of the 'one out all out' rule, and the fact that constrained discretion is to be operated with the goal of the "best value for money" in mind, we have great concerns that constrained discretion, within a weaker regulatory framework, will lead to worse environmental outcomes.

In short, the environmental guardrails must be non-negotiable, and represent no retreat from existing standards of discretion (including transparency and accountability in decision-making), with any flexibility being used to achieve environmental outcomes more effectively, not to compromise them.

Adequate and Sustainable Resourcing: Underpinning all aspects of the new regulator is the concern that the new regulator must be adequately resourced, staffed with top talent, and that full cost recovery from the industry genuinely strengthens regulatory capacity, rather than just shifting burdens or creating loopholes. It is important not to repeat the mistakes of the past when the Environment Agency felt it necessary to issue a memo stating, "We do not have sufficient funding to continue to provide our current level of environment management incident response and have made it clear to government that you get the environment you pay for."[11]

[11] https://www.theguardian.com/environment/2022/jan/29/it-is-desperate-how-environment-agency-staff-were-silenced-as-pollution-worsened (accessed 23/10/2025)

A regional management approach

The current system of governance in the water sector lacks both transparency and accountability at both the local and regional level. This approach will address what has been termed the 'missing middle' of governance, and for greater transparency and accountability at catchment and regional level to ensure national objectives are met, catchment partnerships are delivering outcomes and funding sources are coordinated across catchments and regions to deliver greater benefits.

The IWC recommends improvements in strategic direction[12] through the creation of a National Water Strategy which outlines a strategic, cross-sectoral approach to water management. Regional systems planners or Regional Water Authorities (RSP/RWA) should be set up, to produce cross-sectoral spatial plans, which sit under and deliver against the National Water Strategies (NWS) and Ministerial Statements of Water Industry Priorities[13]. These should cover the 'water environment' and 'water supply', accounting for regional priorities and current conditions and would replace River Basin Management Plans (RBMPs).

The Angling Trust and Fish Legal welcome the IWC recommendation[14] for the creation of new regional water authorities/regional systems planner, as long as appropriate environmental and legal safeguards are built in (as outlined below). We outlined the need for a regional element in our response to the IWC, to tackle the 'missing middle', to provide a comprehensive overview of the needs and priorities of management of the whole water system and coordinate the translation of national targets into regional and local action.

This RSP/RWA needs a holistic approach, from its headwaters to its estuaries and coastal waters to one nautical mile as is currently the case with RBMPs, although there is little focus on this in the current RBMPs.

Recommendation 1: The UK and Welsh government should each bring forward a new, long-term, cross-sectoral, and systems-focused National Water Strategy for England and Wales respectively.

The Angling Trust and Fish Legal welcome clearer strategic direction from government to improve long-term holistic water management. For too long, water has been managed in sectoral and policy silos, trying to balance multiple objectives and priorities and growing demands and pressures on water. There is an urgent need for a long-term, integrated and cross-sectoral approach to water management. We agree that this should be across all water sectors, not just the water industry, to consider other water users that rely on, or impact the water system such as, but not limited to agriculture, land use, energy transport and housing. We are also supportive of the 25-year horizon, with 5- and 10-year milestones to provide a clear long-term direction with embedded 5-yearly reviews and that this should have a statutory underpinning in England and Wales.

This new National Strategic Framework is proposed to set out a clear framework to manage and prioritise trade-offs[15]. The IWC put forward three options. Whichever option is adopted, it is essential that the National Water Strategy sets out clear objectives, tied to environmental

[12] Recommendation 1, page 27, IWC Report
[13] p6, IWC Report
[14] Recommendation 3, page 61, IWC Report
[15] pages 29-30, IWC Report

legislation, and environment and the ecological health of water systems are prioritised as key primary outcomes.

Recommendation 2: The UK and Welsh governments should revise the legal framework for the Strategic Policy Statement and replace this with a new Ministerial Statement of Water Industry Priorities (MSWIP), directing all water industry regulatory and systems planner functions.

We welcome the IWC recommendation for a revision of the SPS framework to provide better strategic guidance to the regulators. However, it is crucial that there a clear prioritisation of the protection and enhancement of the environment and ecological health within the MSWIP ahead of other concerns. These need to be clearly linked to legal targets, with transparent mechanisms for monitoring to ensure that the priorities it sets out are delivered. There is also a need for greater strategic guidance on other parts of the water sector as the pressures on water health will not be fixed through a narrow focus on the water industry alone. This includes ensuring that is a cross-governmental priority to deliver a clean and healthy water system reflected in relevant government strategies for the environment, industrial and economic strategies, transport strategies, etc.

The SPS had many objectives for Ofwat but did not outline the priorities across its duties and responsibilities. It is essential that this is addressed in the new MWSIP to resolve potential 'trade offs'. The IWC note that if government requires a certain number of improvements to storm overflows, bathing waters and water quality monitors, but the supply chain cannot deliver this, then the MSWIP could help to decide how to prioritise targets or locations (Para 45, IWC report). We would be concerned that situations may arise where human health or customer bills take precedent over ecological health. We would urge the government to ensure that environmental health is prioritised in any trade-offs.

Whilst the new MSWIP is being set up, Government must urgently issue a new SPS to clarify delivery towards 2027 and 2030 target. This SPS should be expanded to all water regulators – Ofwat, the EA, NE and the DWI.

