

## Blueprint for Water response: Reforms to the Bathing Water Regulations 2013

This consultation response is on behalf of Wildlife and Countryside Link (Link), a coalition bringing together 86 organisations to campaign for the natural world. This response is also supported by Wales Environment Link.

This response is supported by the following Link members: Marine Conservation Society, Paddle UK, River Action, Surfers Against Sewage, The Rivers Trust, The Wildlife Trusts.

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### Summary

Blueprint for Water welcomes the opportunity to respond to this consultation on reform of the Bathing Water Regulations 2013.

Reform is both welcome and necessary. The current limited nature of testing for water quality – both in terms of when testing occurs, and which pollutants are in scope - undermines the ability of water users to make informed choices about how and when they use the water. However, with bathing water status assessment a retrospective process, and with testing information not immediately available to water users during the bathing season, bathing water classification is just one part of the picture. We welcome any moves to ensure that more timely information is available to users to improve decision-making about water use on a day-to-day basis.

That bathing sites are automatically de-designated if their status remains ‘poor’ for 5 years means that this designation does not act to drive improvement. This is to the detriment of both people and nature.

We therefore welcome proposals to remove automatic de-designation of bathing waters, to increase flexibility such that a longer bathing season can be implemented, and to include the use of multiple monitoring points at bathing water sites. This will help incentivise water quality improvements, will provide a more accurate and comprehensive view of the water environment, and will better protect water users.

However, we have concerns about proposals to introduce a 'feasibility and practicality' assessment into the designation process. Such an assessment risks contradicting the aim of the Regulations to protect water users. This also appears to contradict wider policy, where bathing sites have been identified as priority sites for improvement. Furthermore, it is concerning that full details of the process and criteria by which such an assessment would be made are not included within this consultation. We would welcome the opportunity to discuss this further, and to see further detail at the earliest opportunity.

Bathing water designation should be a driver of water quality improvement, to the benefit of people and nature. We are keen to work with Government to ensure that any reform of the Regulations can achieve this.

We would be pleased to discuss any of the points raised in our response further.

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## Questions

**Q1. Would you like your response to be confidential? (required)**

No.

**Q2. If you answered yes, which information would you like to keep confidential and why? (not required)**

N/A.

**Q3. Please provide your full name. If you are representing an organisation or group, you will be asked its name later. (required)**

Ellie Ward.

**Q4. Please provide your email address. (required)**

eleanor@wcl.org.uk

**Q5. In what capacity are you completing this consultation? (required)**

As an NGO or other non-profit public interest group

**Q6. What is the name of the organisation or interested group that you are responding on behalf of? (required)**

Blueprint for Water.

Blueprint for Water is the freshwater policy working group of Wildlife and Countryside Link. Wildlife and Countryside Link is the largest environment and wildlife coalition in England, bringing together 86 organisations to use their strong joint voice for the protection of nature.

**Q7. Where are you currently based yourself? (required)**

England.

**Q8. Where does your business or organisation operate? (required)**

England.

**Q9. To what extent do you agree or disagree with the proposed removal of automatic de-designation from the Bathing Water Regulations 2013 for England and Wales? (required)**

Agree.

**Q10. Please give reasons for your answer. (not required)**

Blueprint for Water welcomes the proposed removal of automatic de-designation. The current approach, whereby a waterbody that is classified 'poor' for 5 consecutive years is de-designated, does not drive improvement in water quality at bathing sites. This is to the detriment of both water users and wildlife.

We agree that, as stated in the consultation document, bathing waters should not be allowed to remain 'poor' indefinitely; designation should incentivise improvements to water quality, to protect the health of water users and the natural environment.

Greater flexibility is required within water industry investment and planning cycles to avoid delays in action to address bathing water quality. For example, to allow investigations into bathing water quality to be followed by remedial work within the same five-year investment cycle, as opposed to this taking place within the next five-year cycle. Similarly, bathing water status should be a driver for investment in land management through ELMS and other farm-

sector funding, recognizing that many bathing water sites, particularly inland bathing waters, are impacted by agricultural pollution alongside wastewater pollution. Furthermore, as recommended by the Office for Environmental Protection, River Basin Management Plans must include specific, timebound measures to improve bathing water quality.

As stated, bathing water designation should incentivise and drive improved water quality. For this reason, we are concerned by proposals to de-designate bathing waters on the basis of a 'feasibility and proportionality' review, and disagree with the approach as set out in the consultation document.

Bathing waters are designated because they are used by many people. If bathing water status is removed following a 'feasibility and proportionality' review, this will not stop people from using the site, but will mean that they do so without the information required to make informed choices. This directly contradicts the purpose of the Regulations to protect water users.

