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Progress since Brexit on the water environment

What has happened since Brexit?

The UK's departure from the EU brought the potential for significant changes in the field of water policy. Until then, the UK's overarching approach had been governed by a European framework known as the Water Framework Directive (WFD), under which policies and regulations operated, all aimed at meeting the directive's objectives.

The directive, adopted in 2000, introduced a new way of considering the health of waters, taking account of their ecology as well as of pollution levels, the consideration of which had dominated the previous approach to understanding and improving the state of UK waters. It required objectives to be set at a water body level, based on an economic analysis of what is cost-beneficial to deliver. 'Programmes of measures' were then set out in successive river basin management plans with the aim of reaching the objectives by the backstop date of 2027, if not before.

Whilst the overall approach has changed little from that set out by the directive (with its core requirements brought into UK law pre-Brexit via the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, and earlier regulations in Scotland and Northern Ireland), there have been subtle indications of more substantial changes on the horizon, particularly in England.

These changes come amid growing public awareness of the poor state of UK waters. While a potential government response is one of greater action and perhaps even ratcheting up of ambition, there is a lurking concern that the government may instead opt for a 'simplification' of targets. This would make them easier to meet and would conveniently ensure that the state of the water environment no longer presents a barrier to ambitions of housing development and economic growth.

The sewage scandal

By far the most significant sign of growing awareness of the failures in water management has been widespread public anger over the frequency and scale of sewage spills. These untreated discharges, entering rivers and seas via combined sewer overflows or 'storm overflows', are permitted under certain circumstances set out in the Urban Wastewater Treatment Directive 1991, but have been occurring far in excess of what is allowed.

The UK had faced court action and potential penalties from the European Commission as far back as the early 2000s for failure to provide adequate wastewater treatment and collection, but it was the actions of the previous Conservative government that really shone a light on the issue.

The government requested the introduction of monitoring on most storm overflows by 2020.[1] This significantly improved understanding of spill frequency and duration, contributing to sewage pollution becoming a hotly contested issue in some constituencies in the 2024 general election. The government also raised the issue of additional legal controls through the Sewage (Inland Waters) Private Members' Bill and subsequent clauses in the Environment Act 2021. These ultimately introduced a requirement upon water companies to progressively reduce the adverse impacts of discharges from storm overflows.

The government plan that creates a framework for reducing reliance upon storm overflows, developed as required by the Environment Act 2021, remains contentious. The Storm Overflows Discharge Reduction Plan 2022 sets various targets which will collectively mean that "by 2050, no storm overflows will be permitted to operate outside of unusually heavy rainfall or to cause any adverse ecological harm."

Campaigners have argued that these targets weaken, redefine or run counter to the existing obligations created by the Urban Waste Water Treatment (England and Wales) Regulations 1994, which brought into UK law the requirements of the related EU Directive. They also argue that the targets reinforce existing gaps between the legal requirements and the permits regulators issue to water companies, which set out how individual storm overflows should be managed.

Notwithstanding these concerns, water companies have responded by planning improvements that, if successfully delivered, will meet or exceed the storm overflow plan's various targets by the relevant deadlines. This will see more than ten per cent of the £104 billion water industry investment programme for 2025-2030 going towards "reducing harm from storm overflows", with further investment planned leading up to the final 2050 deadline.[2]

Whilst some stakeholders remain dismayed at the timescales involved in delivering these improvements, others question the value of this spend, considering the relatively low levels of harm that storm overflows are causing relative to other pressures upon the water environment (based on current understanding at least). Commencing this year, the introduction of Continuous Water Quality Monitoring, as required by the Environment Act 2021, offers the opportunity to understand better the impacts that untreated spills cause, and to target delivery programmes more effectively to address them.

