

Six Pump Court
Water Industry Group

Summary and Analysis of the Report of the Independent Water Commission



Executive Summary

- i The Independent Water Commission's final report into the water industry is both ambitious and wide-ranging. The report addresses every dimension of the industry, from supply and pollution to legislation, regulation, company ownership and infrastructure. Its recommendations, however, will only succeed if politicians and Government commit, over the long term, to investing time, money and regulatory energy in a sector where results will not be visible for many years.
- ii This analysis by the [Water Industry Group](#) at Six Pump Court Chambers is a 'first look' at the key points that are raised. It highlights much which the Commission gets right but also points out some of the limitations, challenges and missing detail in the Commission's proposals. Overall, our view is that there is much that is very positive about the Report but the scale and ambition of some of the proposed changes may, ultimately, prove too difficult to deliver.
- iii In June 2025, the Independent Water Commission chaired by Sir John Cunliffe published its [Interim Report](#) which the Water Industry Group at Six Pump Court considered in a detailed analysis available [here](#).
- iv About seven weeks later, with astonishing speed, the Commission published its Final Report available [here](#). The Final Report ('*the Report*') is a serious and considered document which amounts to the most comprehensive and in depth analysis of the water industry in England and Wales since privatisation in the early 1990s. The Government's [initial response](#) to the Report, was positive:

'It offers a blueprint for fixing our broken regulatory system so the failures of the past can never happen again.

I agree that water regulation has been too weak and too ineffective.

...

Today I can announce that the Government will abolish Ofwat.

In the biggest overhaul of water regulation in a generation we will bring water functions from four different regulators into one: A single powerful regulator responsible for the entire water sector.'
- v Legislation is promised.
- vi Coming in at 464 pages and with 88 detailed recommendations, this analysis could not, and does not intend to, consider all the issues raised and all the recommendations which have been set out in the report. Instead, this analysis by specialist water and environmental law barristers at Six Pump Court intends to pick out some of the key issues identified and the interesting and significant recommendations which have been made. In an effort to make this a concise and readable analysis, we concentrate on the recommendations applicable to England or England and Wales jointly as some of the recommendations for Wales alone are distinct and separate. Readers interested in the Water Industry Group's views on the situation in Wales should contact Six Pump Court chambers for detailed and tailored insight.
- vii While it is difficult to summarise the Commission's proposals, the following headline points emerge from each chapter:

- viii [Chapter One and the Strategic Direction of the Water Industry](#) sets out the Commission's approach in suggesting that governments grasp the nettle and develop a new long-term and cross-sectoral "National Water Strategy". This seems an unqualified good thing but whether governments will be able to adopt and stick with such strategies in the long term is a matter of political courage.
- ix [Chapter Two and Systems Planning](#) of the Report finds that current planning is fragmented, with gaps in regional governance. The proposal is to merge nine existing plans into two ("water supply" and "water environment"), led by regional systems planners (England) and a single national planner (Wales) on 5/10/25-year horizons. Key challenges include legal clarity, conflict management, resources, funding mechanisms, and integration with local planning.
- x [Chapter Three covers Legislation](#) and the Commission seeks regulatory simplification, better monitoring, and clearer limits on regulator discretion. In addition, and most significantly, it calls for reform of the *Water Framework Directive* regulations to include public health measures and review the "one out, all out" principle. This analysis notes though that risks losing EU comparability and runs contrary to the findings of other expert groups that failures lie more in implementation than in framework design.
- xi [Chapter Four covers Regulator Reform](#) and the Commission proposes an integrated regulator for England (merging Ofwat, the Drinking Water Inspectorate, and relevant Environment Agency / Natural England functions) and a tailored economic regulator for Wales. This aims to cut duplication, close oversight gaps, and rebuild trust. Weaknesses identified include unclear enforcement model, lack of affordability/debt safeguards, and limited transition detail.
- xii [Chapter Five and Regulation Reform](#) of the Commission recommends creating a new integrated regulator to improve oversight of water companies across economic, environmental, and consumer areas. It calls for shifting from Ofwat's adversarial, data-driven approach to a more engaged, expert-led supervision that supports sustainable investment. The Commission notes that, overall, reforms require more funding and public acceptance of higher bills to ensure infrastructure resilience and regulatory effectiveness.
- xiii [Chapter Six looks at Company structures, ownership, governance and management.](#) The Commission recommends stronger regulation of water companies to align private interests better with the public good. Key proposals include giving the regulator powers to control ownership changes, enforce a public benefit duty, and hold senior managers accountable. Significant ideas are put forward to attract investment including stabilising regulation, improving communications, promoting green bonds, and ensuring financial resilience through capital requirements and a formal turnaround regime. Overall, the recommendations aim to boost accountability and public confidence, but success depends on effective regulatory implementation.
- xiv [Chapter Seven and Infrastructure and Asset Health](#) of the Report finds that England and Wales lack a forward-looking framework for managing water infrastructure, relying instead on limited, backward-looking data and inconsistent mapping. Replacement rates are far below international norms, and current regulatory funding models reinforce short-termism. The Commission concludes that a new resilience framework is needed—mandating asset data, consistent standards, and stronger regulatory oversight—though delivery faces major risks around affordability and supply chain capacity.
- xv [Chapter Eight on Implementation](#) addresses some helpful thoughts on implementation and raises the possibility of an implementation advisory group to advise on implementation transition issues.

- xvi** Chapter 1 of this analysis (written by [Douglas Scott](#)) covers chapter 1 of the Report and the strategic direction of the water industry.
- xvii** Chapter 2 (by [Dr Michael Bowes](#) and [Peter Cruickshank](#)) covers Planning.
- xviii** Chapter 3 (by [Nicholas Ostrowski](#), editor) covers the Legislative Framework
- xix** Chapter 4 (by [Jemima Lovatt](#)) covers Regulator Reform.
- xx** Chapter 5 (by [Samuel Glanville](#)) covers Regulation Reform.
- xxi** Chapter 6 (by [Roisin Finnegan](#)) covers Company Structures, Ownership, Governance and Management.
- xxii** Chapter 7 (by [Mark Davies](#)) covers Infrastructure and Asset Health.
- xxiii** Chapter 8 (by [Nicholas Ostrowski](#)) covers Implementation.
- xxiv** If you would like to discuss this analysis with any of the water industry law group at Six Pump Court please do get in touch.

Chapter 1

Strategic Direction for the Water System

by [Douglas Scott](#)

- 1.1** The Report begins with the overarching approach of how to deliver a better water system in England and Wales. Of course, that is entirely logical because all reform will need to be aligned and consistent with that approach; from there everything else must flow. Yet, this first step may be the hardest. Setting the strategic approach will require choices between which competing interests take priority and those are fundamentally difficult political decisions. Political bravery and sound judgement is a necessity. If that can be achieved at the outset, the reform set out in subsequent chapters stands a chance of succeeding. But, if the first domino falls the Report will end up on the pile marked “missed opportunity”.
- 1.2** The chapter begins by recognising the different pressures on the water system often pulling in different directions: the demands of industry, agriculture and households to take water out of the system versus the need to maintain healthy, safe water bodies for the preservation of the natural environment, recreational use and water quality. Those pressures cross sectoral lines in a myriad of ways but, by contrast, the current UK strategies – the Plan for Water and Environmental Improvement Plan (“EIP”) – take a siloed approach with limited interaction between sectors.
- 1.3** The problem is not limited to taking an isolated approach. There is also a lack of long-term vision, with far too few long-term milestones or ability to bind future governments, combined with the lack of short-term measurable targets that hold actors accountable for their progress towards the long-term goal. Furthermore, despite cost assessments being carried out for specific policy areas, they are rarely undertaken for strategy documents, undermining their ability realistically to assess the cumulative financial impact of proposals. Finally, there has been no clear direction from government on how to navigate trade-offs between goals. As will be discussed below, this is likely to be the most challenging barrier to progress.
- 1.4** The solution suggested by the Report is two-fold. Firstly, the UK and Welsh governments should both develop a new long-term and cross-sectoral “National Water Strategy” (“NWS”). It should be on a statutory footing using, broadly, the EIP model i.e. produced and published by the Secretary of State or in Wales the Cabinet Secretary, reviewed every five years and progress reports published annually. The NWS is envisaged to set out in one place the requirements and goals for all sectors. Yet, before the sectorial interplay can be composed, the hardest decisions – political decisions – will need to be made.
- 1.5** The Report is very direct – if the NWSs are going to be successful they must set out a clear framework for prioritising and managing trade-offs. In plain language, this will require the government of the day to write down in a published document whether they are minded to allow consumers bills to be hiked in order to pay for much needed investment or conversely pledge to maintain bills, leading to the inevitable status quo or, worst, a decline in the system. That is just one example of the many decisions that will need to be made and one, it is envisaged, governments will not relish. In particular, the current UK Government’s proclaimed priority of

economic growth would seem to be at odds with the preservation of the natural environment and conservation.