Recommendation 3: A comprehensive systems planning framework should be introduced for England and Wales, with responsibility for integrated and holistic water system planning. In England, the systems planners should be regional – or 'regional water authorities'. In Wales, the systems planner should be a national authority.

To improve planning, the IWC outlined four key areas where reform is needed: i) the introduction of a systems planning framework in England and Wales; ii) increased flexibility in the 5-year price review cycle; iii) streamlining of water industry business planning and iv) an improved approach to setting assumptions and delivering economic appraisals.

The IWC recommends a reform of the planning framework and the inclusion of a regional systems planning framework within England and Wales. We welcome these regional systems planner, or regional water authorities (RWAs) to tackle the 'missing middle' and facilitate the translation of national targets into strategic regional delivery. However, to be effective, there are several key roles and responsibilities these new authorities need. These are:

The need for the RSPs to be independent from the single regulator.

We are pleased that the government have already committed to including this new regional element. However, whilst there is a need for regional elements within the regulator, the new regional systems planners must sit outside, and be fully independent from, the regulator.

This is crucial to ensure that the new regulator is not marking its own homework and enables the RSP/RWA to hold the regulator to account. This is essential to rebuild public trust in the water sector and regulation which is at an all-time low. Key to this is that the RSP/RWAs are empowered to access and use the information and expertise within the regulator to inform the development of their strategic plans, monitor delivery and inform decision making.

Furthermore, beyond the initial appointment by the Secretary of State, the structure of the RSP should also be independent, to ensure those with the best skill set and expertise and recruited to oversee the RSPs. The Board must include representation from key stakeholders which impact, or have an interest in the water environment, including agriculture, fisheries and industry.

We would view the RSP/RWA being formed following a similar model to the Regional Flood and Coastal Committees (RFCCs), who are currently supported by the Environment Agency, but not a part of it. This will include the establishment of clear communication mechanisms between the regulator and the RSP/RWAs to ensure effective delivery and regulation of the regional plans, transparent data sharing and stakeholder accountability. The Office of Environmental Protection (OEP) holds government and other public authorities to account. We view the role of the RSP/RWAs to hold water sectors to account for their delivery towards national targets.

Focus on delivery

The RSP/RWA role should focus on delivery, taking national targets and applying these at a strategic level, integrating local knowledge, expertise and regional specifics to inform and direct targets and funding. The RSP/RWA would be responsible for planning, funding and translating national objectives into regional targets, monitoring their delivery against the statutory regional plans. The regulator should keep the role of compliance, permitting, monitoring and enforcement, providing the regulatory oversight, technical support and strategic input, along with data and information for the RSP/RWA as needed to inform regional planning and monitor delivery.

The RSP/RWA will also produce the strategic, cross-sectoral spatial plans, apportioning national targets to a regional level. These targets should not be siloed to specific sectors, but overarching regional targets to encourage more joined up thinking, where sectors can work together for shared delivery. To do this, the RSP/RWA will need to have the authority to oversee and direct water company investment, operations and delivery, sitting above these organisations, whilst the regulators oversee and enforce them.

To be effective it is essential that the RSP/RWA are well resourced and funded to ensure they have can recruit and retain staff with the correct skills and technical expertise to oversee the cross-sectoral delivery of these plans by all stakeholders that use, or impact water, covering freshwater, transitional and coastal environments.

Statutory regional plans (water environment, water supply)

We note the IWC recommend that these new strategic plans replace River Basin Management Plans (RBMP)[16]. We are against this recommendation as it would see the replacement of the legal requirements for RBMPs under WFD with the system planner being able to choose the regional/national objectives. There is no consideration for how these objectives will be set or if

[16] page 436, par 1042, IWC Report

they would adhere to the law under WFD and as confirmed in *Pickering* (i.e. the need for waterbody-specific timebound measures).

As outlined by *Pickering*, the failure in WFD delivery was due to poor implementation, not poor legislation.

Should the government decide to replace RBMPs, it is essential that any new approach is underpinned by a statutory commitment to the core principles established under the WFD for RBMPs, as reaffirmed by the Court of Appeal in *Pickering* . At a minimum, this must include:

- The development of detailed programmes of measures (or an equivalent mechanism) that set out waterbody-specific, timebound actions;
- The establishment of a clear, overarching environmental objective to achieve good ecological status or potential in every waterbody;
- The continued application of the one-out, all-out rule in determining the ecological status or potential of each waterbody.

It is imperative that any reform does not serve as an attempt by the government to legislate away from the duties so clearly articulated and upheld by the Court of Appeal in *Pickering* . Instead, any replacement should be an opportunity to strengthen, not weaken, the legal and environmental protections currently afforded by RBMPs.

In addition, there also needs to be further consideration on how targets are set. The IWC note that regulators would have an advisory role in setting objectives to 'ensure alignment between objectives and legal requirements' [17]. However, the statutory duty to enforce environmental standards would sit with the regulators. What would happen if the RSP/RWA set objectives that are too ambitious or not ambitious enough? What mechanisms are available to someone who wishes to challenge these? The aim of the statutory regional plans is to streamline the planning system. Government needs to outline a clear approach to review and monitor the delivery of these targets to ensure that this new process does not result in new areas of uncertainty.