Considering the Water Framework Directive

Storm overflows are just one of many issues preventing the achievement of WFD targets, with 84 per cent of England's waters failing one or more ecological standards, and 100 per cent exceeding chemical thresholds. Updated data for the cycle three (2022-27) River Basin Management Plans provides a tally of over 22,500 issues that prevent ecological targets being met across England's 4,000-plus water bodies, and over 11,000 for chemical targets.[3] Identified via monitoring and other assessments, these are termed "reasons for not achieving good status", or RNAGS, and attribute target failures to particular sectors and issues.

The list includes just under 800 counts of such failures caused by intermittent sewage discharges – meaning storm overflow spills – making up around 3.5 per cent of all the RNAGS relating to ecological targets. The issue of continuous sewage discharges – the nutrient rich effluent coming from wastewater treatment works – features over three times more, with over 2,500 citations. This is still less than the tally for either 'agriculture - arable' at over 2,700 counts, or 'agriculture - livestock', the most numerous single contributing factor, cited almost 4,000 times.

Other prominent issues include over 2,000 counts attributed to the urban and transport sector, as well as over 1,000 where the sector responsible is currently unknown. Despite data limitations, including a reliance on modelling and expert opinion where data is lacking, the picture that emerges is undeniably one of numerous, interlinked pressures on the water environment.

Overall, agriculture is the sector accountable for the greatest proportion of these 'reasons for failure' against WFD ecological targets in England, accounting for 36 per cent of the 22,500-plus RNAGS. The water industry, responsible for 24 per cent, is nevertheless a contributing party to failures in a comparable number of water bodies, with one or more failures in 43 per cent of waters attributed to the sector, compared to 45 per cent for agriculture. This is possible because agricultural issues are often 'stacked' at failing water bodies, meaning that whilst the total count of problems caused by the farming sector is far higher than that from the water sector, the number of individual water bodies each sector impacts is similar.

The large proportion of RNAGS caused by farming indicates that agricultural pressures are more varied and complex than those caused by the water sector and will require significant effort to tackle.

Cycle 3 RNAGS (England)	Agriculture	Water industry
Percentage of the 22,667 RNAGS associated with failures of WFD ecological targets attributed to the sector (confirmed, probable and suspected)	36.4 per cent	23.5 per cent
Percentage of England's WFD water bodies with a failure of ecological targets attributed to the sector (confirmed and probable only)	45 per cent	43 per cent

The situation is similar in Wales; data published by Natural Resources Wales in 2022 identified agriculture as the cause of over a quarter of all cited reasons for water bodies across Wales failing to meet their targets; a greater number of RNAGS than any other sector.[4]

UK nations are not alone in failing to meet the objectives of the directive. Across EU member states, 60.5 per cent of surface water bodies fail to achieve good ecological status, and 73.2 per cent fail to achieve good chemical status.[5] Unsurprisingly, higher failure rates tend to correlate with areas of population density or agricultural intensity.

Both the UK and EU face challenges with the approaching 2027 deadline and are grappling with how to drive further improvements towards and beyond that date. The EU has published a European Water Resilience Strategy, rooted in a 2050 vision, with a key objective being to "restore and protect the water cycle from source to sea… by effectively implementing the already existing EU laws for freshwater". [6] The strategy builds on existing progress, adding a forward focus on nutrient pollution, 'forever chemicals' and water scarcity.

In England, targets introduced under the Environment Act 2021 are intended to drive progress in key areas that are preventing the achievement of good status.[7] These cover agricultural pollution, treated wastewater, water use and pollution from abandoned metal mines, all with achievement dates set for 2038.

These targets are supported by interim targets set out in the Environmental Improvement Plan (EIP). The status of these interim targets is currently unclear with the government expected to soon publish a revised EIP, which may include new interim targets. A criticism of both the interim and long term water targets has been the lack of a clear delivery pathway, especially for the agricultural water pollution target, so the revised EIP, forthcoming Land Use Framework and potential future targeting of Environmental Land Management Scheme payments will all be important developments to monitor.