- 1.6** The Report, understanding the difficulty governments will face, sets out different methods of prioritisation. The first suggestion is tiering objectives which would require setting primary and secondary objectives followed by areas which those making decisions must have regard. This appears to be more likely than the second suggested approach which is a hierarchy of outcomes model, imposing, it seems, a less flexible decision-making framework. In essence, using such a model would mean a less important priority cannot come at the expense of a priority higher up the chain. This is unlikely to be politically palatable or operationally plausible given the need to balance so many competing interests.
- 1.7** Whichever basis is chosen, the political urge to keep the NWS loose will be extremely tempting for governments in order to avoid laying their cards on the table. Yet, such an approach, according to the Report, is unacceptable because of the need for clear priorities to be stated. Ultimately, if the NWS is going to be the underpinning force of change, governments must not fall into equivocating temptation; they must be clear in setting their priorities across the sectors; be candid that in order for there to be real winners there will be real losers; mitigate, as far as possible, the harm to those losers; and double down on the benefits of picking the winners. This requires political bravery and sound judgement. Whilst these may not be abundant commodities, they can be achieved.
- 1.8** The second part of the solution is for the replacement of the Strategic Policy Statement¹ (“SPS”) with Ministerial Statement of Water Industry Priorities (“MSWIP”). Several issues were identified with the SPS, which currently sets out the Government’s strategic priorities and objectives for Ofwat’s regulation of the water sector. Broadly, they are the same issues identified with the macro level strategy in that the SPS is not cross-sectoral (SPS only setting Ofwat’s priorities); insufficiently provides long-term targets; is ineffective in measuring progress resulting in little accountability for actors; provides unclear hierarchy of priorities; and does not adequately allow for responding to emerging priorities, such as the Storm Overflows Discharge Reduction Plan.
- 1.9** The MSWIP is suggested to be the solution. In many ways, they appear to be miniature-NWSs. They will apply to all regulators and systems planners (see chapter 2 for meaning); set clear priorities and framework to guide trade-off decisions, which are more detailed and industry-specific than the priorities set by the NWS; and set “SMART² targets” for national (and where relevant regional) water industry actors. The MSWIP is recommended to be published every five years and should set 5-year milestone targets and longer terms targets (10 to 25 years), which are then used by regulators and system planners to determine how to achieve the targets.
- 1.10** Therefore, the new strategic model proposed by the Report has three core layers. At the top is the NWS, which will provide the high-level overarching goals, priorities and trade-offs for all actors that make decisions relating to the water system. In the middle is the MSWIP, which is envisaged will provide more detail on the targets and requirements that need to be met in order to achieve the long-term goals set out in the NWS. The Report gives the example that the NWS would set the number of pollution monitors to be installed in the next 5 years and the MWSIP would state what the priority sites are. At the trunk, are the regulators and systems planners who will have to decide how to deliver the targets and requirements.
- 1.11** That hierarchy makes sense and is a perfectly logical structure for national strategies to take. However, as stated at the outset, the hard decisions are yet to be made. Investment in the system versus consumer bills; supporting agriculture versus reducing pollution in rivers; the demands of the AI revolution versus drought prevention. The Report gives the task to government to

¹ <https://www.gov.uk/government/publications/strategic-policy-statement-to-ofwat-incorporating-social-and-environmental-guidance>

² Specific, Measurable, Achievable, Relevant, and Time-bound goals



make these decisions. If government is brave on strategy it could set the path for meaningful change. But, if it dodges the responsibility then as the Report warns, the system *“will continue to be dogged by inconsistency, short termism, unintended consequences and risk willing the ends without ever fully understanding the means required.”*

Chapter 2

Planning

by [Dr Michael Bowes](#) and [Peter Cruickshank](#)

- 2.1** Chapter 2 scrutinises the existing statutory and policy architecture governing water planning across England and Wales, detailing the fragmented nature of current frameworks, the interaction between national, regional, and local mechanisms, and the deficiencies which have necessitated reform.
- 2.2** The discussion begins by examining the multiplicity of existing planning instruments, such as River Basin Management Plans (RBMPs), Water Resource Management Plans (WRMPs), and the catchment based approach (CaBA), alongside related frameworks addressing flood risk, agriculture, and nature recovery strategies. It highlights the challenges posed by divergent planning cycles, inconsistent methodologies, and the absence of cross-sector governance. The article proceeds to evaluate the Commission's critique of systemic shortcomings including the "missing middle" in regional governance, the overreliance on the water industry to deliver environmental outcomes, and the lack of meaningful local engagement before analysing the proposed reforms.
- 2.3** Central to these reforms is the introduction of a systems planning framework which would consolidate nine separate water industry plans into two integrated frameworks: "water supply" and "water environment". The Chapter explores how these would operate across harmonised spatial boundaries, supported by newly created regional systems planners in England and a single national systems planner in Wales. It recommends a shift towards a 5/10/25 year planning horizon, retention of the five-year Price Review cycle, and the realignment of economic appraisal methodologies to secure more consistent and transparent decision making.
- 2.4** At the heart of the recommendations lies the adoption of "systems planning", an approach characterised by holistic consideration of hydrological, socio-economic, and legislative factors. The Report correctly identifies deficiencies in the current regime, notably the so-called "missing middle" the absence of effective regional governance between local catchment initiatives and national regulatory oversight. By introducing regional systems planners, the Commission aims to fill this governance vacuum, thereby enhancing communication among water companies, local authorities, agricultural stakeholders, and environmental NGOs. Crucially, the Report underscores that without such structural reform, water planning will remain reactive, fragmented, and ill-suited to meet challenges of climate change, population growth, and biodiversity loss.
- 2.5** The proposed planners would inherit functions presently dispersed across the Environment Agency (EA), Natural Resources Wales (NRW), and water companies themselves, including responsibility for setting water body objectives, commissioning plans, and monitoring delivery. Importantly, regulatory compliance, permitting, and enforcement functions would remain with existing regulators, preserving the necessary separation between plan-making and enforcement. This bifurcation reflects a deliberate policy choice, balancing the benefits of independent strategic oversight against the risks of regulatory capture.

- 2.6** Of particular legal significance is the proposal for a 5/10/25-year planning horizon, overlaying the traditional five-year Asset Management Plan (AMP) cycle. While retaining the five-year Price Review (PR24, PR29 etc.) for setting customer bills and company revenues, the framework introduces medium (10-year) and long-term (25-year) indicative planning horizons. This is arguably the most transformative element of the proposals, facilitating alignment of infrastructure investment with intergenerational obligations enshrined in statutes such as the Well-being of Future Generations (Wales) Act 2015 and the Environment Act 2021. It also promises to mitigate the “feast and famine” phenomenon in capital investment, smoothing delivery profiles and enhancing supply chain resilience.
- 2.7** The Commission’s recommendations on economic appraisal merit particular attention. The shift from “least cost” to “best value” assessments already initiated in PR24 is here entrenched and extended across all planning frameworks. The Report exposes profound inconsistencies in current appraisal methodologies, where cost-benefit analyses are fragmented between agencies: the EA undertakes catchment-level appraisals for River Basin Management Plans (RBMPs), while Ofwat assesses cost efficiency of company proposals, often without holistic valuation of environmental and social benefits. The proposed national coordinator (in England) or national systems planner (in Wales) would assume responsibility for harmonising assumptions on climate scenarios, population growth, and valuation metrics, thereby promoting transparency and comparability.
- 2.8** From a governance perspective, the envisaged composition of strategic boards independent chairs, local authority representation, consumer advocates, environmental and public health experts reflects an ambition to democratise water planning, embedding participatory and cross-sectoral decision-making.
- 2.9** Critically, the Report situates water planning within the broader spatial planning regime. By advocating statutory consultee status for systems planners in Local Plans and Spatial Development Strategies, it seeks to align housing growth with water system capacity a response to recent crises in Cambridge, Oxford and Sussex where nutrient neutrality and water neutrality constraints have stalled development. This alignment is legally and politically contentious: it implicitly prioritises environmental capacity as a gating factor for growth, potentially recalibrating the balance between development and conservation under the National Planning Policy Framework (NPPF) and Future Wales: The National Plan 2040.
- 2.10** The creation of regional systems planners raises transitional issues concerning staff transfer, pension alignment, and administrative cost. The Report candidly acknowledges this consideration, offering an alternative model of embedding planners within existing regulators but persuasively argues for independence to avoid regulatory capture and to empower genuinely cross-sectoral decision-making. The proposed division of responsibilities between the new systems planners and existing regulatory bodies presents a significant area of complexity. Under the proposals, systems planners would assume responsibility for setting water body objectives, yet the statutory duties to enforce environmental standards such as those derived from the Water Framework Directive Regulations, now retained in domestic law would continue to rest with the Environment Agency and Natural Resources Wales. This bifurcation of functions risks generating legal uncertainty. If a systems planner were to adopt objectives perceived as insufficiently ambitious, it is unclear how such decisions would be amenable to review or challenge. The Report is silent on what remedies might be available to nongovernmental organisations or affected communities in such circumstances. This underscores the pressing need for precise legislative drafting to demarcate the respective roles of planners and regulators and to prevent regulatory gaps or accountability deficits from arising.
- 2.11** The Welsh dimension warrants particular note. The proposal for a single national systems

planner aligns with Wales's devolved governance and the holistic ethos of the Well-being of Future Generations Act. Yet cross-border catchments (notably the Wye and Dee) present enduring challenges, necessitating robust intergovernmental protocols and data-sharing agreements. The Report's recommendation for shared principles (duty to cooperate, consultation on cross-border impacts) is sensible but may require formalisation through concordats or secondary legislation.