Furthermore, the rationale for this 'feasibility and proportionality' review in assessing whether a site should be de-designated appears to contradict the Government's wider commitments and legal duties to restore the health of the water environment. Bathing waters have been identified as 'priority' sites for improvement elsewhere within policy, for example in the Storm Overflow Discharge Reduction Plan. Removing designation of these sites on the basis that they cannot be restored beyond 'poor' health is therefore contrary to wider policy aims. Indeed, if water quality cannot be improved beyond 'poor' at priority sites, this raises fundamental concerns.

It is difficult to properly assess the proposal without details of the process and criteria by which EA and NRW will assess sites. These details should be provided as soon as possible, for public consultation. We would be keen to work with EA and NRW in the development of this guidance, for example to explore how wider catchment benefits could be incorporated into the assessment.

**Q11. To what extent do you agree or disagree that water quality, the feasibility to improve water quality to 'sufficient' standard, physical safety and environmental protections be considered before deciding whether to designate a site as a bathing water under the Bathing Water Regulations 2013 for England and Wales? (required)**

Disagree.

**Q12. Please give reasons for your answer. (not required)**

Blueprint for Water disagrees with proposals to require a feasibility assessment before bathing waters can be designated.

Bathing waters are designated on the basis that they are used by many people, and that the health and safety of those water users should be protected. If a site were refused designation due to a feasibility assessment, this would not stop people from using the site. Rather, it would mean that those water users would not have access to the information and data to allow them to make informed decisions on when and where it is safe to bathe, and appropriate health and safety protections. This is contrary to the purpose of the Regulations to protect public health.

We recognise that in some instances it will not be possible within the physical or ecological constraints of the site to ensure that safety and access criteria required by designations are met. In these instances, on-site and other information should still acknowledge that people are using the site despite the absence of a designation, as discussed by Q13, and ensure that actions to improve water quality are included within River Basin Management Plans.

The consultation document does not explain how the potential impacts of a feasibility assessment prior to designation have been assessed, or indeed how these would be managed. For example, that this could delay the designation of new sites, or that this process could unfairly disadvantage communities where cost/benefit analyses are more complex and therefore harder to evaluate.

These concerns are exacerbated by the lack of detail provided on the process and criteria EA and NRW will use to conduct these assessments. These details should be provided as soon as possible, for public consultation. Blueprint for Water members would welcome the opportunity to discuss this with EA and NRW.

**Q13. How should the public be notified that a site has been considered as a bathing water but not designated on the grounds that it is not feasible to improve water quality to a 'sufficient' standard? (required) Check all that apply**

- On site signage
- Notification on the Swimfo website in England or Bathing Waters Explorer Website in Wales.
- Notification on GOV.UK or GOV.WALES

- Notification on the EA or NRW bathing water website
- Other (please specify)

**Q14. To what extent do you agree or disagree with the proposed increase in flexibility of Bathing Season dates prescribed in the Bathing Water Regulations 2013 for England and Wales? (required)**

Agree.

**Q15. Please give reasons for your answer. (not required)**

Blueprint for Water agrees that there should be flexibility within the Regulations for an extended bathing season, beyond the current period of 15<sup>th</sup> May to 30<sup>th</sup> September. This would better reflect that recreational water usage occurs outside of this period. Pollution Risk Forecasts (PRFs) should also be extended beyond this current period of 15<sup>th</sup> May – 30<sup>th</sup> September.

However, we suggest that this 20-week period should be maintained as a minimum bathing season length to ensure that this flexibility is not used to shorten the bathing season, as this would not be in the best interest of public health or the natural environment.

Guidance on sampling practices and methodology should be kept under continuous review as innovative testing in this area continues to grow, to ensure best practice to protect public health is embraced, cost savings are made and steps closer to near real time testing become reality.

**Q16. Are you content with the 9 proposed technical amendments listed above? (required)**

No.

**Q17. [If 'No' to Q16] Which of the 9 proposed technical amendments do you feel raises concerns or may have negative impacts? (required)**

**2. Remove the requirement to take a sample to end short-term pollution (STP) events**

We would welcome further detail on a proposed alternative approach; this information is not included within the consultation document. It is essential that regulators comprehensively monitor pollution events, to provide accurate information to water users. It is unclear how the proposed approach will ensure that this is the case.

**3. Remove the 7-day time limit in which a replacement sample under STP has to be taken**

We share the concern raised by other stakeholders that removing the 7-day limit could result in an uneven picture of water quality.

**8. Removing the requirement to replace samples during Abnormal Situations**

We share the concerns raised by other stakeholders at the proposal to reduce sampling, as set out under technical amendments 2, 3, 4 and 8. We would encourage the exploration of technological advances in water quality testing that could be used to alleviate some of these challenges highlighted in this consultation.

**9. Amend regulation 5(1)(a) to specify a new target date by which all bathing waters should be classified as at least 'sufficient'**

As raised by other stakeholders, Blueprint for Water suggests that a new target date must be accompanied by adequate reporting and delivery mechanisms, to ensure that this new target date can meaningfully drive improvement.

