

## Debate Pack

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By Dominic Carver  
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# Strategic priorities for Ofwat

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## Summary

Ofwat (the Water Services Regulation Authority) is the economic regulator of the water sector for England and Wales. It is a non-ministerial government department established in 1989 when the water and sewerage industry in England and Wales was privatised.

The UK and Welsh Governments provide policy direction to Ofwat through statutory strategic statements. Ofwat must act in accordance with the

statements when carrying out its functions and is required to report on the steps they have taken in response.

On 28 March 2022, the Government published its latest strategic policy statement (SPS) for Ofwat. It replaced the previous SPS issued in 2017 and sets out four key priorities:

- protect and enhance the environment
- deliver a resilient water sector
- serve and protect customers
- use markets to deliver for customers

On 9 June 2022 a general debate on the Government's strategic priorities for Ofwat will take place in the House of Commons chamber. This debate pack provides an overview of the latest strategic priorities for Ofwat and background to the legislative framework for its implementation. Analysis and stakeholder views on the policy statement are also included.

# 1

## Legislative framework

Ofwat (the Water Services Regulation Authority) is the economic regulator of the water sector for England and Wales. It is a non-ministerial government department which receives direction through statutory strategic statements from the UK and Welsh Governments.

On 28 March 2022, the Government published its latest [Strategic policy statement for Ofwat](#). Prior to this a draft strategic policy statement (SPS) was laid in Parliament on 2 February 2022. The latest policy statement sets out the legislative framework for this process:

Under section 2A of the Water Industry Act 1991 (as amended by the Water Act 2014) the Secretary of State may from time to time publish a statement setting out strategic priorities and objectives for Ofwat to follow in carrying out its relevant functions relating wholly or mainly to England.

Ofwat must carry out those functions in accordance with any statement published under section 2A. When formulating the statement, the Secretary of State must have regard to Ofwat's duties under section 2 of the Water Industry Act 1991, social and environmental matters, and may have regard to such other matters they think fit.

The Secretary of State is required to consult Ofwat, the Consumer Council for Water, relevant undertakers, licensees, the Environment Agency, Welsh Ministers, Natural Resources Wales and anyone else the Secretary of State thinks appropriate, on a draft of the statement. Prior to final publication, a draft of the statement must be laid before Parliament for a period of 40 days.<sup>1</sup>

The Commons Library briefing on [Economic regulation of the water industry in England and Wales](#) contains further information on the role of Ofwat and the legislative framework for the water industry in England and Wales. Appendix 1 of the [Strategic policy statement for Ofwat](#) also provides a summary of Ofwat's duties.

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<sup>1</sup> Defra, [Strategic policy statement for Ofwat](#), 28 March 2022

## 2

# Strategic priorities

In July 2021, Defra published and consulted on its initial draft SPS for Ofwat. [The consultation](#) ran until October 2021 and sought views on the following questions:

- Has the government identified the most relevant strategic priorities for Ofwat? If not, please provide details of the priorities that should be included.
- Does the strategic policy statement effectively set out government's expectations of Ofwat in supporting delivery of our priorities? If not, please identify where these expectations could be made clearer.
- Do you consider that this statement to Ofwat is clear and easy to understand? If not, please identify any areas that could be clarified.<sup>2</sup>

The consultation page stated that the government would “consider the responses and publish a finalised strategic policy statement to Ofwat in early 2022.”<sup>3</sup>

On 28 March 2022, the Government published the finalised [strategic policy statement for Ofwat](#) replacing the previous SPS published in 2017. It sets out four key priorities:

- **protect and enhance the environment:** Working with other regulators and government, Ofwat should challenge water companies to improve their day-to-day environmental performance to enhance the quality of the water environment. Ofwat should also drive water companies to be more ambitious in taking action to protect and enhance the environment, in particular by taking appropriate action to improve water quality
- **deliver a resilient water sector:** Ofwat should challenge the water industry to plan, invest in, and operate its water and wastewater services to secure the needs of current and future customers, in a way which delivers value to customers, the environment and wider society over the long-term
- **serve and protect customers:** Ofwat should push water companies to provide a better and fairer water service for all, by improving customer services and complaints handling. Ofwat should challenge water companies to meet the needs of vulnerable customers, including those who are ‘transiently’ vulnerable

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<sup>2</sup> Defra, [Strategic policy statement for Ofwat - consultation letter](#) (opens PDF), 22 July 2021

<sup>3</sup> Defra, [Government's strategic priorities for Ofwat](#), 22 Jul 2021

- **use markets to deliver for customers:** Where appropriate, Ofwat should consider how promoting competition in markets can drive long-term sustainable investment, providing benefits to customers and supporting government's priorities. Ofwat should focus its efforts on the business retail market, the NAV [[New Appointment and Variations](#)] market, ecosystem services, developer connections, major infrastructure provision, and bioresources<sup>4</sup>

Under each of these four key priorities the policy statement sets out what the Government expects from Ofwat and water companies. For example, under 'protecting and enhancing the environment' the policy states that the Government expects Ofwat to:

- challenge water companies to demonstrate how they will improve environmental performance to meet Environment Agency requirements in the Environmental Performance Assessment
- challenge water companies to demonstrate how they will achieve zero serious pollution incidents by 2030
- challenge water companies to demonstrate how they will significantly reduce the frequency and volume of sewage discharges from storm overflows, so they operate infrequently, and only in cases of unusually heavy rainfall<sup>5</sup>

An extensive set of expectations and more specific targets under each of the key priorities are set out in the SPS.