- 2.12** This Chapter does propose dynamic change, and the precise details of implementation can't be expected, however there are several points which should be considered. First, the chapter provides only limited engagement with the statutory implications of replacing existing planning instruments such as River Basin Management Plans (RBMPs) mandated under the Water Framework Directive Regulations 2017. The Report's proposal to substitute RBMPs with systems planners assumes the creation of dramatic new and comprehensive legislation.
- 2.13** Secondly, in addition to the transitional issues highlighted above, while the chapter outlines the proposed composition of the new regional systems planners and their strategic boards, it remains largely silent on the question of conflict. The Report omits detailed proposals for managing conflicts of interest, particularly given the cross-sectoral representation of stakeholders (water companies, agricultural interests, communities) who may have competing or even adversarial objectives. Without a robust statutory code of governance and transparency, there is a risk that systems planners may be perceived as technocratic entities operating without sufficient democratic oversight. There also seems to be a lack of IT recognition at board level, which would be invaluable in the creation, monitoring and interlinking of proposed developments.
- 2.14** Thirdly, the chapter identifies the "missing middle" in regional governance but offers only a high-level framework for addressing it; it does not prescribe in detail how new regional bodies will coordinate with local planning authorities or combined authorities under the evolving English devolution settlement. This is significant because many water-related challenges, particularly those involving housing growth, nutrient neutrality and flood risk management, are integrally linked to local spatial planning decisions. With absent statutory duties to cooperate or integrate plans, there is a real risk of fragmentation persisting despite the structural reforms proposed. Again, at this stage the detail can't be expected, but in time it must develop.
- 2.15** In terms of implementation, several challenges loom. The transfer of planning functions from existing regulators to newly created systems planners entails significant organisational and cultural change. The chapter recognises the need to redeploy staff but underestimates the complexity of aligning regulatory cultures across the EA, Natural Resources Wales, and water companies, each of which has distinct statutory remits and institutional histories. There is also a pronounced resourcing challenge: the proposed staffing level of 20–50 fulltime equivalents per regional planner appears modest given the breadth of functions envisaged, particularly when these planners are expected to engage in extensive cross-sectoral coordination, consultation, and economic appraisal. The big question is would the staff wish to stay? In addition, how will current skills be adapted and what will the education and training be? IT also is an area which deserves more focus, how shall this be used to facilitate the needs of the new organisations and implement objectives?
- 2.16** Financially, the proposal to introduce local levies and blended funding mechanisms raises difficult questions about equity and fiscal accountability. Local levies, modelled on the Regional Flood and Coastal Committees, may prove politically sensitive and administratively complex, particularly in regions with stark socioeconomic disparities. Moreover, the report does not fully address how blended funding streams, combining water company expenditure, government grants, developer contributions, and private finance will be governed or prioritised. This could give rise to disputes over the apportionment of costs and benefits, especially in multistakeholder

projects that straddle water supply and environmental objectives.

- 2.17** Finally, the transition to a 5/10/25 year planning model, while conceptually sound, will require extensive recalibration of regulatory and corporate planning cycles. Ofwat's price review methodology, company business plans, and statutory environmental obligations are currently predicated on quinquennial cycles; aligning these with longer term objectives will necessitate careful transitional arrangements and may involve legislative amendments. The Report does not fully explore how unforeseen environmental shocks, such as extreme drought events or emerging contaminants, will be accommodated within this new framework without undermining investor confidence or public trust.
- 2.18** In conclusion, the vision is bold and potentially transformative and this is applauded. By embedding systems thinking, rationalising planning frameworks, and aligning investment horizons with ecological and social realities, it offers a coherent blueprint for reform. Yet its success will hinge on legislative follow-through, adequate resourcing, and the political will to empower genuinely independent regional planners. For legal practitioners, the Report signals significant forthcoming changes: new statutory duties, altered consultation dynamics, and novel fiscal and governance mechanisms. As the water sector braces for these reforms, close attention to the Commission's recommendations and their eventual translation into law will be indispensable.

Chapter 3

Legislative Framework

by [Nicholas Ostrowski](#)

- 3.1 All the targets we want to put in place and none of the targets we don't? Or, in perhaps a more appropriately aqueous metaphor, throwing the baby out with the bathwater? Do the changes to the legislative framework proposed by the Commission amount to an attempt to have its cake (tough targets) while also eating its cake (amending the targets which are really hard)?
- 3.2 There are five sections to chapter three. First, the legislative framework and targets are considered, then wastewater and drainage, then the Water Framework Directive, then monitoring the water environment and, finally, constrained discretion.
- 3.3 There is a lot of detail in each section and the Commission would no doubt claim that you cannot hive off one section for consideration without looking at them all in the round. However, while they are inter-related, they do cover distinct issues and this analysis intends to concentrate on just one section, that of the Water Framework Directive. When considering the state of waterbodies in the UK almost every article or report on the water quality of rivers in the UK focusses, within the first few paragraphs on the newsworthy statistic that in 2019 (the last set of data available) a mere 16% of waterbodies achieved a 'good' ecological status under the Water Framework Directive and that 19.9% of waterbodies have a 'poor' ecological status.
- 3.4 This is newsworthy because it is tangible and objective. A more or less equivalent approach to assessing the ecological status of waterbodies is taken across the entirety of the EU, and it is difficult for member states to 'game' the system. It also has the benefit of being of some vintage. The WFD itself dates from 2000 and so it is possible to compare how different countries have done at improving the quality of their rivers and streams over the preceding period since the last assessment cycle (ordinarily six years before). Indeed, the Commission itself adopts this approach in one of its tables:

Table 4 - Comparison of water body ecological status classification (based on latest classification data available)

	England	Wales	Ireland	Nether-lands	France	Germany	Scotland
Last Full Classification Year	2019	2024	2022	2010	2022	2022	2020
Water bodies at good status	16.1%	29.9%	53.4%	0.0%	43.6%	9.3%	66%
Water bodies at poor status	19.9%	13.6%	15.4%	35.3%	19.9%	52.7%	13.6%

Source: Defra, NRW, WISE³²⁹

- 3.5 However, the Commission notes that the WFD process of categorising rivers in this way has

limitations saying, at §227, *‘Stakeholders have questioned whether the range of outcomes within the WFD framework are sufficiently broad, and robust to changing pressures on the water system’*. Specifically, what has obviously caught the Commission’s attention is the fact that, unless an area is a designated bathing³ or shellfish water, pathogens (such as e-coli) are not considered when environmental targets are assessed. This is a particular concern because unlike phosphorus or ammonia for instance, such pathogens typically, emanate from raw, untreated, human sewage and so the presence of such pathogens is an indication that untreated sewage is being discharged which, as all readers will know, has been one of the defining environmental issues in the UK over the last few years.

3.6 This leads the Commission to Recommendation 11: *‘The UK and Welsh governments should consult on reforms to the WFD Regulations, including broadening the scope to include public health outcomes.’*

3.7 So far, the trend is clear. Change the WFD so that it strengthens the targets for water.

3.8 However, paragraph 233 onwards makes the point that one principle of the current classification system of assessing the WFD is the *‘one out, all out’* principle in which Good Ecological Status is only recorded if all the elements of the test are met. Thus, if one element scores less than Good then the entire river is not classified as Good. The Commission suggests that this can mask the river’s true condition and is ripe for reform.

3.9 This is not a new complaint. The Environment Agency has for many years⁴ espoused this assertion and it seems that the Commission agrees stating:

This principle can make it difficult to reflect where interventions have led to progress on specific elements in water bodies and can damage the public’s perception of progress, such as where new elements are introduced, which can cause water bodies to fail to achieve good status and consequently mask previous progress.

3.10 The Commission goes on to suggest at paragraph 239 that:

There is a need to revisit the fundamentals of the WFD regulations to ensure they are fit for the future. The WFD regulations should be reformed to bring them up to date, make them more efficient and bring them in line with public and environmental expectations.

3.11 It is not our task to make a finding one way or another on this point and whether the loss of tangible ‘apples with apples’ comparison that can be made from retaining the same framework and targets as before is outweighed by the flexibility and UK-specific benefits of having a bespoke target for UK waters. There are plainly arguments both ways.

3.12 We would though observe two things.

3.13 First, the Report’s suggestion at §237 that *‘As set out in Tables 4 and 5, many comparator EU nations are also on track to miss the GES target’* is surely neither here nor there. Either the targets in the WFD are good ones and should be kept or they are not and should be ditched or modified. The fact that other countries are also doing badly in respect of the environmental status of their waterways is irrelevant when assessing whether the standards themselves are appropriate.

³ the leading authority on sea ‘bathing’ (itself an anachronistic term) remains the 1821 case of *Blundell v Catterall* 5 B & Ald 268 where the court held that there was no ‘common-law right for all the King’s subjects to bathe in the sea, and to pass over the seashore for that purpose.’ The main regulatory safeguard for river swimming is to be found in the Bathing Water Directive which, in order to be engaged, requires the bathing water area to be ‘designated’ by a laborious process of proving that the particular stretch of water is heavily used for swimming during the bathing season

⁴ See, for instance, ‘In praise of red tape: getting regulation right’ by Sir James Bevan from August 2020 (accessed at <https://www.gov.uk/government/speeches/in-praise-of-red-tape-getting-regulation-right>)

3.14 Secondly, the Commission's apparent suggestion at §§238 and 239 that the nature and design of the WFD itself is actually responsible for the poor quality of the waters seems over-stated. The Report states:

238. Given current progress, the 2027 Good Ecological Status target will be missed. The regulation, implementation, governance and accountability under the WFD framework has significant shortcomings and has contributed to this failure. Improving delivery across all sectors, not just the water industry, through the introduction of water systems planners, will be key to driving progress and ensuring this is not repeated

239. There is a need to revisit the fundamentals of the WFD regulations to ensure they are fit for the future. The WFD regulations should be reformed to bring them up to date, make them more efficient and bring them in line with public and environmental expectations.

3.15 This is not evidenced. How, you may ask, has the design of the WFD 'contributed to [the] failure' of a local waterbody to not achieve a good ecological status (however that status is defined)? Isn't the more likely culprit the CSO discharging numerous times a year even in dry or very minimal rainfall? Or isn't it the intensive agricultural practices happening further upstream or the runoff from highway drains?

3.16 It is also noticeable that, despite paying homage to the work of the Office for Environmental Protection at numerous times in its report, this conclusion flies in the face of the OEP's conclusion at p119 of their May 2024 report on ['A Review of Implementation of the Water Framework Directive Regulations and River Basin Management Planning in England'](#) which, at p116 endorses the WFD (as transposed in the Water Environment (Water Framework Directive) Regulations 2017) and suggests that the fault lies with the *implementation* of the obligations rather than with the obligations of the WFD itself:

Our view

The WFD Regulations apply a structural model based on the management of water in natural units (river basins or catchments) covering all types of water bodies, and applying an integrated, DPSIR ['driver-pressure-state-impact-response'] approach at the ecosystem level. In this context, the WFD Regulations remain highly relevant as an effective legal framework through which tangible and effective action could be planned and taken.