Transparent and comprehensive monitoring will also be vital to ensure these programmes of measures are delivered. Local knowledge fed up through subgroups (see 'mechanisms to communicate between RSP and catchments in section 5 below) and catchment partnerships will be beneficial to ensure that programmes of measures laid out in these regional plans will implement the changes needed. The statutory duty to enforce the delivery of these plans and their contribution to environmental standards such as those under the WFD should still rest with the regulator.

Funding oversight

We agree with the IWC that a central function of these planners should be to have oversight of funding. This includes funding programmes such as Environment Land Management Schemes (ELMS), Biodiversity Net Gain (BNG), Nature Restoration Levy and Environment Development Plans to ensure these funding mechanisms unlock and support regional delivery. RSP can map sources of funding, and direct and align investment, operations and delivery across organisational boundaries to maximise collaborative action and impact to deliver regional and national objectives. Instead of fragmented funding being spent by individual stakeholders, or directed at small-scale, piecemeal projects, giving the RSP/RWA funding oversight will enable

[17] Para 111, IWC Report

funding to be targeted more effectively, funding projects that can deliver the greatest benefits. This strategic approach allows for efficiencies, avoids duplication and ensures collaboration between stakeholders are incentivised and properly supported. Crucially, it would allow RSP/RWA to influence where funding is directed, so that local catchment needs and wider system resilience are addressed, projects can be prioritised, and stakeholders brought together to deliver work which tackles multiple pathways and maximises environmental improvements to meet national targets. It will also provide greater scope for innovation, incorporating new technologies as these emerge. The funding model used by RFCCs should also be considered e.g. local levees.

Clear mechanisms to communicate between RSPs and catchment-based groups

There is a need for a holistic approach, which considers the water management across all sectors, bringing together stakeholders to deliver national targets and feed in evidence from local and catchment-scale initiatives. To ensure this, clear mechanisms of communication need to be set up. This is for all levels. There needs to be communication and coordination across RSP/RWA to ensure that these do not become new siloed bodies. This is particularly important for managing cross-boundary catchments such as the Severn, Wye and Dee. There is also a need to consider how this will work for cross-boundary rivers between Scotland and England as Scotland was not included within the IWC recommendations.

There is also a need to engage with catchment groups to embed local knowledge to ensure regional plans account for catchment specific needs. There will need to be a clear and transparent mechanism for capturing and balancing the views of different catchments. For example, the Humber includes 18 different management catchments, managed by multiple stakeholders. The RSP/RWA Board may include one representative to capture the views of these different groups.

We recommend that a series of subgroups are established to capture the expertise and knowledge within each region. This should include the RFCC. Along with the formation of other subgroups following a similar model and based on local need. These could replicate the former Regional Environment Pollution Advisory Committees REPACs, bringing together local experts in the region from universities, consultancies and representatives from catchment groups to consolidate expertise and delivery needs for a region on a particular region. Other examples could include ‘environment and fisheries’ and ‘agriculture’, the latter of which could include representatives from farm clusters. Representatives from these subgroups can feed back to the RSP/RWA to provide a mechanism for capturing and sharing regional data and expertise.

Each RSP/RWA must also have a Transitional and Coastal (TRaC) group. It is important these are included in the decision-making process as the impacts of inland pollution are acutely impacted on estuaries and near coastal areas. The inclusion of coastal communities and stakeholders is important, this would include the recreational and commercial fishing communities, shellfish and aquaculture stakeholders, coastal water management bodies such as the Inshore Fisheries and Conservation Authorities (IFCA), and other recreational and business interests.

Hydrological boundaries

The IWC recommends that existing river basin district boundaries are used to set the geographical boundaries of the regional planners. We are supportive of this, as this represents a more natural division compared to water company boundaries, and are more consistent than

administrative boundaries which can change over time. This will ensure consistency for the development of the 25-year strategic direction and 5–10-year milestones.

Building water asset resilience

The final report of the Independent Water Commission (Cunliffe Report) makes 19 different recommendations (recommendation 66 to 85) to address failing infrastructure development, management, and asset health. We support the government in taking forward all of these recommendations.

While the recommendations cover a range of issues when it comes to infrastructure and asset health including resilience and asset health, infrastructure security, infrastructure delivery, monitoring of infrastructure delivery, supply chain and labour force capacity, and innovation and technology, this paper focuses on resilience and asset health (recommendations 66 to 69). Other recommendations that impact on resilience and asset health are reference in the explanation.

The Independent Water Commission identified four main issues in relation to infrastructure and supply chain resilience:

- A lack of resilience standards;
- Limited understanding of the condition and location of infrastructure;
- Infrastructure oversight; and
- Supply chain resilience.

Recommendation 66 calls for, "*Statutory resilience standards, covering system, infrastructure and supply chains, should be developed and adopted for the water industry in England and Wales.*"

Recommendation 67 requires, "*The UK and Welsh Governments should strengthen the requirements on companies to map and assess the health of their assets, and the regulator should ensure metrics for asset health are sufficiently forward-looking*."

Recommendation 68 seeks, "*The regulator's oversight of infrastructure resilience and asset health should be strengthened, under its supervisory approach. This should include the appointment of a Chief Engineer on the board of the regulator in England and Wales respectively.*"

To implement these recommendations the government will need to bring forward new legislation. We urge them to do so at the earliest opportunity and for this to be a key part of the Water Reform Bill they have stated they wish to introduce in the next session of Parliament.

