

November 2020

[www.water.org.uk](http://www.water.org.uk)

## Introduction:

Water UK represents all water companies in England, Wales, Scotland and Northern Ireland. Our sector is integral to the protection and enhancement of the UK's rivers and seas and the habitats around them; we invest over £1 billion every year on environmental improvements, including a programme over the next five years to enhance 7,500 miles of river. This is a vital part of ensuring the safe and sustainable supply of clean water for our customers.

The Bill is a once in a generation opportunity to make the critical changes needed to safeguard the natural environment for the long term. As custodians of a natural resource, we need the Bill to be as effective as possible.

As a founding member of the [Broadway Initiative](#), we work with other sectors to help strengthen the main pillars of the bill, such as its proposals on governance, targets, and powers. In addition, there are four areas specifically related to water in which the legislation could be improved:

1. Transforming the nation's approach to water efficiency
2. Tackling single use plastics that cause pollution
3. Clarifying the powers and remit of the Office for Environmental Protection.
4. Improving flood risk management through Drainage and Wastewater Management Plans

This note sets out our summary position on the bill, and the specific changes that would improve the Bill – and in each case their rationale and suggested amendments. We would welcome the opportunity to discuss this briefing with Parliamentarians in further detail.

## Background:

### **The Environment Bill: Water UK's summary position**

Water UK and our members have strongly supported the Bill - and efforts to strengthen it - since its inception. We welcome its ambition, including the introduction of biodiversity net gain, conservation covenants, moves to tackle waste (especially plastics, which are a growing pollutant in our water sources) and the inclusion of provisions specific to the water sector.

The Environment Bill is crucial for allowing water companies to build on improvements made over the last thirty years. It facilitates a predictable, stable legal framework following Brexit - absolutely essential for enabling continued long-term planning, investment, and innovation.

We also applaud its potential to hold all industries, in addition to the water sector, to a higher standard than today. While water companies play an important role in protecting surface waters and preventing pollution, the majority of issues under the Water Framework Directive are today caused by more lightly-regulated sectors, so we welcome scrutiny of all those touching the water cycle.

As with much of this Bill, the Government's true ambition may only be known through the detail of secondary legislation and the targets it chooses to set. That said, the Bill misses some important opportunities to further strengthen environmental outcomes. This particularly applies to **its lack of ambition on empowering the public to become more water efficient, a need for clarity on the schemes that will be brought forward as part of the new producer responsibility obligations, improving proposed Drainage and Wastewater Management Plan process, and the lack of clarity surrounding the exact organisations covered by the remit of the OEP.**

These omissions are serious, and notable given the extensive treatment in the Bill of other provisions for the water sector, some of which are of much less importance to the environment than the necessary priorities highlighted above.

## 1. Transforming the nation's approach to water efficiency

Over coming decades, every region of England will contain places where the demand for water exceeds supply. Even today, high levels of demand place huge pressure on sensitive water sources, like chalk streams, leaving less water for other needs, like agriculture.

Reducing the risk of drought will be crucial to adapting to a changing climate. Investment will be needed in new sources of supply, in reducing leaks, and to move water around the country. But around a third of the deficit will need to be made up from reducing unnecessary water use and in-home wastage.

Evidence from the [National Infrastructure Commission](#), the [Committee on Climate Change](#), the [Environment Agency](#), and the [Public Accounts Committee](#), among many others, show that using less water is critical to safeguarding the environment, and supporting sustainable housing growth

The industry is making progress in this area – reducing leakage by 7% last year and launching the first nationwide water efficiency campaign last summer, which had over 51million social media interactions. However, on its own, this will not be enough to avoid future drought and we need to see policy change.

We need to see Government:

- **Confirm it will use Clauses 49 and 50 to introduce minimum national water efficiency standards for water-using appliances, and a mandatory national efficiency labelling scheme**, on goods like dishwashers and washing machines. This would empower customers by giving them the information to make informed purchase decisions and cut water waste in the home. It is the single

most effective, reliable and cost-efficient way of reducing water demand, and has successful precedents - both for energy, at home, and for water, in countries like Australia. It would be a zero-cost option for government to improve water efficiency, while consumers will save money on household bills too.

- **Change Part G of Building Regulations** in order to stop the ever-increasing stock of water-inefficient homes. Building Regulations should apply a ‘fittings-based’ approach and require all fixtures and appliances to meet a certain water efficiency label rating or better. Minimum ratings should be set to achieve water use in new homes of 100 litres/person/day, and the further tightening over time to deliver greater water efficiency. Tighter standards in new homes can readily be achieved using existing products that meet customers’ needs at little or no extra cost. Applying a single efficiency standard in new homes across the country creates a simple, level playing field for developers. This again would reduce the carbon cost of treating water.