3.17 The rest of chapter 3 contains much of interest to the environmental lawyer. The Commission suggests a review and rationalisation/consolidation process which will surely be welcomed by anyone who has to trawl through the complex web of water regulation. The section on Wastewater and Drainage contains much that those who have spent far too long considering BTKNEEC⁵, would welcome with open arms.

3.18 The section on monitoring the water environment contains trenchant criticism of the way in which monitoring has been poorly resourced over the last decade or so. Hallelujah, many environmentalists will cry. Finally, the section on constrained discretion will be of particular interest to environmental public lawyers. How, exactly, do you grant a regulator discretion with one hand but constrain it with the other? Will that make it harder than it currently is to, for instance, successfully judicially review the Environment Agency for failing to undertake some task?

3.19 All in all, the commission has plainly considered the legislative framework in immense detail and has been well advised. With specific reference to the WFD our view is that, while an understandable conclusion has been reached to do away with the current WFD categorisation scheme and approach, the Report over-eggs its criticism of the regulatory framework itself and under-estimates the failure of implementation.

⁵ IYKYK. But you probably don't want to K

Chapter 4

Regulator Reform

by [Jemima Lovatt](#)

Introduction

- 4.1** Overall, Chapter Four delivers a comprehensive assessment of regulatory inefficiencies and proposes a bold structural overhaul with cross-sector backing. Its strengths lie in diagnosing fragmentation, emphasising public confidence, and advocating for skilled governance.
- 4.2** However, its impact is limited by a lack of consideration of deeper financial reform, uncertain transition planning, continued reliance on self-reporting, and insufficient alignment with broader infrastructure and public health needs.
- 4.3** The chapter should be applauded for depth and ambition but it risks focusing on bureaucratic solutions that may not be transformative enough for the problems faced.

Summary of the Commission's findings

- 4.4** Privatisation of the water industry in 1989 introduced a tripartite regulatory model:
 - a** Ofwat, as the industry regulator with an emphasis upon economic regulation
 - b** The Environment Agency ("**EA**") in England and Natural Resources Wales (NRW) in Wales, as environmental regulators
 - c** The Drinking Water Inspectorate ("**DWI**"), for drinking water quality
- 4.5** Over time, their responsibilities have grown within an increasingly complex legislative framework.
- 4.6** Ofwat now has five general duties, including resilience, growth, climate change and environmental targets.
- 4.7** The EA and NRW license and monitor environmental impacts from water companies, though growing wastewater pollution has raised concerns about their effectiveness.
- 4.8** The DWI oversees drinking water safety, infrastructure cyber-security and enforcement. It operates on a charge-funded basis, maintaining financial independence and reporting directly to ministers.
- 4.9** Natural England advises on freshwater and coastal sites, intersecting with water regulation though not a core regulator.
- 4.10** The Consumer Council for Water ("**CCW**") handles customer complaints.
- 4.11** The Commission identified four systemic problems in its stakeholder engagement:
 - a** Duplication
 - b** Gaps in oversight

- c** Inefficient trade-off management
- d** Regulatory misfit in Wales

- 4.12** Public confidence in the system is low: 93% of responses to a question within the Call for Evidence rated the regulatory framework as poor or very poor.
- 4.13** Duplication is particularly acute in reporting and enforcement. Water UK reported that companies must submit over 30 different reports annually on storm overflows alone, each with varying formats for Ofwat, Defra, and the EA. Regulators conduct overlapping investigations to differing standards, creating inefficiency and confusion. Each regulator also runs its own industry performance assessments, duplicating effort without improving accountability.
- 4.14** Gaps exist in asset health and infrastructure monitoring. No single body holds a holistic view of water infrastructure. Powers to oversee infrastructure delivery are fragmented, and there is limited accountability—no one regulator can clearly be held responsible for systemic failings.
- 4.15** Poor trade-off management undermines effective decision-making. Environmental regulators (EA/NRW) set requirements, with Ofwat stepping in later to assess costs. This sequence prevents early, cost-effective solutions and results in misalignment between ambition and affordability.
- 4.16** Wales faces a regulatory mismatch. Ofwat’s UK-wide approach struggles to reflect Wales’ distinct policy priorities. England’s policy preferences have “leaked” into Wales through Ofwat’s regulatory lens, despite differences in geography, population density, and environmental priorities.
- 4.17** The Commission puts forward two recommendations to address its findings:
- 4.18** Recommendation 16: Create a new integrated regulator for England, combining functions of Ofwat, the DWI, and water-related functions from the EA and Natural England (“NE”).
- 4.19** This body would:
- a** Oversee regulatory policy and strategy
 - b** Supervise water companies
 - c** Provide input into national and regional water planning
- 4.20** To succeed, the new regulator should:
- a** Be led by a senior, expert Board with skills in engineering, finance and environmental science
 - b** Maintain independence in economic and drinking water regulation to ensure investor confidence
 - c** Include the Chief Drinking Water Inspector as a formal Board member
 - d** Prevent regulatory capture through robust restrictions on new appointments and exits
 - e** Be guided by clear, government-set objectives to ensure long-term resilience and sustainability of the sector
- 4.21** This reform aims to rebuild public trust, align regulatory functions under one roof, and deliver a unified, accountable approach to water sector governance.
- 4.22** Recommendation 17: Establish a new economic regulatory function for Wales, aligning more directly with devolved policy and environmental goals.

- 4.23** This could be embedded in NRW or formed as a small, independent body akin to Scotland's model. Either way, it should be tailored to the Welsh context: only two water companies, lower population density, and a higher proportion of agricultural land.
- 4.24** The UK Government should enable the Welsh Government and Senedd to establish this new regulator by providing the necessary legislative powers. Ofwat should continue in the interim until the Welsh body is ready.
- 4.25** Drinking water regulation, by contrast, can continue to operate as a joint England-Wales function. Unlike environmental regulation, drinking water oversight is less politically contentious and does not differ significantly across the two nations.

Analysis of the Commission's Recommendations

- 4.26** The Commission correctly identifies overlapping remits between Ofwat, the EA/NRW, DWI and NE as a major barrier to coherent oversight. There is a clear emphasis on restoring public trust, reflective of the powerful responses to the call for evidence. The proposal for a new integrated regulator in England is a bold structural recommendation that is well-evidenced and backed by credible comparisons to other sectors, such as the financial sector post-2008 and the establishment of the Prudential Regulation Authority. The focus on data-driven enforcement reform emphasises reducing over-reliance on econometric benchmarking in favour of supervisory oversight. There is a strong emphasis on expertise-driven governance highlighting the need for a senior-led board with engineering, environmental and financial skills. Investor confidence should be supported by maintaining the independent status for economic and drinking water regulators. A tailored regulator in Wales aligns with devolved policy, addressing Ofwat's England-centric bias. Overall, the Commission has built on the momentum for major reform and the demand for improved environmental outcomes, reflective of growing public concern, by making substantial and fundamental recommendations. These have immediately gained broad support from government, environment groups and trade unions thus translating into immediate commitments from government to implement these key recommendations.
- 4.27** However, there are some weaknesses in the Commission's proposals. First, the proposal for the new regulator raises a number of issues. The interim and the final report from the Commission suggest that the new regulator will adopt a supervisory regulatory function but there is little detail on how this will operate. Given the significant environmental harm and public health risks, the proposal lacks any immediate improvements to enforcement. Within a supervisory model, there is greater scope for timelines and targets for real-time pollution reporting. There could have been strengthened penalties for when a company fails within the supervisory model. Furthermore, whilst environmental ambitions are clear, public health goals are less central to the new regulatory framework.
- 4.28** In addition, the Commission stops short of proposing limits on excessive corporate debt, preferring to focus on ways to make the sector more investor friendly, which can only be achieved over a longer time frame. The Commission does not address interdependencies with agriculture, highway, or non-water infrastructure and is limited in its assessment of the potential for cross-sector alignment. Finally, whilst public protection is referenced, detail on national social tariffs and consumer safeguards are limited.
- 4.29** Second, there has been some criticism of the unaddressed ownership models. Critics note that the Commission has not engaged with a deeper exploration of ownership models like co-operatives or public ownership. However, these are largely unrealistic because of the significant liability cost due to the poor infrastructure that plagues the water companies.
- 4.30** Third, looking ahead to the establishment of a new regulator, there is only a limited response

to the risk of regulatory capture. Whilst some governance restrictions are proposed, there is no interim mechanism to prevent undue influence during the restricting and merging process.

- 4.31** Finally, the transition plan is unclear. The Commission provides little detail on the dissolution of existing bodies and integration logistics which is particularly significant since the purpose of the EA when it was set up in the Environment Act 1995 was to bring together under one regulator all control of pollution whether of water, land and air, in the interests of integration. Furthermore, there is little attention on ensuring physical infrastructure monitoring during the transition.

Suggestions

- 4.32** The Commission's proposals will not be the final word on regulator reform. Next steps, in our view, would include the following. First, a detailed report on the new regulator, the new supervisory model and how that will operate. Second, a statutory duty to provide for safe access to nature and environmental health should be included within the new regulator's mandate. Third, a recommendation for independent, publicly accountable monitoring systems for water quality and discharges. Fourth, a focus on physical infrastructure resilience during and after regulatory reform. Fifth, the expansion of the new regulator's scope to interact with agriculture, highway, and non-water infrastructure systems. Sixth, the new regulator should be empowered with the ability to introduce new penalties, live pollution reporting, to intervene at an early stage and to limit debt accumulation by water companies. Seventh, the new regulator should have clear obligations to achieve affordability to ensure protection for vulnerable consumers. Finally, there should be a detailed roadmap for merging existing bodies, with clear timelines and resource allocation. There is also a need for strengthened interim oversight and the introduction of ethics and lobbying safeguards during restructuring.
- 4.33** This chapter sets a bold course for regulatory reform. But its success will depend on how thoroughly the weaknesses are addressed in its implementation. The greatest risk in this proposal is that reform of the bureaucracy overshadows the necessary action to improve water companies' performance.