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<sup>4</sup> Defra, [Strategic policy statement for Ofwat](#), 28 March 2022

<sup>5</sup> Defra, [Strategic policy statement for Ofwat](#), 28 March 2022

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## Stakeholder views and analysis

Concerns over the environmental performance of water companies have been particularly prevalent in recent years. Storm overflows or combined sewer overflows (CSOs) were debated at length during the final stages of the Environment Bill (see Library briefings: [Report on Committee and Remaining stages in the Commons](#) & [Lords amendments and “ping pong” stages](#)) and continue to receive significant public attention.

An [article published by CIWEM](#), the Chartered Institution for Water and Environmental Management, in May 2022 highlighted that public concern over nature and the environment has increased since the previous SPS in 2017. It also noted a change in tone between the draft statement published in July 2021 and the final statement, suggesting that storm overflows had been a factor in this:

Arguably the driver of this change has been the focus the past couple of years on pollution from storm overflows and the public outrage associated with it.

Not much has changed since the initial draft of the SPS on this, just a reflection of the measures set in train by the extensive content on the issue in the Environment Act passed at the end of last year. Government wants to see “significant improvement” in the reduction of harm and frequency of discharges.

It does add greater emphasis to one critical point: How overflows are intended to operate. Campaigners made much of legal rulings stating that overflows should only discharge in “exceptional” circumstances. This is now echoed in the statement – government expects they should only operate in “unusually heavy rainfall”.

Tagging a welcome and very absolute numerical target onto all this, government states that it wants to see zero serious pollution incidents by 2030 – in other words the end of the next AMP [Asset Management Planning] round. No excuses.<sup>6</sup>

### Reaction to the draft SPS

In September 2021, Yorkshire Water responded to the consultation on the draft SPS published in July 2021 by stating that it broadly welcomed the Government’s approach but felt that “given the scale and urgency of the challenges that we are facing, we believe there are areas in which the SPS

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<sup>6</sup> CIWEM, [Government signals strategic shift on environment for Ofwat](#), 26 May 2022

could go further to ensure that regulators and industry are able to play their part as effectively as possible.”<sup>7</sup>

Yorkshire Water’s response to the July 2021 draft also proposed a number of changes to the current SPS and regulatory regime, including a stronger and more frequent role for Parliament and regulatory changes to ensure that partnership working becomes the norm rather than the exception.

Water UK, the representative body and policy organisation for UK water and wastewater companies, said that it was encouraged by a growing consensus around the long-term challenges facing the industry but felt the SPS was a missed opportunity:

...while the draft SPS broadly covers the right themes, our view is that it is a missed opportunity to provide a clear and specific direction for the latter part of this decade and confidence that the whole sector will act together to deliver shared goals. Our concern is that without more clarity on the specific goals the Government wants delivered, there is a high likelihood that vital investment will be deferred in favour of perceived short-term pressures. Waiting until the 2030s for that investment will be too late – as a country, we cannot afford to waste the 2020s, and the delay will also increase cost.<sup>8</sup>

On 2 February the [River’s Trust published a press release](#) outlining the organisation’s views on the SPS. This welcomed “the prioritisation of the environment for the first time in Defra’s latest Strategic Policy Statement for Ofwat.”<sup>9</sup> However it also set out other areas where the organisation felt it was not ambitious enough, such as addressing investment gaps in ageing infrastructure. The press release also sets out the consultation response it sent as part of the Blueprint NGO coalition of Wildlife and Countryside Link. This covers issues such as climate change, net zero, water consumption, nature-based solutions and partnership working.

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<sup>7</sup> Yorkshire Water, [Yorkshire Water response to the Department for Environment, Food and Rural Affairs consultation](#) (opens PDF), September 2021

<sup>8</sup> Water UK, [Consultation on a new Strategic Policy Statement for Ofwat: response of the water industry](#) (opens PDF), October 2021

<sup>9</sup> The Rivers Trust, [Press Release: Response to Defra Strategic Policy Statement for Ofwat](#), 2 February 2021

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# Parliamentary material

## Parliamentary questions

### Water: Pollution Control

26 Apr 2022 | Written questions | Answered | House of Commons | 153973

**Asked by:** Seema Malhotra

To ask the Secretary of State for Environment, Food and Rural Affairs, what proportion of English waters are projected to reach good ecological status by 2027; and what steps he plans to take to achieve that target.

