

# Written evidence submitted by The Sewage Campaign Network to The Water (Special Measures) Bill Committee (WSMB20).

## Summary

We propose amendments to the Water (Special Measures) Bill as follows:

1. Stop the water companies and regulators ignoring the law and stop untreated sewage discharges outside Exceptional Circumstances (to comply with the 1994 act) and put failing water companies into special administration
2. Stop public bailout of the water industry (the bill allows for public bailout).
3. Convict Directors that fail to address prosecutable offences.
4. Reform the duties of Ofwat to be for clean water, conservation and reasonable bills. This brings English water regulation up to the standards of and improves upon, the Water (Scotland) Act 1980 [Section 1](#) (The Bill puts growth before the environment).
5. Give the public a voice on the board of water companies
6. The current monitoring of every sewer outlet must be for volume as well as event duration, and any self-monitoring by water companies must be made publicly available.

## The Sewage Campaign Network - About Us

We are grassroots campaigners deeply rooted in our local communities, working to save our rivers, lakes and seas from sewage pollution. As the founders of the current massive public storm, our coalition consists of the forerunners in the fight against sewage pollution - passionate community members dedicated to safeguarding rivers, lakes and coastlines. We have not been captured - we don't take money from the government, regulators or the water companies; we are truly independent. We take pride in our integrity. To save our local waters, we've had to step up to challenge the entire water system, campaigning to get the law enforced. We are also mobilising hundreds of community campaign groups like ours, providing briefings and educational sessions, and supporting the practicalities of water testing, campaigning and lobbying. Each group within the network operates independently, but we speak as one, channelling the public's outrage at pollution for profit.

We are submitting this evidence because the Water (Special Measures) Bill does not ensure the current law is enforced and is not strong enough in securing the governments manifesto commitments to the public as it stands.

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

# Our Submission

## 1. Water companies' illegal pollution, law breaking and the imposition of fines

The Water (Special Measures) Bill should not stop the government enacting existing law; and our concerns that underpinning this lack of implementation is confusion among the regulators on what the existing law actually means. The public will not tolerate paying increasingly large bills to water companies that are under criminal investigation by the regulators.

Research has revealed systemic, illegal sewage dumping by water companies<sup>1</sup>. Every water company is now under criminal investigation by Ofwat for illegal sewage 'spills', discharges of untreated sewage into our rivers, lakes and seas, and some also by the EA for not complying with their permits. All water companies are failing to meet their Ofwat performance targets on water quality. There have been no prosecutions, only fines so far.

Water Companies are failing in their performance on water quality, they are in financial distress with debt increasing annually (by £8.2bn 2021-23) with overall debt at £60bn and dividend payments at £78bn despite inheriting no debt at privatisation. This is being tolerated by the regulator, whilst customers continue to pay.

**Stop illegal pollution.** Water companies should only dump raw sewage in exceptional circumstances (that is the law). The regulators don't agree what that means. The EA says 'exceptional' means sewage can be dumped when capacity is reached at a sewage works (can be hundreds of times a year), Ofwat says 20 times a year, Defra Bathing Status regulation says 10 times a year. Our regulators are not in agreement on the law, how to implement it and what is the best possible solution to sewage pollution. The Water (Special Measures) Bill must be based on an agreement about what is, and what is not, legal.

Stopping bonuses will not work. Water companies will just put up salaries or find ways to syphon money to directors in other ways. Most directors work across multiple companies within a group.

Enforcing the law means putting failing water companies into special administration. We also call on the government to use *existing powers* to protect the public's interest by putting failing water companies into special administration.

Special Administration offers a path to recovery at no cost to the customer. This mechanism could redirect funds from dividends to critical infrastructure upgrades, addressing the sewage crisis without significantly burdening customers.

The special administration regime is there to protect the consumer. The SA regime must write off company debt (it is in the government's hands to do so) and no options for ownership should be off the table. Stating that public ownership is not an option ties the hands of the Special Administrator before scrutiny. The regulators and government are protecting the shareholders over the consumer and the environment. See our full briefing on [Special Administration](#).

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<sup>1</sup> <https://www.sewagepollution.uk/>

While there is delay in enforcing the legislation, the water companies will continue to take money out of the water system, in dividends, bonuses and loan payments, reducing the water system capacity and continuing to pollute our rivers, lakes and seas to the detriment of the health of people and wildlife.

## 2. Give the public a voice on the board of water companies (Section 1)

Alongside enforcing existing legislation as a priority, in the short-term water companies must have a more direct route of accountability to consumers. To that end the smoke and mirrors of water companies not listed, means that the public has no access to Board meetings or to shares.