Recommendation 69 calls for, "*The regulator should conduct a sector-wide risk assessment of critical supply chain dependencies in England and Wales*." This does not require new legislation and can be done under existing powers and duties. We call on the government and regulator to carry out this risk assessment as soon as possible. For it to commence under the existing regulatory structure (i.e. Ofwat) and for it not to wait for the new "super-regulator" to be created.

Explanatory text

There has been too little focus on the health of the country's water and sewage infrastructure asset health. Leakage rates from our water supply infrastructure is too high, there is a serious risk that the country will not be able to supply enough water to meet our needs, with a shortfall in supply over demand of over 50bn litres of water per day by 2055. And the use of combined

sewage overflow and sewage overflows from treatment works is still occurring with too much frequency (including emergency overflows), much of which is illegal.

Fixing and maintaining water sector assets can help close the supply/demand gap, reduce the need for new infrastructure, and help to protect the environment. There is also a need to "future proof" our water supply and wastewater infrastructure, to make it more resilient to both short term shocks such as catastrophic infrastructure failures and security risks (e.g. cyber-attacks) and long-term challenges such as climate change and population growth.

Historically the health of our water infrastructure assets has not been a priority by either water companies or the regulator (Ofwat). Our water and wastewater infrastructure is old, with over 60% having been built before 1980, and replacement rates continue to decline, at just 0.1% in 2023/24, down from 0.6% in 2011/12.

The health of our assets must include all aspect of our water sector infrastructure, not only our water supply and wastewater pipes and sewers, but our reservoirs, pumping stations, wastewater treatment works, control systems, monitoring systems, and IT infrastructure. Yet too often, water companies and the regulators do not have a complete understanding of what assets they have or where they are.

There needs to be a shift in thinking from both water companies and the new regulator. We need to move away from a "find and fix" approach to asset management, to a more planned maintenance approach, which seeks to prevent failure rather than simply responding when it happens, often resulting in major environmental impact.

Addressing these failures, ensuring the regulator has the right powers and duties to ensure effective and proactive asset management, including in the security of those assets (recommendation 70[18] and 71[19]), infrastructure development (recommendations 75[20], 77[21], 78[22], and 79[23]), and that there is a sufficient and resilient supply chain (recommendations 80[24], 81[25], and 82[26]).

[18] The UK and Welsh Government should strengthen legislation relating to security arrangements for the water industry to ensure it keeps pace with a changing industry.
[19] The regulator should be provided with stronger powers for the enforcement of existing security regulations in England and Wales.
[20] RAPID, in England and Wales, should be expanded and strengthened to support strategic infrastructure delivery.
[21] The delivery assurance frameworks (Delivery Plans and Delivery Monitoring Framework) that cover infrastructure capital spending across England and Wales should be reviewed during AMP8 and rationalised.
[22] A review of the current PCD framework in England and Wales should be completed before the end of AMP8, to inform a more robust and flexible framework, broadly set at programme level spending.
[23] Under the supervisory approach, the regulator in England and Wales should provide assurance on how a company is delivering infrastructure spend.
[24] The regulators and systems planners, in England and Wales, should jointly undertake a water industry infrastructure delivery needs assessment against an assessment of supply chain capacity.
[25] Water companies, through Water UK, should share best practice on supplier contracts and procurement strategies to help improve water company relationships with the supply chain in England and Wales.
[26] The regulator, under its supervisory function, should gain further assurance from companies in England and Wales on workforce and supply chains to ensure companies can sufficiently deliver.

To ensure effective management of existing assets and delivery of new infrastructure the regulator needs a greater level of expertise with the appointment of a chief engineer, alongside a chief ecologist, in addition to the economic and financial capacity of the board (Recommendation 68 (above)).

And the role of the NISTA (National Infrastructure and Service Transformation Authority) in monitoring and developing water sector assets needs to be central to future asset management and renewal (Recommendation 76[27]).

Beyond the Cunliffe recommendations, the government should also require other sectors to address failings in their asset health and management that impact on the water system and the health of our water environment. This includes our transport infrastructure and the duties on local highway authorities and Highways England to properly manage and maintain infrastructure such as storm drains that discharge directly to the environment.

Planning and new infrastructure

With the broader reforms to the planning system being put forward by the government, there is an opportunity to address the inherent failures in the current system which results in new capacity and infrastructure being added to the network without the ability of the network to cope with this increased demand. This often results in the sewage networks and wastewater treatment works having to cope with demand greater than their capacity and thus increased levels of pollution and systems failure.

In response the government needs to give the water regulator and water companies greater powers within the planning system, including ending the automatic right to connect (recommendation 72[28]) by adopting schedule 3 of the Flood and Wastewater Management Act 2010, ensure the planning process, including local plans, are updated to allow for the timely development of new infrastructure (recommendation 73[29]) and the permitted development rights of water companies, when it comes to infrastructure should allow for a greater ability to improve and develop existing infrastructure without the need for full planning permission (recommendation 74[30]).

In addition, the government needs to go further in terms of updating building regulations to ensure a greater emphasis on demand reduction through water efficiency standards (in both fixtures and fittings and the labelling of white goods). Efficiency standards for fixtures and fittings are currently being consulted on for new developments but should also apply to the refurbishment of the existing housing stocks (i.e. new kitchens and bathrooms).

There will also be a need for requirement in new developments to separate wastewater through the introduction of separate brown and grey wastewater systems and the introduction of SUDS (Sustainable Urban Drainage Systems) and other forms of rainwater management.