Chapter 5

Regulation Reform

by [Samuel Glanville](#)

Introduction

5.1 Having recommended in Chapter Four that a new integrated regulator is established, Chapter Five turns to the knotty problem of regulatory reform, in other words how the UK government is going to ensure that the water companies do what they are expected to do. The sheer breadth of the regulatory demands placed on the regulators and water companies becomes apparent when one considers each of the sub-headings included in the chapter: economic regulation, environmental regulation, drinking water regulation, water resources, and affordability and consumer protections.

Economic regulation

5.2 The chapter begins by acknowledging that, in a natural regional monopoly like water, economic regulation exists to protect consumers from the abuse of those monopoly powers, such as high costs and poor service by providing incentives to drive efficiency and company performance.

Relationship between Ofwat and companies / investors

5.3 In the Commission's crosshairs is Ofwat, who the water industry say is adversarial, unpredictable and transactional. The Report notes the industry's principal grievance that Ofwat's approach is dominated by modelling, data and industry-wide benchmarks, which has led to a relationship that is insufficiently engaged with companies' operating contexts, and is adversarial on company-specific issues.

5.4 In a report that is generally reserved in tone, by adopting the concerns of the companies the Commission implicitly endorses those concerns. The inference is clear, the unhealthy relationship between Ofwat and the water companies benefits neither the company nor the consumer.

5.5 As such, the recommendation of the Report is for the new regulator to have a supervisory, more company-specific approach to regulation. This new, bespoke, approach is one that the Report feels would require a "fundamental shift" in the way the regulator approaches the role, focusing on engagement, judgement and being forward-looking.

5.6 The Commission makes various proposals for how the relationship could be improved by the new regulator. First called for here, and repeated throughout the chapter, is extra investment in both staff-funding and the use of new technologies. The idea is that investment in staff with sufficient financial and engineering expertise will allow the regulator to engage in expert analysis, whilst technology will make collecting the required data more efficient. The aim is to move away from a purely econometric approach focused on the sector as a whole, to an approach that is informed by the particular needs of the individual company.

Price control and investment

- 5.7** What then, is to happen to the question of how Ofwat calculates how much companies can charge their customers?
- 5.8** The Commission observes that customer bills have declined by 15% in real terms since 2014-15. Whilst Ofwat deny that low bills meant that investment was held back, the Commission takes a different view, accepting that there was consistent messaging focused on keeping bills low in the Price Reviews between 2009 and 2024. The Commission then observes that, whilst there were a range of factors in relation to investment, *“government and regulator pressure played an important role in what can now be seen as underinvestment over this period.”*
- 5.9** In order to incentivise investment in infrastructure, the Commission proposes a significant review of Price Reviews, which is also aimed at avoiding a repeat of the nasty shock of large bill increases that occurred in 2024.⁶
- 5.10** Amongst five key recommendations in this section of the Report, two stand out. First, in order to increase that focus on infrastructure, the Commission proposes a change to the way that funding is ringfenced, to ensure separate allowances for base capital expenditure (such as replacing a pipe or pump), base operational expenditure (such as energy or labour costs) and enhancement expenditure (investments that improve services, such as a new reservoir).
- 5.11** Second, the Commission recommends getting rid of the apparently unhelpful quality and ambition assessment (QAA) incentive scheme. The Report wryly observes that the QAA appears to have created perverse incentives for companies to propose expenditure that meets Ofwat’s ‘ambition’ criteria rather than reflect (potentially) what they actually need.
- 5.12** Of interest to lawyers dealing with disputes concerning price review determinations, the Commission recommends that the dispute process is changed from a redetermination to an appeal process, as a standard appeal process would be focused on challenges to specific “errors” in the decision, rather than a wholesale redetermination.

Environmental regulation

- 5.13** Reform in environmental regulation is led by the Commission’s rather critical assessment that *“there has been a deterioration in public confidence in the ability of environmental regulators to deal with and enforce environmental non-compliance.”*

Compliance monitoring

- 5.14** The Commission recommends reform of the current system of Operator Self-Monitoring (*“OSM”*) and Continuous Water Quality Monitors (*“CWQM”*).
- 5.15** Whilst acknowledging criticism of the OSM regime, the Commission falls short of recommending bringing all monitoring back within the regulator, principally on the basis of cost, with the EA estimating that the total cost of this change would be £33m, with an annual ongoing cost of £11.6-15.7m subject to inflation. Instead, the Commission recommends a strengthened approach to monitoring, using greater digitisation, automation, public transparency, third party assurance and intelligence-led inspections. In relation to CWQM, the Commission criticises the effectiveness and value for money of the monitors and suggests that they too could be used more efficiently through new and better technologies.
- 5.16** The Commission’s recommendations are therefore aimed at restoring trust – regulators and companies should be seen to be doing more – with tweaks as to how monitoring is undertaken. The recommendations in relation to OSM and CWQM are an example of the Commission identifying perceived issues with the system but making limited concrete recommendations

⁶ Cunliffe Report, Box 26, p.203, The jump in Weighted Average Cost of Capital (WACC) between Price Review 2019 and Price Review 2024 (2.96% to 4.03%) resulted in the rise of an average bill of around £43 from 2024/25 to 2025/26, in real terms.

for change beyond suggesting companies and the regulator use more technology and increase transparency.

Enforcement

- 5.17** The Commission opens the chapter's section on enforcement by welcoming the Water (Special Measures) Act 2025 in relation to civil penalties.
- 5.18** The key change to enforcement powers provided for in the Water (Special Measures) Act 2025 is identified as the change to the standard of proof for fixed and variable monetary penalties for certain offences. Water companies are proposed to be liable to prosecution for some offences proved to the civil standard rather than the higher, criminal standard. However, whatever the standard, funding remains an issue and in an all too brief paragraph the Report recommends that capacity and capability should be expanded in order to allow for increased enforcement. The question that goes unanswered, as ever, is how increased enforcement capabilities are going to be funded.
- 5.19** There is also an intriguing reference to 'historic' offences and a recommendation that the EA bring resolution to those cases. While the cases themselves are not identified this appears to be a reference to the EA's largest ever investigation, begun in 2021⁷, into all of the sewerage undertakers in respect of discharges from wastewater treatment works and CSOs in breach of the 'flow to full treatment' conditions of the permits. Thus far, at the time of the last update in February 2025⁸, no prosecutions appear to have been started save for a successful prosecution of one undertaker in relation to a failure to comply with a request for information.
- 5.20** Finally, the Commission recommends that the UK and Welsh governments take steps to ensure full cost recovery from the industry so that the regulatory service is self-sufficient and in line with the polluter pays principle. The Commission is silent as to how this might be achieved. At a time when Ofwat is currently announcing its largest ever fines for water companies, it is unfortunate that the granular detail of how the polluter pays principle will be met is not addressed by the Commission.⁹

Drinking Water Regulation

- 5.21** After the previous criticism of Ofwat, the Drinking Water Inspectorate (DWI) comes out of the Commission's Report with something akin to glowing praise, principally because drinking water quality in England and Wales appears to compare significantly favourably with other similar countries. It is worth quoting some of that qualified praise in full: *"the regulatory system for drinking water is delivering the required high-quality outcomes but this needs to be maintained in the future."* In effect, the Commission says to the DWI, carry on the good work. How this squares with the recommendations in Chapter Four, that the new regulator should subsume the DWI, without diluting its success, is unclear.

Water resources

- 5.22** The Environment Agency estimates that by 2055 there could be a shortfall of up to 5 billion litres a day. As the Commission rightly acknowledges, water resources in England are under pressure and that pressure will increase, due to both increased use in the industrial sectors (for example energy and food) and population increase.
- 5.23** In response, the Commission makes recommendations for reform of both the way in which abstraction is regulated and the way that householders and industry are encouraged to reduce

⁷ <https://www.gov.uk/government/news/water-companies-could-face-legal-action-after-investigation-launched-into-sewage-treatment-works>

⁸ <https://www.gov.uk/government/collections/environment-agency-investigation-into-sewage-treatment-works>

⁹ [Thames Water fined £122.7m following two investigations into breaches in relation to wastewater regulations and divided payments](#) (Accessed on 9 August 2025)

water use.

- 5.24** In order to reform abstraction licensing, the Commission recommends that regulatory oversight is brought under the Environmental Permitting Regime, which would require the Environment Agency to periodically review all permits to ensure they are suitable to protect water supplies and the environment. The Commission's view is that permitting would allow regulators to focus on key areas of need.
- 5.25** The Commission suggests a softer approach to encouraging householders and industrial users to use less water, by focusing on increased use of new technology, including more smart meters and innovative deployment of water re-use infrastructure.

Conclusion

- 5.26** In summary, the demands on the industry are wide-ranging and involve many different stakeholders with competing interests: as the Commission's terms of reference suggest, the industry must deal with concerns about pollution of our waterways, pressures on the water supply, bill increases, protection for vulnerable customers, the sector's financial and infrastructural resilience and ability to attract investment. This chapter attempts to address all those demands.
- 5.27** However, concrete change will require increased funding. Increased funding for the companies so they can maintain their infrastructure and meet increased demand. Increased funding for the regulator so it can adequately regulate the industry. What remains uncertain is whether there is appetite, either through increased bills or through increased government funding, to ensure that that funding is provided.