**Answered by:** Rebecca Pow

**Department:** Department for Environment, Food and Rural Affairs

To ask the Secretary of State for Environment, Food and Rural Affairs, what proportion of English waters are projected to reach good ecological status by 2027; and what steps he plans to take to achieve that target.

Improving water quality is a government priority. We have committed to improve at least three quarters of our waters to close to their natural state as soon as practicable. The Environment Agency sets objectives for the ecological status of England's water bodies, including rivers, and the measures to achieve them in our river basin management plans. The objectives for water bodies over the next six-year cycle (2021-2027) are contained in the updated draft river basin management plans that were available until 22 April for statutory public consultation:

<https://www.gov.uk/government/collections/draft-river-basin-management-plans-2021> (opens in a new tab)

We are also currently seeking views on a suite of Environment Act 2021 targets which includes new targets on water. These will improve the health of our rivers by reducing nutrient pollution and contamination from abandoned metal mines in water courses and improve water use efficiency. The Environment Act also places new duties on the water industry to take action on reducing harm from storm overflows. Water company investment in environmental improvements has been scaled up to £7.1 billion over the period 2020-25. Through the next Price Review (PR24) we are using the strategic policy statement to Ofwat, the economic regulator, to make the environment a top priority. This additional action will improve the quality of our rivers.



## Water Companies: Pollution

17 Feb 2022 | Written questions | Answered | House of Lords | HL5666

**Asked by:** Baroness Jones of Whitchurch

To ask Her Majesty's Government what recent discussions they have had with Ofwat about the powers it has to take action against individual water company executives in the event of illegal sewage discharges; and whether those discussions identified (1) any request from Ofwat for greater powers to fine water company executives, and (2) any lacunae in its regulatory powers in this area.

**Answered by:** Lord Goldsmith of Richmond Park

**Department:** Department for Environment, Food and Rural Affairs

Water companies are separate legal entities from their directors, as per company law, and it is companies which undertake most of the duties associated with treatment and discharge of sewage. However, directors of companies can be held liable for the offences committed by their companies in the event that consent, connivance or neglect on their part can be shown.

The Government has made improving water quality a priority and has introduced reforms to enable that. The Environment Act has placed our ambition on a statutory footing, setting a duty for water companies to achieve a progressive reduction in the adverse impacts of discharges from Storm Overflows. The Act has also modernised water resources planning, and introduced statutory requirements on monitoring and transparency. The Secretary of State can also give general authorisation to Ofwat which will enable the regulator to take enforcement action should companies fail to meet these new duties.

The Strategic Policy Statement to Ofwat sets an expectation that they will challenge water companies to demonstrate how they will deliver improvements to environmental outcomes, sets a new course so the industry can deliver more for the environment, and includes an expectation for Ofwat to 'challenge water companies to demonstrate how they will achieve zero serious pollution incidents by 2030' which will provide a clear signal to companies.

## Water Companies: Standards

16 Feb 2022 | Written questions | Answered | House of Commons | 119515

**Asked by:** Dr Matthew Offord

To ask the Secretary of State for Environment, Food and Rural Affairs, what steps Ofwat will take to incentivise water companies to meet the aims of strategic drainage and wastewater management planning in a way that

represents best value for money over the long-term for customers, the environment and wider society.

**Answered by:** Rebecca Pow

**Department:** Department for Environment, Food and Rural Affairs

Ofwat, the independent economic regulator, is legally required to act in accordance with the strategic policy statement (SPS). A draft SPS was laid in parliament 2nd February and is due to come into force following a period of 40 sitting days.

Government expects Ofwat to explain how it intends to achieve against the priorities set out in the SPS when making key decisions. For example, in its forthcoming price control review methodology.

Protecting and enhancing our nation's water environment is a priority for this government. It is government's expectation that Ofwat and the water industry will prioritise appropriate action to enhance water quality and deliver a resilient and sustainable water supply. In particular, the Government wants to see water and sewerage companies making progressive reductions in the adverse impacts of discharges from storm overflows.

DWMPs will become statutory through the Environment Act 2021 when the first cycle ends and will help sewerage companies to fully assess wastewater network capacity and develop collaborative solutions.

In delivering against the priorities set out in the Strategic Policy Statement, water companies should significantly increase their use of nature and catchment-based solutions. We expect companies and regulators to work towards delivering these solutions as a matter of preference.

### **Oral questions**

#### [Water Quality](#)

Volume 705: debated on Thursday 9 December 2021

### **Debate**

#### [Water Companies: Duties and Accountability](#)

Lords Chamber, Volume 820: debated on Monday 4 April 2022

#### [Water Industry Reform](#)

Lords Chamber, Volume 818: debated on Tuesday 25 January 2022

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## News articles

The Guardian, [Ofwat urged to do more to make water firms protect environment](#), 2 February 2022

The Times, [Water firms must pay to keep rivers free of sewage](#), 2 February 2022

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