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[27] NISTA should consider how the water industry in England and Wales could move towards standardised practices and further recommend how this could be advanced.

[28] The role of water companies in the planning process in England should be strengthened to ensure they have sufficient sight and influence over upcoming developments. The 'right to connect' should be reviewed.

[29] Planning processes in England should be updated to support the timely delivery of water industry infrastructure.

[30] Permitted development rights (PDRs) for water companies in England and Wales should be updated to reduce the scale of delivery requiring full planning permission.

Protecting the environment is the central purpose of any new system

This section focuses on the recommendations made in the IWC report for the legislative framework for water. We have many concerns with these recommendations which are detailed below.

Recommendation 8: The UK and Welsh governments should review the current water legislative framework and amend it accordingly.

The IWC considers that there are three main issues here: (i) the legislative regime is overly prescriptive; (ii) it stifles innovation; and (iii) the legislation is outdated.

Overly prescriptive

Whilst this recommendation refers to all water legislation in the UK, the real focus appears to be on WFD. As our concerns primarily rest around any changes to the WFD, we have therefore considered the IWC's issues above from this perspective.

Although it is a basic tenet of EU law, the IWC appears to have misunderstood the difference between a 'Regulation' under EU law and a 'Directive'. A Regulation is prescriptive in that it details precisely what and when a member state should do to be compliant with the law and when e.g. the Invasive Alien Species Regulation. Whereas a Directive leaves member states with flexibility as to how to comply as long as they meet the legislation's objectives, which in case is the long-term requirement to reach waterbody 'Good status (ecological & chemical) by 2027 by taking appropriate measures, with certain exemptions available past that date e.g. time lags past 2027 required for measures in place prior to 2027 to allow for an ecological recovery period. Therefore, the WFD – as a directive with only obligations of result, which does not prescribe the means or measures through which that result is to be achieved but leaves the precise details to each member state – already has a high degree of flexibility and choice, to be exercised through government discretion, for achieving its objectives. It therefore can deliver the flexibility requested in the IWC recommendations.

To reiterate, the legislative regime of WFD is actually permissive not prescriptive about the way in which states are to achieve environmental objectives[31]. Somehow, making the WFD - which is no more prescriptive than requiring (in 2003) that appropriate measures for restoring good status in each water body should be taken with the aim of achieving that status by 2027 – even less prescriptive (and thus more discretionary) is likely to completely undermine the discipline it imposes as a planning or 'stretching' mechanism. Indeed, the planning failure to date[32] can largely be explained by the policy of 'generic', non-specific and largely non-committal measures without local accountability adopted by the government – see *Pickering* where the judges expressed their shock that the government had still not devised a programme of restoration measures (despite its assertion that it had done so) 20 years after the river basin planning process had begun.

In addition, this is a Framework Directive and supporting this are the Daughter Directives; Ground Water & Priority Substances Directives. It also relies heavily on the implementation of the Drinking Water Directive, Urban Wastewater Treatment Directive, Nitrates Directive and the Floods Directive. Implementing these in full should enhance and compliment the goal of Good Status and is indeed a requirement of the WFD as 'basic measures'[33]. Unfortunately, a coordinated approach has been very much lacking in part due to siloed approaches within the Regulators and benefits, such as upgraded operations & maintenance requirements of sewage

works and networks under the UWWTD which would have enhanced water bodies have therefore not been achieved. To overcome this, we see the establishment of Regional Spatial Planners as key to delivery with the RFCCs, regulators, Internal Drainage Boards and local planning authorities playing a crucial role in moving out of this siloed approach.

The WFD remains a good piece of law, its interpretation and application by the government and regulators is what has failed. In light of *Pickering,* we believe that if the government and the EA were to now to proactively apply the legislation in order to achieve its objectives rather than the previous foot-dragging, a there would be no need for any substantive reforms to WFD as it would start to achieve what it was designed to do two decades ago.

The IWC recommends a rationalisation exercise which could involve bringing all or some water legislation into a single statute, without changing the substance of the law[31]. Whilst we would support a need to streamline the water legislation where this is excessive or contradictory, this should not include the WFD. Or, if the government does want a single statute, then the WFD should be the basis of this with all other legislation fitting within it.

Innovation

The IWC notes only one example for legislation stifling innovation: the LURA 2023 which favours grey solutions despite encouragement from government to use nature and catchment-based solutions[32]. If the government were to streamline the law in this area, flexibility for innovation is already completely in line with the objectives of the WFD (which has a derogation for technical infeasibility, thus encouraging innovation) and should not be used as a means of overriding its targets. Flexibility for innovation should not override the targets within WFD and should certainly not afford more discretion to the regulators in how they interpret the law.

Outdated

The IWC notes that WFD is outdated as no emerging/evolving chemicals have been added to the Priority Hazardous list since Brexit and whilst we would wholly support a new legal mechanism, we would point out that in the EU this was established via the Watch List which is not part of EU legislation (and as such was not transposed into UK law). This and other new requirements and updates are easily incorporated into the structure of the WFD and indeed it has an inbuilt mechanism for doing so. Indeed, the Watch List mechanism came about during negotiations between the Commission, member states and NGOs through the Strategic Coordination Group (SCG) for the Common Implementation Strategy for the Implementation of the Water Framework Directive, a similar mechanism could be set up immediately without the need for primary legislation which would take time. The setting up of an equivalent SCG for England & Wales would also give greater transparency to national decision making.