Chapter 6

Company structures, ownership, governance and management

by [Róisín Finnegan](#)

- 6.1** Chapter Six sets out the Commission's recommendations on company ownership and performance, investment and financial resilience, and competition in the water sector. In our summary and analysis, we focus primarily on the Commission's recommendations in respect of company ownership and performance, and investment and financial resilience.
- 6.2** The common thread running through this chapter is the need for stronger regulation. Our view is that the Commission's proposed suite of reforms have the potential to bring significant improvements within the constraints of the privatised model. However, much will depend on the new regulator's ability to implement the recommendations effectively, balancing accountability with support for struggling water companies, while ensuring the public interest.

Company ownership and performance

Company ownership

- 6.3** The Commission recognises the risk to the public interest in the current for-profit business model of water companies, and considers that company dynamics have a key role to play in aligning the public interest with the private interest of water company owners. Against this backdrop, two overarching lessons are identified by the Commission:
- 6.4** First, there is a legitimate public interest in the identity and business model of water company owners. However, the Commission does not consider that ownership models are the most important determinant of company outcomes.
- 6.5** Second, strong and evidence based regulation is critical to ensure that customers and the environment are protected.
- 6.6** A preliminary point of caution, considering that the Commission's terms of reference were limited to considering "*reforms that improve the privatised regulated model*", some stakeholders may question the Commission's conclusion that ownership models are not determinative of company outcomes. While this may be true when assessing a limited subset of comparative metrics for different types of water companies internationally (as the Commission did), some stakeholders may consider that wider factors, for example, public confidence in water companies, should have been given more weight as an outcome considering that the supply of water is a fundamental public service.
- 6.7** As also highlighted in the Commission's Interim Report, the Commission emphasises that water companies are complex infrastructures and under any model, company management needs to be skilled and incentivised to perform.

- 6.8** In recognising that strong regulation is going to be key to improving public confidence in

company ownership, the Commission proposed four recommendations:

- a** Recommendation 46: The regulator should continue to adopt an evidence-based process to consider, on a case-by-case basis, whether it would be appropriate for a water company to transition to an alternative ownership model where they request to do so or following a Special Administration Regime ('SAR') (for financially distressed companies).
- b** Recommendation 47: The regulator should have the power to block material changes in control of water companies.
- c** Recommendation 48: The regulator should be provided with powers to direct parent companies and ultimate controllers.
- d** Recommendation 49: The regulator should mirror elements of the Articles of Association in licence conditions to strengthen accountability.

6.9 While the Commission has not fully explored all potential ownership models, it is encouraging that they recommend giving the regulator stronger powers to block or approve changes in control that could harm the public interest. While requiring regulatory approval for every change may appear unduly interventionist to some stakeholders, significant changes are required to boost public confidence. This will however of course depend on public confidence in the regulator, which, at present, is extremely low.

6.10 Recommendation 49 would insert a "public benefit" clause into water company appointment licences, requiring companies to *"conduct its business to deliver long-term value to customers, communities and the environment, taken as a whole"*. This would provide a necessary additional check on provisions that already appear in many water companies Articles of Association and provide teeth to these commitments by enabling the regulator to take action for non-compliance. As it stands, accountability for water companies' non-compliance with their Articles of Association is at the helm of water company members and shareholders. This recommendation therefore has great potential to strengthen existing company and consumer legal obligations, and to provide accountability for failing to consider long-term public and environmental interests.

Governance and management

6.11 The Final Report details concerns among stakeholders regarding executive remuneration, company culture, and the need for greater accountability. In response, the Commission makes two recommendations:

- a** Recommendation 50: The regulator should continue current plans to strengthen governance standards and bring its principles in line with the UK Corporate Governance Code. Rules should apply to all water companies, listed and unlisted, and create a level playing field in governance and transparency across all companies.
- b** Recommendation 51: A new regime for senior accountability should be established by the UK and Welsh Government, subject to public consultation.

6.12 Recommendation 50 does little to change the current state of affairs as regards corporate governance—it merely reiterates water companies' current obligations. Some stakeholders in the environmental and human rights spheres may consider that the Commission has missed an opportunity for water companies to enhance public confidence in corporate governance and accountability.

6.13 This could have been achieved, for example, by placing greater emphasis on their obligations in respect of climate change, and explicitly affirming their commitment to the UN Guiding Principles on Business and Human Rights (*'UNGP'*). The UNGP have been repeatedly applied by courts in several contexts, including in the context of climate change in *Milieudefensie v Royal Dutch Shell*

[2021] [C/09/571932](#) where they were considered an “*authoritative and internationally endorsed ‘soft law’ instrument*”. UNGP Pillar II is directly addressed to business enterprises and considers that there is a corporate responsibility to protect human rights, requiring them to “*avoid causing or contributing to adverse human rights impacts through their own activities, and to address such impacts when they occur*”.

- 6.14** It is positive that the Commission has recommended the introduction of a streamlined Senior Management Regime, inspired by that introduced in the financial services sector in the wake of the financial crisis. The proposed regime would be narrowly focused on Chair, Chief Executive Officer and the executive level leaders with overall responsibility for finance, meeting environmental and drinking water standards and the Company’s compliance with its licence conditions. It would not include a certification regime. The Commission suggests introducing a principles-based Code of Conduct that would be placed on a statutory footing, while ensuring that the regulator has sufficient flexibility to ensure it remains proportionate over time.
- 6.15** In our view this goes some way towards ensuring personal accountability of senior management in water companies, and if implemented, will assist in improving public confidence. The Commission is clearly, and perhaps understandably, reticent to introduce proposals that could have a chilling effect on the ability of water companies to attract the right talent to senior roles. Furthermore, they are keen to see how reforms introduced by the Water (Special Measures) Act 2025 (*‘WSMA 2025’*) take hold. However, some stakeholders will likely be disappointed that the recommendations stop short of recommending any sort of public representation on boards as a way to strengthen accountability and rebuild trust.

Investment and financial resilience

Investment

- 6.16** As the water industry has been characterised by high-risk and low-return investment in recent years, long-term institutional investors, including pension and sovereign wealth funds are reluctant to invest in water companies when they can achieve higher returns for lower risk by investing in comparable industries.
- 6.17** The Commission has heard that Ofwat, government and water companies themselves are to blame for negative investor sentiment and perceived risk profile of the sector.
- 6.18** In recognising that actual rates of return have been out of line with levels of risk in the water sector, the Commission identifies a range of cross-cutting reforms that they say will assist to lower risk in the sector, and makes four recommendations relating solely to investability, namely:
- a** Recommendation 52: The UK and Welsh governments should include a target relating to the stability of the regulatory model as an objective in its strategic guidance.
 - b** Recommendation 53: The UK government should use the opportunity of this review and its decisions on the implementation of the Commission’s recommendations to reset its approach to strategic communications regarding the water industry.
 - c** Recommendation 54: The regulators in England and Wales should conclude long-running investigations and enforcement cases as soon as possible as part of a reset of the sector.
 - d** Recommendation 55: The regulators in England and Wales should consider how best to promote the use of environmental bonds.
- 6.19** The strength of the media’s influence on public perception and consequently, investor appetite, should not be underestimated and is addressed in Recommendation 53. The Commission

views these reforms as an *“opportunity to draw a line in the sand and reset the sector in line with the public interest. This reset is a moment for government to change its narrative around the sector”*, and encourages the government to adopt a more balanced narrative when communicating about the water industry. Our view is that while this shift in tone is important to help restore public belief in the sector, transparency must be ensured. The public must be kept fully informed about all aspects of water companies’ progress if trust is to be genuinely rebuilt.

6.20 We believe that promoting environmental bonds is a positive step, offering potential benefits for both environmental protection and financial resilience of water companies. While some water companies may not meet ESG requirements at present, constructive engagement with the regulator and the correct guidance could enable companies to design qualifying projects and secure green finance. It is hoped that this would lead to much needed improvements in environmental and financial outcomes over time.

Financial resilience

6.21 As regards financial resilience, the Commission rightly acknowledges that financial resilience of water companies is a matter of public interest. It makes four recommendations in this regard:

- a** Recommendation 56: A financial supervision framework should be embedded as part of a broader supervisory model. Within this framework, the regulator should publish a range of risk factors that inform their judgement of a company’s financial risk profile.
- b** Recommendation 57: The regulator should have the power to set minimum capital levels for water companies.
- c** Recommendation 58: A formal turnaround regime should be established for the regulator to support turnaround of poorly performing companies. This should enable both an enhanced power of direction as well as regulatory forbearance.
- d** Recommendation 59: The regulator should develop and consult on a framework for ensuring companies are prepared for SAR.

6.22 The Commission has therefore made efforts to find solutions for serious concerns about the financial resilience of water companies. This is no small feat when stakeholders fear that the SAR is not a credible threat to water companies, and that overly-accommodating turnaround regimes could encourage moral hazard; while at the same time, there is a balance to be struck to ensure that the essential services water companies provide can be maintained in the public interest when companies are struggling.

6.23 While it is positive that minimum capital levels should be set for water companies, the Commission does not suggest what the consequences of failing to meet these requirements should be. For example, how serious should a failure to comply be considered - should this be a trigger for a company to enter the turnaround regime? One would also wonder how this would work in practice given the differing financial positions of water companies at present.

6.24 Recommendation 58 carries most significance. The Commission recommends a range of levers that could be deployed by the regulator to support the turnaround of struggling water companies in the public interest. These include:

- a** Forbearance of fines where it is in the broader interest of consumers;
- b** Deferring deadlines by which projects are to be delivered if in the public interest;
- c** Using financial settlements in efforts to conclude ongoing enforcement investigations; and
- d** The power to review allowances and performance targets according to what is necessary to get the company back on track.

- 6.25** The Commission also recommends various restrictions that would ensure accountability, including restricting dividend payments and bonuses, and by empowering the regulator to direct water companies to make certain financial decisions.
- 6.26** In our view, if appropriately implemented, the formal turnaround regime could mutually benefit water companies and the public interest. However, in order for the regime to remain credible and to assist only those companies that can in fact be turned around, the threat of the SAR must be real. It is therefore essential that Recommendation 58 works in tandem with Recommendation 59. In that vein, the Commission considers that the SAR should remain a credible but low probability threat, without proposing any exact framework for a SAR. It will be therefore be interesting to see how these recommendations play out in practice.