We propose that the Water (Special Measures) Bill is amended in relation to governance to put employees and bill payers on the Boards of water companies, so that the public can have a much stronger customer presence and voice within water companies. This goes further than the current Bill provisions. This reflects the normal practice in most wealthier OECD countries for large companies.

## 3. Monitoring (Section 3)

The Water (Special Measures) Bill relies on monitoring through real time EDM (event duration monitors) which record spill (untreated sewage discharges) frequency and duration but produce unreliable data. 'They are both inaccurate and tell us nothing about the volume of pollution. EDMs should be replaced by more reliable flow meters which also record spill volume. Spill volume could then be the basis for levies on sewage spills and fines for those proving illegal. EDMs, using simple height measuring ultrasound, have been poorly installed and being in the open are prone to interference, natural and artificial. They need to be replaced by flow meters, a much more reliable technology that has been used in the water industry for decades which report spill volume.' [The Sewage Campaign Network MP Briefing](#)

Water companies are not complying with the law using the current event monitoring, but are being allowed to continue operating. Any improvement in monitoring must be matched by law enforcement by the regulators.

## 4. Convict directors that fail to address prosecutable offenses (Section 5-7)

Despite companies operating illegally, there has been little criminal prosecution. Water as a precious commodity should not be in the hands of criminals

We propose that a director of a water company that has been found guilty of an offence is also guilty of an offence if they fail to prevent the same breaches occurring again - there is no provision for this in the current bill.

A person guilty of an offence under this section is liable –

(a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court or to a fine, or both.

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

## 5. Duties of water regulators for clean water (Section 9)

The Bill should be changed at Clause 8 so that the duties of Ofwat are compatible with the public interest. Since privatisation, the statutory goals of Ofwat have included securing a return on capital for investors, even if this damages the interests of customers. It also requires serving customers mainly by inventing competition, even though water companies hold regional monopolies and logically no competition is possible or has ever been created. The duties of Ofwat should be reformed to be for clean water, conservation, and reasonable bills. This brings English water regulation up to the standards of, and improves upon, the Water (Scotland) Act 1980 [Section 1](#).

## 6. Stop public bailout of the water industry (Water Bill Section 12-14)

The Water (Special Measures) Bill provides the option to shift water company debt onto the public, forcing customers to cover liabilities caused by dividend payouts and underinvestment. As currently drafted, clauses 12-14 enable the costs of special administration to be shifted onto bill payers, not banks and shareholders. These clauses give polluting parties more rights, are unnecessary, and by putting costs on bill-payers are radically opposed to Labour's election manifesto.

As it stands we are also concerned that Section 12 allows for public bailout overtly or by stealth and a complete betrayal of the duty to protect customers of monopoly companies providing something that no-one can give up – water. Current law allows the government to ensure that debt liability stays with the shareholders, but the new Bill appears to have chosen the public as the party that will have to pay up the compensation to fix the damage done to the country's water and sewerage infrastructure. We therefore ask you to stop any public bailout of the failing water industry.

We ask for the amendment that ensures that the Secretary of State and His Majesty's Treasury should be prohibited in the Bill from directly or indirectly discharging, assuming, or guaranteeing any debts of legal entities in any water company group that enters special administration. In addition, The special administrator of a water company should reduce the debts owed by the regulated entity to its creditors by 100 per cent. Note the prohibition and the reduction of debts should not include pension, wage and other obligations owed to employees, excluding any past or current member of a board of directors, within the water company group. This reflects consideration of the seriousness of environmental breaches and the excessive returns on capital so far, the costs that creditors have already imposed on the public, and the poor risks they took in a low-risk monopoly industry.

## Summary

We ask that

1. the government clarify and enforce existing legislation
  - a. Stop untreated sewage discharges outside Exceptional Circumstances (to comply with the 1994 act)

- b. Put failing water companies into special administration (Amend Section 12 - 14)
  - c. Convict Directors that fail to address prosecutable offenses (Amend section 5-7 ).
2. That the Water (Special Measures Bill) is further amended to:
- a. Reform the duties of Ofwat to be for clean water, conservation and reasonable bills (Amend Section 9).
  - b. Prohibits public bailout of the water industry (Amend Section 12 Modification by Secretary of State of water company's appointment conditions etc to recover losses).
  - c. Put employees and bill payers on the Boards of water companies (Addition to Section 1)
  - d. Require volume monitoring on every outflow and public scrutiny of all water company self-monitoring of water quality (Amend section 3 141F Reporting on discharge from emergency overflows)

*January 2025*