In addition, the age of WFD is of course an inevitable feature of long-term planning and as well as providing the long-term perspective provides benefits such as allowing for comparisons to be made across European states (which the report itself does within this chapter). Although, we would disagree with the IWC that comparator nations being set to miss the 2027 deadline is demonstrative of the WFD itself being a failure. As noted previously, the WFD is not bad law, it is the failed implementation that is the problem.

[31] Para 194, IWC

[32] As per the consultation response from WCL / Blueprint for Water

In Chapter 3 para 211, the IWC notes that in 2024 the EU adopted a revised UWTD with a strong focus on micropollutants in urban wastewater introducing an Extended Producer Responsibility to fund quaternary sewage treatment upgrades with this being paid for by the pharmaceutical and cosmetic industries. We support this approach and propose strengthening Recommendation 9 to include this in the white paper and proposed bill.

Further thoughts on WFD are included in our response to Recommendations 11 and 12 below.

Recommendation 11: The UK and Welsh governments should consult on reforms to the WFD Regulations, including broadening the scope to include public health outcomes.

Here, the IWC note that there are four main issues with the WFD: (i) it is limited in scope in particular in relation to public health (dealt with under Recommendation 12); (ii) there is a lack of overall progress to achieving the targets and objectives; (iii) there are challenges with the classification framework; and (iv) there are challenges with the design of its targets and objectives.

Lack of progress

The IWC notes that the lack of progress "can be attributed to poor implementation of the regulations"[36].We agree. It cites *Pickering* as evidence of this. However, it then fails to to provide adequate reasons for reaching this conclusion (some of which are in fact provided in the judgment), such as the government's (and EA's) incorrect interpretation of the law with a preference for vagueness, thus watering down its mandatory requirements, plus weak enforcement – and instead jumps to altering the WFD classification and target framework (as being its presumably recommended means of improved implementation). The WFD is good law, whilst the deadline of 2027 will be missed, there is nothing to stop the government from extending this deadline - but on a 'no-further-slippage' basis - and correctly implementing the regulations to achieve the environmental objectives in good time. the IWC also refers to revisiting the fundamentals of WFD to "make them more efficient and bring them in line with public and environmental expectations"[37]. It is not clear what this means. However, arguably the expectations of WFD would be met if it were to be implemented correctly.

Here we would note that the OEP has already considered steps that could be taken to improve the WFD, all of which are realistic and do not involve re-writing the entire legislation. In fact, as noted by the OEP:

> "*Most of the issues we identify could be addressed within the existing [WFD] regime. If applied effectively, we consider that the WFD Regulations provide a sound basis to manage and monitor the water environment. We therefore advocate retention of their fundamental, underlying structure and approach in the case of any future reform, while taking some key opportunities to improve the regime without lowering current levels of protection or lessening ambition*."[33]

OEP's suggestions for improvement include: (i) better investment in measures; (ii) less generic measures (as confirmed in *Pickering*); (iii) better pace and certainty to meet environmental objectives; (iv) better governance arrangements to implement RBMPs; and (v) stepping up monitoring and evaluation of progress towards meeting the objectives. As noted, the

[33] P.8, in 'A review of implementation of the Water Framework Directive Regulations and River Basin Management Planning in England' (**OEP WFD Review**).

mechanisms for implementing most of these are already within the WFD regime, there is no need to re-write this legislation and we would strongly urge against such a move.

Challenges to classification framework

The IWC cites Defra's response to the call for evidence which states that the WFD classification system is flawed as the 'one-out all-out' principle "may mask [a waterbody's] true condition" and can "damage the public's perception of progress"[34].

This seems to be a plea from government to be given credit for the improvements that *have* been made (which are modest), even though they have not been sufficient to restore ecological health. There is no doubt a (limited) role for providing the public with this limited improvement information, but if ecological health has not been restored because at least one element of the ecosystem remains degraded then the water body remains degraded (eg. with a defective element such as a degraded fish population) which is obviously still far from being good enough.

This 'masking' argument was considered by the OEP WFD Review which concluded that this alleged "masking" effect did not seem to be taking place at the national level in relation to overall progress.

We would agree with the OEP on this point that the government's opposition to the one-out all-out rule is largely one of perception or communication, and if the rule were abandoned (which is quite unnecessary because of the many derogations available) would have a highly detrimental impact on effectiveness. Thus it says the government's real concern:

> "is *largely a question of how the legislation is (or should be) applied and its outcomes communicated rather than its intended or inevitable effect. One-out, all-out is not a legal constraint in this regard because there is no requirement to achieve overall Good Status where an exemption can be justified in the Environmental Objectives. In addition, utilising the provisions on exemptions, different objectives can be set for the individual elements that apply to a water body. One-out, all-out should not, therefore, push authorities towards a sub-optimal outcome if the provisions on exemptions are used correctly. This should allow resources to be applied in the most effective way*."[35]

Once again, the issue is the way in which the government has chosen to implement the legislation, and not the legislation itself.

In addition, if the one-out all-out rule were to be removed then on a practical level, this would not actually improve the condition in the waterbodies, it would just allegedly improve public perception. However, surely this is worse, as the public will be misled in terms of the health of a waterbody thinking it is at "good" when a part of it might still be failing. It could also risk driving attention and therefore investment away from an issue where the classification shows the waterbody as "good".