Competition

- 6.27** The Commission makes recommendations to review and improve the Business Retail Market – the mechanism by which competition between water retailers is promoted for business customers (Recommendations 60 and 61).
- 6.28** One may consider that the Commission missed an opportunity to consider whether there should be competition for domestic customers. While this would unlikely work in practice logistically, it may have been helpful to have the Commission's views on this.
- 6.29** The Commission also discussed the role of New Appointments and Variations (NAV) in respect of providing competition in the market to benefit consumers. Three recommendations are made:
- a** Recommendation 62: The framework for regulating NAV applications in England should be made more proportionate to support housing growth.
 - b** Recommendation 63: The Commission considers that there is a strong case for dropping the requirement for NAVs to produce Water Resource Management Plans and Drainage and Wastewater Management Plans given the view of the Environment Agency and for changes to the requirements upon them in relations to drinking water testing.
 - c** Recommendation 64: The Commission considers that the UK government should monitor NAV market size and risk of fragmentation.
- 6.30** In our view, it is important to ensure that NAV regulations are proportionate in order to ensure that a limited element of competition can be ensured for customers. The recommendations seem fit to capture this concern.

Conclusion

- 6.31** In summary, we consider that the Commission has made some promising recommendations that if implemented, could go some way towards strengthening accountability and improving public confidence in the sector.
- 6.32** While some may be disappointed that the Report does not advocate for a singular company structure and proposes limited prescriptive reforms (the introduction of a Senior Managers Regime and a formal turnaround regime being exceptions, amongst others), this arguably reflects the multifaceted nature of the challenges facing the sector.
- 6.33** To rebuild confidence and secure long-term investment in this essential sector, meaningful enforcement, credible deterrents for poor performance, and greater alignment of private incentives with public outcomes will be critical. Whether these recommendations bear fruit will ultimately depend on the new regulator's ability to effectively implement the Commission's recommendations.

Chapter 7

Infrastructure and Asset Health

By [Mark Davies](#)

Introduction

- 7.1** Chapter 7 of the Commission's Final Report concerns 'Infrastructure and asset health' and is divided into six distinct sub-topics:
- 7.2** Each sub-topic follows the same format: background; issues; and conclusions and recommendations.
- i** 'Resilience and Asset Health';
 - ii** 'Infrastructure Security';
 - iii** 'Infrastructure Delivery';
 - iv** 'Monitoring and assurance of infrastructure delivery';
 - v** 'Supply chain and labour force capacity'; and
 - vi** 'Innovation and technology'.
- 7.3** The overarching theme of Chapter 7 is, in essence, to call down a plague on all houses concerned with water infrastructure and asset health; no part of the system escapes. The involvement of regulators (principally Ofwat) is thought to have been ineffectively focussed on narrow metrics concerning failure rates rather than prognostic evaluations of asset health and resilience, whilst the undertakers have failed (at least in part) to map and understand their infrastructure.
- 7.4** Whilst there are, in fairness, nods to the difficulties that Ofwat has faced in the past due to cost cutting measures and red tape cutting exercises it was forced to undertake, when reading Chapter 7 it is easy to see why the Government has already accepted the Commission's recommendation to replace it (and the other patchwork of water industry regulators) with a new body.
- 7.5** Below an overview of each of the six sub-topics is provided, followed by our analysis.

Resilience and Asset Health

- 7.6** The Commission's reflections on resilience and asset health start with a sensible reminder that the provision of safe drinking water and effective wastewater management requires resilient infrastructure and supply chains. With that in mind, the Commission has 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.

- 7.7** As regards resilience standards, as well as highlighting the lack of any, the Commission identified

concerns about the fact that metrics used by Ofwat are backward-looking and they do not address long-term, system challenges. A potential 'postcode' lottery of resilience is identified due to the differing approaches of undertakers and the absence of a national exercise regime to test the system.

- 7.8** Underpinning this is perhaps the next issue identified, that being the limited understanding of the condition and location of infrastructure, which is a problem for both Ofwat and the water undertakers. The Commission has identified that Ofwat's use of failure metrics, rather than assessment of asset condition or preventative activity, is important as part of the picture but incomplete as a 'prognostic indication of asset health'. In respect of the undertakers, the Commission reflects on the adequacy of compliance with the duty to map the network, with the exemptions for drains, sewers and disposal mains laid before 1 September 1989 and private sewers for properties built after 2011 being highlighted as particular issues. The lack of an enforcing regulator for the duty to map is also recognised (in contradistinction to the Commission's Interim Report).
- 7.9** In terms of infrastructure oversight, the Commission highlights that responsibility for asset health and infrastructure resilience is spread across different regulators and that integrated oversight is limited with attention drawn to Ofwat's lack of engineering capability in particular.
- 7.10** As to supply chain resilience, through the lens of infrastructure and resilience, the Commission has identified the concerns surrounding the supply of chemicals for water treatment, which is plainly thought to be a potential point of weakness.
- 7.11** Against that analysis the Commission concludes that the current regulatory approach to infrastructure resilience is not delivering a sufficiently resilient system to tackle both short-term shocks and long-term pressures, with the industry as a whole and Ofwat recognised as not having a clear understanding of the amount of intervention and investment required to reach sustainable levels of renewal or what the appropriate standards should be.
- 7.12** The Commission goes on to identify four substantial recommendations:
- Recommendation 66: Statutory resilience standards, covering system, infrastructure and supply chains, should be developed and adopted for the water industry in England and Wales. Resilience standards should ensure all companies make forward-looking, long-term assessments of their systems and assets and of their ability to recover from disruption to their network.
 - Recommendation 67: 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: 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.
 - Recommendation 69: The regulator should conduct a sector-wide risk assessment of critical supply chain dependencies in England and Wales. The assessment should make reference to the water industry national supply chain requirements dashboard, (which is a reference to the Commission's Recommendation 80, addressed below).
- 7.13** The Commission's discussion and recommendations in respect of resilience and asset health are not greatly surprising, but rather represent the obvious culmination of how the industry and Ofwat have hitherto operated. The kinds of fundamental shifts in attitude suggested by the Commission, which include removing exemptions in respect of the duty to map, are sensible

measures that are, one might think, long overdue.

Infrastructure Security

- 7.14** The Commission's section on infrastructure security, which includes reference to a 2024 update from the Director General of MI5, is fascinating for both its contents and the sheer fact of its inclusion. Were global events not as unstable as they currently are, one can readily appreciate that this aspect of infrastructure and asset health would not have been included at all.
- 7.15** As it is, the Commission has sensibly recognised that threats to the water industry (as part of the Critical National Infrastructure), and perhaps more particularly to those aspects of the water industry that are reliant on cyber security, are an important feature.
- 7.16** The Commission have reflected that the water industry is subject to two broad sets of requirements on infrastructure security:
- i** the Security and Emergency Measures (Water and Sewerage Undertakers and Water Supply Licensees) Direction 2022 (as amended) ("SEMD"); and
 - ii** the Network and Information Systems Regulations 2018 ("NIS").
- 7.17** The Drinking Water Inspectorate is responsible for regulating water companies under those two pieces of legislation and has an agreement with the Environment Agency and Natural Resources Wales for support where necessary.
- 7.18** The water industry's role as a Category 2 responder under the (much maligned) Civil Contingencies Act 2004 is also recognised.
- 7.19** The key issues identified by the Commission are:
- Gaps in security legislation for the water industry; and
 - Enforcement of security legislation.
- 7.20** The gaps identified by the Commission are sensible ones, namely a lack of weight given to cyber security and concerns that NIS only applies to drinking water supply (not wastewater) whilst SEMD only applies to licensees and undertakers appointed by Ofwat/the Secretary of State, meaning that third-party operators are not captured.
- 7.21** The Commission also goes on to highlight that the enforcement mechanisms under SEMD are lacking in that, for example, it does not provide powers of entry for the purposes of ensuring compliance.
- 7.22** The Commission goes on to identify two recommendations:
- Recommendation 70: 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.
 - The regulator should be provided with stronger powers for the enforcement of existing security regulations in England and Wales.
- 7.23** In an age of increased threats, the Commission's recommendations in respect of tightening up the water industry's security arrangements would appear to be wholly sensible.
- 7.24** It is, however, notable that the Commission has not sought to undertake any analysis of the status of water undertakers at Category 2 responders under the provisions of the Civil Contingencies Act 2004. Whilst this is perhaps not surprising given the breadth of the Commission's report, this is an area that may benefit from further consideration. The question as to how well integrated

water undertakers are into broader risk planning under the framework is one that should, in our view, be given further consideration.

Infrastructure Delivery

7.25 The section of Chapter 7 concerning infrastructure delivery is interesting for the fact that it is thoroughly forward looking and is focussed on how water infrastructure can be delivered in order to facilitate growth.

7.26 The Commission have highlighted that the new Planning and Infrastructure Bill (introduced in March 2025) is intended to deliver a faster and more certain consenting process for critical infrastructure, including for the water industry, by:

- introducing a requirement to update National Policy Statements every five years;
- changing Development Consent Order (“DCO”) consultation requirements to limit delays;
- introducing an ability for DCO projects to be redirected into the most appropriate consenting route available;
- further DCO reforms to give greater certainty to developers, streamline changes post-consent and align secondary consents to reduce duplication;
- reducing judicial review permission attempts for DCOs;
- modernising Planning Committee ways of working; and
- introducing sub-regional spatial development strategies.