While the Environment Act targets cover significant aspects of WFD delivery, their achievement would not result in full compliance with relevant WFD objectives. Nor do they cover all of the areas where progress is needed to ensure improvements in the water environment, such as urban pollution, chemicals, invasive species and other issues.

The Office for Environmental Protection reviewed implementation of the WFD regulations and river basin management planning, concluding that, although an integrated, evidence-based regime is in place to assess the state of the water environment, set objectives and implement measures to drive the necessary

improvements, “it is not being implemented effectively and is far from delivering as it should”.[8] Issues include insufficient investment, generic measures, poor governance arrangements and gaps in monitoring. Indeed, a legal case concerning the programme of measures for achieving the environmental objectives for the Upper Costa Beck in North Yorkshire concluded that the River Basin Management Plan was unlawful, as it lacked a programme of measures sufficient to enable the waterbody to meet its objectives.[9]

For the government, the WFD remains an area ripe with delivery and political challenges.

Other policy areas

In other policy areas the UK's approach has differed from that of its EU neighbours, though generally this is through a failure to keep pace with developments in Europe, rather than a more active divergence.

For example, the EU is moving towards a broad ban on per- and polyfluoroalkyl substances known as PFAS.[10] These 'forever chemicals' are linked to cancers as well as a range of other serious diseases. The ban, proposed under the EU's REACH regulation, aims to restrict the use of approximately 10,000 PFAS, expanding significantly on current restrictions which affect just a handful. Scientists have criticised the UK government for declining to match moves in the EU and for adopting a narrower definition which would exclude fluoropolymers, a group of high performance plastics, from future restrictions.[11]

Invasive non-native species (INNS) are a further area where action in the UK is falling behind. The first piece of international legislation governing the UK's response to invasive species – the Invasive Alien Species (IAS) Regulation – came into force in 2015, prior to which INNS control was driven only by poorly implemented national legislation and non-statutory policy, and was neglected compared to other areas of biosecurity.[12] Today a UK Programme Board and GB Committee lead on implementation of regulatory controls set out in the retained EU IAS regulation. This focuses on tacking action against species included on a list of 'species of special concern'. Despite this welcome oversight, GB only has 66 listed species, all of which were transposed across from the EU regulation, with no new additions made since 2019. In contrast, a further 22 species have been added to the European list in that time, resulting in calls for the government to speed up the listing process to enable the UK to more rapidly respond to new threats.[13]

Bathing waters is a third area where practice between the UK and EU member states has differed, although this is, in part, historic rather than due to post-Brexit divergence. For example, England's bathing waters have been dominated by coastal sites in contrast to many EU countries, although this has begun to shift with the designation of a number of inland and estuarine bathing water sites. Bathing water status across UK nations is similar with around 70 per cent of waters meeting 'excellent' status and a further 20 per cent or so classified as 'good' in England, Wales and Northern Ireland. By contrast Scotland has around ten per cent fewer waters meeting these standards overall, spread evenly across the two categories. Most EU member states achieve higher results, potentially due to the more common use of ultraviolet disinfection at wastewater treatment plants to reduce micro-organisms and pathogens.[14]

These are all areas where any future regulatory changes that keep the UK closer to the EU's approach are likely to be well received by stakeholders.

Wales, Scotland and Northern Ireland

As well as seeing differences in the UK approach compared to elsewhere, there are also internal differences emerging between UK nations. One such example is in the field of chemical monitoring.