We would strongly oppose removing the one-out all-out rule as this is an essential protection against waterbody degradation and ensures the regulators are striving to achieve the highest possible status in each waterbody, to the extent possible.

[34] Para 233, IWC
[35] P.109, OEP WFD Review

Challenges with design of targets and objectives

The IWC repeats concerns raised by regulatory stakeholders that GES has been poorly designed and constrained by the ambitious timeframe and costs required. However, failure in previous price review cycles to appropriately fund the measures to achieve GES is not the fault of the WFD. Again, none of this requires a change to WFD – instead, a change to the way in which it is implemented by waterbody specific measures that are actually designed to achieve GES would overcome a lot of the problems with GES.

The IWC recommend a "new long-term, legally binding target" as an objective to reform the WFD[36]. Whilst there is a need to set a new target once 2027 expires, we would argue this target should be as stringent and ambitious as GES. This expiration of the existing 24-year deadline – during which time very limited progress has been made – should not be an excuse for the government to step back in its commitment to improving waterbodies. The target should be based on the WFD environmental objectives, i.e. achieve the highest possible ecological and chemical status, the one-out all-out principle should remain in place and there should be regular and rigorous reviews of these objectives. It should also be implemented via programmes of measures and river basin management plans within the existing WFD framework as now clarified by the courts.

The IWC refers to SMART interim targets to deliver against longer-term targets (as recommended by the OEP)[42]. We would support a move to integrate the new target (i.e. environmental objectives) within the price review cycle and the proposed National Water Cycle (should the government adopt this recommendation). There is certainly a need for better alignment between the RBMPs and price review cycles and matching the targets within these cycles could be a way of delivering this and effectively provide interim deadlines for achieving the WFD objectives (the way in which the WFD was originally designed, on the 6-yearly cycle basis). We would also support these targets stemming down to the local systems planning level as this would help ensure the targets are waterbody specific, as required under WFD.

Recommendation 12: To facilitate a robust assessment of how public health can be effectively incorporated into a new water framework, the UK and Welsh governments should establish taskforces led by the chief medical officers of England and Wales to review the incorporation of public health better into the legislative framework for water.

Public health

Regulatory stakeholders have responded that GES has the ability to "obscure…wider human health benefits within a catchment"[37]. The IWC also note that not all public health risks are managed under WFD. However, this is intentional. WFD is not meant to ensure that waterbodies are fit for human use, it is a framework designed to "protect, and where necessary, restore water bodies in order to reach good status and prevent deterioration. Good status means both good chemical and good ecological status"[38]. The focus is not on the status for human use.
As we made clear in our response to the call for evidence "*At the most basic level the water environment should be recognised for the unique ecosystem that it is. It supports a wide variety of animal and plant life and without first protecting the survival of the ecosystem it is not*

[36] Para 242, IWC
[37] NRW response to the call for evidence – see para 227, IWC
[38] See objectives summarised at https://environment.ec.europa.eu/topics/water/water-framework-directive_en

possible for the water system to successfully fulfil any other purpose (such as recreation or business needs)". The priority right now is to ensure that waterbodies are ecologically healthy. The IWC notes that "the current lack of emphasis on public health within the framework ...is a major gap that needs to be addressed"[39]. The IWC is clear that this would not mean all waterbodies require public health as an outcome, but only those where there is frequent recreational use. Essentially the recommendation is to extend bathing level protections to non-bathing waters which have "recreation or aesthetic value"[40]. Our concern is that "frequent" recreational use should be carefully defined to ensure this does not become a way for water sports groups to take over waterbodies not designated as bathing sites (i.e. a "mission creep"). We are also concerned by the phrase "aesthetic value" as it is not clear what this could mean or how far this could extend.

We have seen in the past with the Bathing Water Regulations Reform consultation that there is a move to broaden access to blue spaces by all forms of recreation with no consideration of the consequences for the aquatic life (or indeed for anglers). Recreation can often come into conflict with wildlife and there is a clear difference in priorities from a chemical and ecological perspective. A river that is clean and fit for human use may be too sterile for river life to survive. We would therefore object to any proposal to introduce public health measures into WFD. The directive is concerned with the ecological health of a river, not whether it is fit for humans to swim/conduct recreational activities within.

If the government does go ahead with putting public health higher up the agenda, then we would urge for a caveat that ecological health takes priority in terms of setting measures. A river should achieve GES and GCS before public health concerns can be considered. In addition, if the treatment needed to make a river safe to swim would have an impact on the ecology, this should not be taken, and the river should not be deemed as fit for human use.
The IWC also recommends introducing legal mechanisms to assess emerging threats such as PFAS, microplastics and anti-microbial resistance for their impact on environmental and human health. We would support this move.

The IWC further recommends looking for opportunities to tie together biodiversity objectives under the Habitats Regulations with the WFD to ensure both regulations work together. We would support this move. This could include adding small waterbodies to WFD and expanding the reach of WFD to SSSIs, both of which we would be in favour of. WFD is good law, and extending this to small waterbodies will help improve the overall health of all surface waterbodies and will prevent the regulators relying on the excuse that a waterbody is outside their remit under WFD due to size.

Recommendation 13: Future water monitoring programs should be reviewed and adequately resourced, to accurately reflect the state of the environment.

The IWC identified two main issues on water monitoring: (i) reduction in overall monitoring due to resource constraints; and (ii) challenges with the efficiency of monitoring approaches and use of new technologies.