### **Suggested Amendments:**

*To move the following new clause: Reducing Water Demand*

*(1) The Secretary of State shall within 12 months of the commencement of this Act introduce regulations to require water-using appliances to meet water efficiency standards and to bear appropriate labelling and shall in particular:*

*(a) establish appropriate standards to achieve Government objectives for reducing water demand and*

*(b) establish the appropriate labelling format*

*(2) The Secretary of State shall within 12 months of the commencement of this Act amend the Building Regulations 2010 Part G to:*

*(a) require all fittings to meet specified water efficiency requirements and*

*(b) introduce mandatory minimum standards on water efficiency*

*(3) Standards as introduced under subsection (1)(a) and (2)(b) shall be reviewed every 5 years to assess their contribution to meeting government objectives for reducing water demand.*

## **2. Tackling single use plastics that cause pollutions**

Part 3 of the Bill includes two clauses (47 and 48) on producer responsibility obligations. We strongly support the inclusion of these clauses because they allow the costs of cleaning up pollution to be directed to those causing the problem, rather than relying on the taxpayer or customer to fund clean-ups instead.

This gives life to the ‘polluter pays’ principle, which is particularly important for the water industry as we and our customers regularly have to pay to deal with pollution caused by other sectors. For example, currently, the design of most wet wipes – which account for more than 90% of material in fatbergs - do not break down in sewers. These cause 300,000 sewer blockages every year in the UK, costing customers £100 million to resolve, and causing homes to flood and serious incidents of river pollution. It

is right that wipe manufacturers deal with this problem rather than customers; it also introduces a cost incentive to redesign products to ensure that they break down in sewers without causing blockages.

Any producer responsibility scheme should therefore include wet wipes within its scope to address the damage to infrastructure and the environment caused by wet wipe pollution.

We want to see the introduction of mandatory clear labelling on product packaging, to reduce consumer confusion and help ensure appropriate disposal of wet wipes. At point of sale, wet wipe packaging should identify products that contain plastic or do not comply with the water industry's standard for flushability, Fine to Flush, with clear instructions on appropriate waste disposal options for the product.

In addition, manufacturers should fund national awareness raising campaigns to influence consumer behaviour, as well as beach and river cleans to remove littered wet wipes they produce from the environment. Data gathering and reporting mechanisms to assess the efficacy of these measures in reducing the damage caused by wet wipes should also be included within the scope of the scheme.

Finally, clean-up of blockages should be funded through graded financial penalties commensurate with the potential damage caused by the product: products that contain plastic should incur the highest penalty, followed by products that do not contain plastic but that also do not meet the Fine to Flush standard.

In sum, we need to see:

- Under the producer responsibility obligations of the Environment Bill, **a scheme should be introduced to ensure that manufacturers of wet wipes pay the full costs of labelling, awareness raising and cleaning up blockages and pollution** before 31 December 2024 to align with or exceed the ambitions of the EU Single Use Plastics Directive.
- The **government needs to provide clarification and detail about which schemes it will bring forward under producer responsibility powers, and their coverage, delivery** (including consultation) and anticipated financial flows. Action should be targeted on those issues causing the most environmental damage.

**Suggested Amendment:**

- *Clause 48, page 28, line 18 after 'procedure.'* Insert new subsection '(5) Place a duty on the Secretary of State to publish by December 2021 an Extended Producer Responsibility scheme in respect of single use plastics, and to bring forward such a scheme using powers under Schedule 5.

### 3. Clarifying the powers and remit of the Office for Environmental Protection.

As identified by the EFRA Select Committee in their pre-legislative scrutiny, the Bill as written results in a potential further regulator for water companies, with powers that directly overlap (and potentially conflict) with those of the Environment Agency.

The problem arises due to use of the term 'public authority' as a target for Office for Environmental Protection (OEP) enforcement. In the context of other legislation, 'public authority' has been

interpreted as including water companies. The OEP could therefore take action directly against companies, rather than by ensuring the Environment Agency performs its role correctly.

Given the existing and extensive regulatory scrutiny of the sector, by the Environment Agency in particular, if enacted in its current form, the Bill will:

- create difficult interplays between statutory regulators. It will not be clear which body would have primacy on a given issue, how we would deal with conflicts, or who we might need to speak to about any particular question
- confuse and therefore dilute regulatory responsibilities for the sector and risk companies experiencing ‘double jeopardy’; and
- unnecessarily increase the burden of compliance that is placed on water companies without generating any benefit. This could introduce costs ultimately borne by billpayers.

While Ministers have [said on the floor of the Lords](#) that this is not the intention of the current Government, the legislation does nothing to prevent a future OEP from exercising powers directly over private companies.