In recent years England and Northern Ireland updated the way they monitor for certain chemicals within WFD assessments, looking for these chemicals not just in the water column as previously, but in sediment and certain species as well. A group of ubiquitous, persistent, bioaccumulative and toxic chemicals, or uPBTs, have resultantly been detected in every waterbody assessed, leading to both nations reporting that no water bodies meet chemical standards; a feature seen across various other European nations too. Meanwhile, a summary of 2021 data given by Natural Resources Wales reported that 93 per cent of rivers in Wales were at good chemical status, while a 2024 summary shows 40 per cent of waters at good or better 'overall' status.[15] Since this is determined by the lowest of either chemical or ecological status, it confirms that at least 40 per cent of Welsh waters are still considered to meet chemical standards. Scotland's water classification hub similarly reports only a handful of Scottish waters failing chemical targets. These figures imply that Wales and Scotland have opted either to test or to report chemical status differently.[16]

This has implications beyond just optics, because the status of a water body directly informs actions included in programmes of measures under river basin planning, in water company planning and so on, and therefore determines whether particular pressures will see action against them or not. As nations begin to think about a future phase of WFD delivery beyond the 2027 deadline, considerations about measuring status, setting objectives and reporting progress will become ever more prominent.

Changes in the water sector

Central to future progress is that the government has pledged to "clean up our rivers, lakes and seas for good", with a focus on reducing sewage spills and improving performance of the water sector.[17] The sector's recent history is not positive. A focus on sewage spills masks other signs of shortcomings including leaking pipes, collapsing sewers, some of the lowest water efficiency levels in Europe and high levels of environmental harm caused even by treated wastewater. The country's water environment bears the scars of excessive abstraction and the continuous discharge of nutrients and chemicals, pressures attributable, in part, to the water sector.

An early action from this Labour government upon coming into power was to confirm safeguards ensuring water billpayers' money would be ringfenced for agreed investments and refunded if promised infrastructure and other improvements were not delivered. Next came new primary legislation: the Water (Special Measures) Act 2025. This brought further controls, including rules preventing the payment of inappropriate bonuses, easier penalty enforcement and automatic penalties for certain offences, amongst other changes. The government also established an Independent Water Commission to consider further changes to the water sector and water regulation, with a likely second Water Bill to implement any changes the commission recommends which need primary legislation.

In addition, the Levelling up and Regeneration Act 2023 requires the sector to upgrade larger wastewater treatment works discharging into the catchments of European protected areas failing their conservation objectives due to nutrient pollution. This requirement stems from the implications of the 'Dutch Nitrates Case' which set out that no new nutrient discharges could be consented in such catchments without offsetting any new pollution loads. [18]

In many areas of England, this 'nutrient neutrality' requirement has delayed housebuilding, since the sewage associated with new properties adds to the pollution loads being discharged from works. The upgrades will create new headroom to allow housebuilding to restart. However, in many of these catchments, while wastewater nutrient loads have already been reduced, agricultural pollution remains a significant contributor to the poor state of protected sites. This serves to highlight the difficulties of managing the water environment, where multiple pressures exist but the tools available to tackle them by sector do not always match the scale of the challenge, and where current regulations and practices limit the ability to take a more holistic approach.

The independent water commission

In response to many of these difficulties, the government launched an independent water commission, tasked with looking at the water sector and water management more widely. Despite criticism that the commission's remit explicitly excluded considering water company renationalisation, it has nevertheless published final recommendations which, if acted upon in full, could deliver substantial changes to the management of water across England and Wales.

The commission's report contained 88 recommendations, most of which were relevant to both nations. There are several welcome aspects including an overarching recommendation for a cross-sectoral water strategy and the introduction of regional, holistic 'systems' planning. Other proposals include possible legislative changes to move away from managing issues like chemicals and rainwater at the 'end of pipe'; better resourced monitoring; more detailed supervision of water companies; regulatory oversight of sludge; updated drinking water standards; better controls on abstraction; increased smart metering to drive water efficiency for households and businesses; various actions to promote water reuse; better social tariffs to protect vulnerable customers (avoiding the need to set all bills at a lower level that does not support necessary environmental investment); a focus on maintaining water company assets; and stronger obligations on water company executives.