Monitoring system and resources

The IWC notes how important water monitoring is, as it informs regulatory activities such as permitting as well as the classification systems and PoMs. We would concur with this and

[39] Para 245, IWC
[40] Para 245, IWC

would also flag that monitoring should be intelligence-led, transparent and real-time in order to be effective. However, we do not concur with the approach the IWC takes on monitoring.

It notes that the current system is resource intensive and is not adequately funded or resourced. Whilst there may be some truth in this, we do not believe that funding or resources is the real problem. One of the current monitoring methods of the EA is the River Surveillance Network (RSN). This method uses randomly allocated sites along a river where samples are taken every year or few years during the day time only. These sites were selected by a computer and intentionally randomised. The samples are then combined and a mean is taken to provide the results.

The risks of this approach are numerous and include[41]:

a. the river system is not random; each river is impacted by different pollutants and pathways. It is also impacted by weather and time of day. A monitoring system that is based on random sample sites will not take account of any of this information.
b. taking an average of the samples will have the impact of diluting results and giving a misleading impression of the chemicals in a river.
c. This system tests for multiple chemicals at all sites, when in fact money could be saved by focusing on specific chemicals depending on the issues at the site, i.e. there is no need to measure for Tributyltin in all rivers when this will only be an issue in rivers near to former or current shipyards that used this chemical in anti-fouling paint on ships[42].

By way of example, under the RSN a sample may be taken at a random point on a river which could show there is no raised sewage-related chemicals. This would in turn mean there is less focus on measures to address sewage discharge as the results do not show this as being a major problem. If an intelligence-led system were adopted then this would enable testing points to be selected downstream and upstream of the sewage outflow with a focus on the chemicals typically associated with sewage, i.e. phosphorous, ammonia, etc. The testing could then take place during discharge hours and non-discharge hours (or wet/dry conditions) to provide an accurate picture of the impact of sewage. This would likely give a different result to the RSN method and would enable the EA to work with the water company to tackle this problem more effectively.

To adopt this intelligence-led approach of allowing data to drive where sampling sites are and what chemicals should be tested would no doubt save time and resources at the EA and would provide a much more accurate picture of the state of the river.

Whilst we can appreciate that funding is an issue at the regulator, this will no doubt always be a problem and we should be careful that the narrative of "lack of funding" does not become an excuse for inaction. Where funding is limited, there is a need to prioritise which can be done without sacrifice to the environment. As noted above, an intelligence-led system of monitoring would no doubt save time and money in the long run as it would identify the issues faster and enable measures to be put in place to address them. Therefore, whilst we are not against greater funding and resources for monitoring, care should be taken in how current resources and funding is best utilised.

[41] Internal note: As explained by Peter Lloyd in his note on the EA RSN, August 2024
[42] Example from Peter Lloyd,

Separately, we would support the IWC's recommendations to generate more funding from chargeable activities.

Use of new technologies

The IWC notes the potential to use alternative information such as CWQM from water companies and citizen science. Whilst we are in favour of maximising the data available and taking the strain off the EA where resources may be an issue, we would caution that unreliable data is possibly worse than a data shortage. Citizen Science can be a very powerful tool to be tapped into and can fill a gap in the monitoring regime, although as with the EA's approach to monitoring this should be overseen and controlled so that it is clear what is being measured at each site and what times of day it is happening. Proper training should be given to minimise the potential for human interference with the monitoring.

Glossary

Acronym	Definition
IWC	Independent Water Commission – A commission established by the government to review and make recommendations on water governance and regulation.
Ofwat	Office of Water Services – The current economic regulator for the water sector in England and Wales.
DWI	Drinking Water Inspectorate – The drinking water regulator in England and Wales.
EA	Environment Agency – The environmental regulator in England.
NRW	Natural Resources Wales – The environmental regulator in Wales.
NE	Natural England – The public body for conserving and enhancing the natural environment in England, with water regulatory functions.
RSP/RWA	Regional Systems Planner/Regional Water Authority – Used interchangeably to refer to the newly proposed regional authority responsible for planning and implementing water strategies.
SPS	Strategic Policy Statement – A government-issued policy setting strategic priorities for water regulators, currently issued to Ofwat every five years.
MSWIP	Ministerial Statement of Water Industry Priorities – Proposed to replace the SPS, directing water regulation and system planning functions.
RBMP	River Basin Management Plan – Statutory plans under the Water Framework Directive to manage water bodies and environmental objectives regionally.
WFD	Water Framework Directive – An EU legislative framework aiming to improve and protect the quality of waterbodies across Europe. This was transposed into national law via the Water Environment (Water Framework Directive) (England & Wales) Regulations 2017. WFD is used throughout the report to reference both the EU and national legislation.
OEP	Office for Environmental Protection – An oversight body holding the government and public authorities to account on environmental protection.
RFCCs	Regional Flood and Coastal Committees – Committees supported by the Environment Agency for local/regional flood and coastal management.
NISTA	National Infrastructure and Service Transformation Authority – A public agency to advice the government on infrastructure delivery and improvement. It replaced NIC.
NIC	National Infrastructure Commission – The body replaced by NISTA.
RSN	River Surveillance Network – A monitoring approach operated by the Environment Agency to assess the health of the rivers in the UK.
AMP8	Asset Management Period 8 – The eighth regulatory funding and delivery period for the water industry in England and Wales.