7.27 Against that background, and noting that the Abingdon Reservoir was first proposed by Thames Water in 2006, but only gained approval in 2024 (and was the subject of a failed judicial review as late as July 2025) and will not be fully operational until 2040, the Commission has identified four main issues in respect of infrastructure delivery:

- Water company sight of development plans;
- Existing regulatory mechanisms are inadequate;
- Government and regulator coordination on major infrastructure projects is limited; and
- There is varied expertise among companies for large infrastructure delivery.

7.28 Expanding on those the Commission notes that water companies are not statutory consultees for planning applications, which can cause delays later in the planning process, with a need to improve the delivery of smaller infrastructure projects (such as water quality monitoring units and small pumping stations).

7.29 As regards larger projects, the Commission further notes that the Secretary of State can designate projects as Nationally Significant Infrastructure Projects even if they do not meet the necessary criteria. That such projects are not routinely treated as such is perhaps reflected in the Commission’s finding that some water companies do not have the expertise to deliver such programmes.

7.30 The Commission is, however, complimentary of the role of the Regulators’ Alliance for Progression of Infrastructure Development (“RAPID”), which aims, rather as the acronym would suggest, to speed up project development.

7.31 Against that backdrop the Commission makes five recommendations:

- Recommendation 72: 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. In line with recommendations in Chapter 2, the independent systems planners should also have a role in the planning process.

- Recommendation 73: Planning processes in England should be updated to support the timely delivery of water industry infrastructure.
- Recommendation 74: Permitted development rights for water companies in England and Wales should be updated to reduce the scale of delivery requiring full planning permission.
- Recommendation 75: RAPID, in England and Wales, should be expanded and strengthened to support strategic infrastructure delivery.
- Recommendation 76: The National Infrastructure and Service Transformation Authority should consider how the water industry in England and Wales could move towards standardised practices and further recommend how this could be advanced.

7.32 What is particularly interesting about the section of the Chapter 7 dealing with infrastructure delivery is that the Committee have, quite rightly, turned their attention to the planning regime. Insofar as this means moving focus from Defra to the Ministry of Housing, Communities and Local Government, which is responsible for the planning system, it demonstrates the breadth of reform that is required to ensure that the delivery of water infrastructure can be delivered (whether to facilitate growth or not!).

Monitoring and assurance of infrastructure delivery

7.33 This sub-topic of Chapter 7 builds on the previous section concerning infrastructure delivery and addresses how any regulator is able to assure that infrastructure projects are delivered in a timely manner, which the Commission recognises is necessary for public confidence.

7.34 The Commission recognises that Ofwat did, prior to 2014, undertake a detailed approach to assurance, but that having implemented the recommendations of the Gray review (completed in 2011) it moved to an outcomes-based approach.

7.35 The Commission also recognises that efforts have been by made regulators to improve on monitoring of water company infrastructure delivery in recent years (for example by reference to the Price Review 2024) and the other tools (such as Price Control Deliverables (“PCD”) and Outcome Delivery incentives) that track delivery and provide incentives for companies to deliver in a timely manner.

7.36 Two main issues are identified by the Commission as regards the assurance of infrastructure delivery:

- existing monitoring frameworks do not provide a single view of infrastructure delivery; and
- PCDs (i.e., specific outcomes a water company is expected to achieve as part of a price control mechanism, which might be linked to funding decisions) need to be reviewed.

7.37 The first issue identified focus on a gap in regulators’ powers to hold water companies to account for the delivery of infrastructure projects and a lack of a clear monitoring and assurance framework to track expenditure. This feeds into the second issue where the Commission has recorded that Ofwat needs to ensure that water companies do not charge customers twice for the delivery of the same projects, as well as a need for greater delivery flexibility in PCDs.

7.38 The Commission makes three recommendations in respect of monitoring and assurance of infrastructure delivery:

- Recommendation 77: The delivery assurance frameworks (Delivery Plans and Delivery Monitoring Framework) that cover infrastructure capital spending across England and Wales should be reviewed during Asset Management Period 8 (“AMP8”) and rationalised.
- Recommendation 78: 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.
- Recommendation 79: Under the supervisory approach, the regulator in England and Wales should provide assurance on how companies are delivering infrastructure spend.

7.39 We would suggest that the recommendations made by the Commission in respect of monitoring and assurance of infrastructure delivery are particularly important at a time when public confidence in the water industry is, it might not unfairly be said, at rock bottom.

Supply chain and labour force capacity

7.40 In this sub-topic the Commission recognises the importance of the smooth operation of supply chains and the workforce as a critical component of all future delivery and operations.

7.41 It identifies three issues in relation to supply chain capacity:

- Lack of long-term visibility and coordination in infrastructure delivery;
- Future investment could outpace supply chain capacity; and
- Skills and recruitment challenges for the water industry.

7.42 In discussing those issues the Commission notes, rightly in our view, that the five-year price review cycles create uncertainty for the supply chain because they do not permit sufficient certainty and they create a ‘boom and bust’ pattern of expenditure that is disruptive.

7.43 The potential problems in terms of the skills and recruitment challenge are stark, the Commission records that: 22% of the workforce are over 55 years of age, with only 7% aged between 16-24 (lower than the UK average of 12%). A survey of 4,000 engineers across the UK water industry indicated that 66% were planning to leave the industry in the next three years.

7.44 The Commission highlights Severn Trent as having established an academy in 2021 to seek to address those issues and makes the following three recommendations:

- Recommendation 80: The regulator and systems planners, in England and Wales, should jointly undertake a water industry infrastructure delivery needs assessment against an assessment of supply chain capacity.
- Recommendation 81: 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.
- Recommendation 82: The regulator, under its supervisory approach, should gain further assurance from companies in England and Wales on workforce and supply chains to ensure companies can sufficiently deliver.

7.45 In our view the Commission rightly identifies the potential issues with the future workforce as a real problem for the delivery of future infrastructure. However, the recommendations it makes do not necessarily tackle this particularly vexed question head on. This is, in our view, particularly unfortunate inasmuch as the renewal of the water industry’s assets will depend on having a sufficiently skilled workforce.

7.46 This is, however, a difficult question across a number of industries (housebuilding, for example) and central Government will have to seek to urgently address this; it might, perhaps, look to the

Severn Trent Academy model.

Innovation and technology

7.47 The Commission's final sub-topic in Chapter 7 concerns the need for innovation in the water industry to further productivity growth, which it is suggested has the potential to facilitate better quality outcomes and lower customer bills. Parallels are drawn with innovation in the energy sector by way of comparable examples.

7.48 The Commission identifies four, high-level issues in respect of innovation and technology:

- Risk aversion and regulatory constraints;
- Insufficient access to funding for innovation;
- Lack of collaboration across the water industry; and
- Lack of visibility in long-term delivery requirements.

7.49 It is recognised by the Commission that as regional monopolies, the water industry has limited incentives to innovate, which it suggests indicates risk aversion in both companies and the regulator with legislation having (unintentionally) created barriers to it.

7.50 Interestingly, the Commission reflects that Ofwat's comparative benchmarking discourages companies from sharing knowledge and best practices because to do so may risk peers being more favourably benchmarked; this is, we would suggest, precisely the kind of attitude that, whilst entirely understandable under the current framework, should be addressed in the future.

7.51 The recommendations the Commission makes in respect of technology and innovation are:

- Recommendation 83: The UK and Welsh Governments should introduce structured regulatory sandboxes to support innovation uptake.
- Recommendation 84: The regulator in England and Wales should consider whether innovation funding mechanisms for the water industry are sufficient and effective.
- Recommendation 85: Water companies should work with Water UK to disseminate innovation learnings across the water industry in England and Wales.

7.52 In our view the final sub-topic of Chapter 7 provides the strongest indication yet that the Commission is set on a root and branch reform of the water industry, which can only be for the best. The reset of relationships between water companies to allow and encourage the sharing of innovative ideas and practices would represent a wholly refreshing shift from the limited instances in which that currently happens.

Conclusion

7.53 The Commission's review in relation to infrastructure and asset health has, in our view, got some significant parallels with the lessons learned exercise carried out after the financial crash in 2008, particularly in respect of the tightening up of regulatory controls that was then proposed in respect of the banking industry, and as is now proposed in respect of the water industry.

7.54 Whilst, to that extent, both are exercises in seeking to close the stable door after the horse has well and truly bolted, the Commission's recommendations in respect of infrastructure and asset health are, in our view, wholly sensible and not before time.

7.55 The challenge for the Government now will be ensuring that all of the Commission's recommendations are properly addressed and in good time so as to ensure the fundamental shift in approach to infrastructure and asset health that is so patently required is implemented across the board. It is a mammoth task.

Chapter 8

Implementation

by [Nicholas Ostrowski](#)

- 8.1** The Report ends with an assessment of how the Commission thinks that the changes it suggests should be implemented. This is particularly sensible given that a feature of our analysis has been that much will be depend on how the Commission's recommendations will be implemented.
- 8.2** A number of early changes are suggested (such as Regional System Water Boards and the implementation of the supervisory approach to regulation). As to the passing of legislation, the Report acknowledges that primary legislation will be required and focusses on five key areas which the legislative process will have to focus on.
- 8.3** What seems to us to be genuinely innovative though is the Report's suggestion that an expert advisory group be convened. This takes as a starting point the huge amount of work which is already scheduled to take place in the water industry space over the next few years covering such things as the River Basin Management Place Process undertaken by the EA and Defra, the price review process undertaken by Ofwat and the EA's Water Industry National Environmental Programme. In the light of that forthcoming work the Report recommends that the English and Welsh governments should outline transition plans which set out how the new frameworks and recommendations suggested in the Report will be woven into the existing system as well as how they will be implemented. It is at this stage that the implementation advisory group comes into play. This group, consisting of a broad range of stakeholders, will have a heavy burden but if it achieves 'buy-in' from across the industry, should be well placed to ensure that the proposals discussed in the Report and the issues identified in this analysis are actually implemented in a rational and sensible way. This is then to be accompanied by an independent review of the follow up to the Report in two years' time.