We have seen no justification for the creation of a duplicate regulator. We are concerned that this double regulation will adversely affect the confidence of the sector both in implementing current plans and in formulating future investment plans.

We believe to provide certainty **the Bill should introduce a simple specific exclusion for statutory undertakers, or some other mechanism, to exclude the possibility of direct OEP regulation of private companies.**

If that does not prove possible, **we propose that the Bill include an addition to subsection 5 of Clause 22** (on how the OEP intends to avoid any overlap with the Committee on Climate Change in exercising its functions) **to introduce reference to other statutory regulators as well.**

The above revisions and clarifications will ensure the regulated water sector has clarity on regulation, and set a framework in which the economic and environmental regulators and, therefore, licence holders operate.

#### **Suggested Amendments:**

- *Clause 22, page 13, line 18 after ‘Change’, leave out ‘of that committee’s function’ and insert ‘and other persons exercising functions under environmental law of that Committee and those persons’ functions’*
- *Clause 28, page 16, line 39 at end insert a new section (4) “A person subject to regulation under environmental law by a public authority shall not itself be a public authority for the purposes of this Part”.*

## 4. Improving flood risk management: Drainage and Wastewater Management Plans

We strongly support putting Drainage and Wastewater Management Plans on to a statutory footing. The water industry already prepares these and was a driving force behind their original creation. However, within the Bill, there are two key issues which need to be amended:

1. The Bill confusingly refers to ‘Drainage and Sewerage Management Plans’, despite Defra and the industry jointly working on ‘Drainage and Wastewater Management Plans’ for many years, and companies already publishing plans with that name. This is not a minor point because the terms ‘sewerage’ and ‘wastewater’ are not interchangeable: sewerage has a narrower meaning that excludes many sources of contamination entering rivers – sources that are the responsibility of bodies we need to collaborate with us on producing drainage plans if they are to be successful. The Bill should be amended to ensure that:

- **The terminology ‘wastewater’ is used throughout the legislation rather than ‘sewerage’, as previously agreed by Government and all other stakeholders when these provisions were being developed.** If necessary, adding an appropriate definition for the term ‘wastewater’.

2. Relatedly, the bill only places obligations on water companies for something they are already doing. This does not reflect the scale of the challenge from climate change, and that drainage is universally recognised to be a shared responsibility, with other organisations also responsible for managing surface water. As written, the plans will exclude significant bodies involved in drainage and eliminate much of the potential benefits that customers, society and the environment could otherwise gain.

While water companies will lead the production of DWMPs - and are already committing significant resources in carrying out this role - it is a fundamental feature of drainage and wastewater planning that water companies cannot do this in isolation, because drainage is shared with other ‘risk management authorities’ (RMAs) as defined in the Flood and Water Management Act 2010. There are, for example, large numbers of drainage assets that are not under the ownership of water companies, the management of which needs to be integrated into DWMPs.

This has been recognised by the National Infrastructure Commission in their [recommendation](#) that ‘water companies and local authorities should work together to publish joint plans to manage surface water flood risk by 2022’.

Therefore, we need to see within the Environment Bill:

- As a minimum, **all other flood risk management authorities should have a duty to co-operate** in the production of DWMPs. This could be given statutory force by, for example, expanding the definition of ‘flood risk management function’ in section 4 of the Flood and Water Management Act 2010, and making other risk management authorities statutory consultees for DWMPs.
- There should also be the **ability to require other flood risk management authorities to provide information needed for the production of DWMPs.**
- We also recommend that it would **be beneficial for Regional Flood and Coastal Committees to be statutory consultees for DWMPs.** Consideration of how provisions apply to these additional bodies is needed.

**Suggested Amendments:****94A**

- *Clause 76, page 68, line 3 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 5 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 6 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 8 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 10 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 26 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 41 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 68, line 43 Leave out 'sewerage' and insert 'wastewater'*

**94B**

- *Clause 76, page 69, line 13 Leave out 'sewerage' and insert 'wastewater'*

**94C**

- *Clause 76, page 69, line 41 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 69, line 44 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 70, line 2 After 'licensee' insert 'or risk management authority, where risk management authority has the same meaning as in Part 1 Section 6 of the Flood and Water Management Act 2010'*

**94E**

- *Clause 76, page 71, line 13 Leave out 'sewerage' and insert 'wastewater'*
- *Clause 76, page 73, line 29 Insert*  
*'In the Flood and Water Management Act 2010, after section 4 (2) (f) insert –*  
*(g) a function under section 94A of the Water Industry Act 1991'*

**Contact details****Jacob Wallace**

Public Affairs Manager, Water UK

07802856926

[jwallace@water.org.uk](mailto:jwallace@water.org.uk)