Aspects that could be harmful if not implemented well, but which have scope to ensure positive changes if done carefully, are mostly concerned with rationalisation. This includes a proposal to move to a single water regulator – a recommendation the government has already accepted – that could see a focus on water companies at the expense of other issues, and risks nature considerations being lost amongst economic priorities. There is also a call to 'rationalise' water industry planning from nine plans to two, which could improve focus but risks oversimplification.

However, perhaps the biggest risk is the recommendation that "UK and Welsh governments should review the current water legislative framework and amend it accordingly". This includes looking at the WFD as well as related regulation. Although framed as making the regime more workable and aligned, without losing protections and ambition, the devil will be in the detail.

Next steps

How government now responds will be critical. It may not take all of this forward and might also opt to bring in other changes not set out in the report. The secretary of state has signalled that the government will continue to act by immediately accepting several of the report's recommendations, with the Department for Environment, Food and Rural Affairs (Defra) describing these initial commitments as "the start of a water revolution".[19] The government has also committed to respond fully in autumn 2025 with a water white paper, and consultations ahead of a Water Reform Bill. It has committed to:

1. **Abolish Ofwat and, in England, create a single water regulator** housing economic regulation, the Drinking Water Inspectorate and the water functions of the Environment Agency and Natural England. The regulator will have

oversight of “all sources of pollution”. In Wales these functions are likely to sit within Natural Resources Wales. (recommendations 16 and 17).
2. **Convert the Consumer Council for Water into an ombudsman** to give better customer protection (recommendation 44).
3. **End operator self-monitoring** (companies ‘marking their own homework’) (recommendation 25).
4. **Increase local involvement in water planning** through regional structures (recommendation 3).

More details on these proposals and others will follow, but the biggest unanswered question remains the fate of the overarching legislative framework under which all of this will operate. This is the test that will determine whether the government is committed to restoring the country’s rivers, lakes and seas, or whether the changes described above will merely distract from a quiet weakening of the framework, targets and ambition. The battle to bring these waters back to life is far from over.

Endnotes

[1] Defra minister Richard Benyon, 18 July 2013, *Richard Benyon MP (2013l) Letter requiring the monitoring of storm overflows*

[2] Ofwat, May 2025, '*Our final determinations for the 2024 price review – sector summary*'

[3] These figures include RNAGS (reasons for not achieving good status) of all confidence levels; confirmed, probable and suspected, as well as 'reasons for deterioration'. Source: *environment.data.gov.uk/catchment-planning/England/rnags.csv* accessed March 2025

[4] Natural Resources Wales, 2022, 'Reasons for not achieving good status Cycle 3', accessed April 2025

[5] European Commission, 4 February 2025, press release, 'Faster progress needed to protect Europe's waters and better manage flood risks'

[6] European Commission, 4 June 2025, 'Water resilience strategy'

[7] The Environmental Targets (Water) (England) Regulations 2023, www.legislation.gov.uk

[8] The Office for Environmental Protection (OEP), May 2024, *A review of implementation of the Water Framework Directive Regulations and River Basin Management Planning in England*

[9] 'Secretary of state for environment, food and rural affairs -v- Pickering Fishery Association - Court of Appeal judgement', 2 April 2025

[10] ECHA, 13 March 2024, *Next steps for PFAS restriction proposal*

[11] Letter from global academics to UK ministers on PFAS, 2024

[12] Wildlife and Countryside Link (WCL), 2020, *Prevention is better than cure - a diagnosis on the state of UK invasive species biosecurity*

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[14] OEP, November 2024, *A review of implementation of the Bathing Water Regulations in England*

[15] Natural Resources Wales, 2004, 'Assessment of water quality in Wales'

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[17] Secretary of State for Environment, Food and Rural Affairs, Rt Hon Steve Reed MP, 5 September 2024, speech on the Water (Special Measures) Bill

[18] Local Government Association, 'Nutrient neutrality FAQs'

[19] Defra, 22 July 2024, Instagram post, 'This is the start of a water revolution'

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