For example, as recommended by the Office for Environmental Protection, River Basin Management Plans must include specific, timebound measures to improve bathing water quality. Most investment to improve bathing waters has centered on water industry pressures but sites are also impacted by pollution from other sources, particularly in the case of inland bathing waters, agricultural and urban pollution. Alongside the identification of measures within River Basin Management Plans, policy must ensure that funding is directed towards delivering these measures, for example by ensuring that investment is driven through funding streams including ELMS.

**Q18. [If 'No' to Q16] What negative impacts do you foresee as a result of the technical amendment(s)? (required)**

**– The amendment(s) reduces overall statutory monitoring requirements.**

Amendments to remove requirements for replacement samples in various situations will result in a less accurate understanding of bathing water quality across the span of the season, eroding public information about health risks. Additionally, the amendment removing the requirement for a sample to end STP events also reduces overall statutory monitoring requirements.

**– The amendment(s) may reduce the information available to the public about when it is safe for them to use a bathing water.**

Amendments to remove requirements for replacement samples, the amendment to remove the requirement for a pre-season sample, and the amendment to remove the requirement for a sample to end STP events, all reduce the information available to the public about health risks.

However, we acknowledge that as a retrospective classification, bathing water status is helpful to inform user choice about which waters to use in general, rather than about whether to use a water on a given day. As a designation it is useful in targeting and driving action to improve water quality, rather than as an agile reporting tool. Therefore, data that provides users with information about day-to-day changes at a site must also be developed. We welcome work across the water sector to provide such information, both in terms of forthcoming continuous water quality monitoring at CSOs and modelling that intends to provide a steer about the water quality at Bathing Water sites. (e.g. work by Wessex Water).

**– The amendment(s) reduces overall accountability on the EA or NRW.**

Amendments concerning monitoring and sampling reduce accountability on regulators to provide a complete and accurate picture of bathing water quality for the public.

Additionally, notwithstanding our comments above, the amendment to introduce a defined site for each bathing site has the potential to reduce accountability, depending on who is



responsible for carrying out this process and who will be involved in making the decision around the size of the site.

**– The amendment(s) may reduce the rigorousness of the monitoring methods.**

Amendments concerning monitoring and sampling reduce the more rigorous existing approach that aims to assess bathing water quality across the whole season.

**Q27. To what extent do you agree or disagree that government should pursue wider reform of the Bathing Water Regulations 2013 for England and Wales to include widening the definition of ‘bathers’? (required)**

Agree.

**Q28. Please indicate a reason for your answer (not required)**

Blueprint for Water agrees that the definition of ‘bathers’ should be widened to reflect the variety of water users at water sites, and to ensure that the Regulations provide protection for all these water users.

This was recommended by the Office for Environmental Protection in their report into the implementation of the Bathing Water Regulations in England – ‘we recommend that Defra consider not just those people whose express intention is to swim, but also those who would normally or frequently expect to be immersed (such as surfers) as well as other recreational users who may be exposed to polluted water from ‘bathing’ from time to time’.

Blueprint for Water acknowledges concerns raised by other stakeholders regarding the need to manage potential environmental impacts, and suggests that Government should assess the proposed reform for any negative impact on biodiversity and the water environment. However, given the purpose of bathing water designation to recognise sites already used by people and to protect those water users – rather than to increase usage, or to change access rights – we are supportive of the extended definition.

**Q29. Which water users should be included within the definition of ‘bather’? (required)**

- Anglers (fishing)
- Kayakers/Canoeists
- Paddle Boarders
- Paddlers (those in the water but not fully submerged)
- Rowers
- Small boat users
- Surfers
- Swimmers
- Wind Surfers
- Other (please specify)

All of the above should be included within the definition of ‘bather’. We suggest that the definition should incorporate all water users, including those who are fully immersed in the water and those who come into contact with the water during the course of the activity.

**Q30. To what extent do you agree or disagree that the government should pursue wider reform of the Bathing Water Regulations 2013 for England and Wales to include the use of multiple monitoring points at bathing water sites? (required)**

Strongly agree.

**Q31. Please indicate a reason for your answer (not required)**

Blueprint for Water strongly agrees that multiple monitoring points should be included at bathing water sites. This will provide a more comprehensive overview of water quality at the site, and will allow water users to make informed choices about when and where to bathe.

More frequent monitoring of bathing waters and monitoring for a wider range of pollutants – to reflect the dynamic nature of water bodies and the multiple variables influencing water quality - would further increase the accuracy of this monitoring data, and would allow better targeting of interventions to improve water quality.

The World Health Organisation recommend that at least 20 water samples should be taken annually at a bathing water, and that there should be further research into future viral and

pathogen indicators, antimicrobial resistance and consideration of health risks from microplastics and chemical contaminants. In addition, all samples taken during the bathing season should be included in the overall classification, including those taken during short term pollution events.

**Q32. Please provide links to any relevant evidence that you have used to inform your views for this consultation. If there's anything else you'd like us to know or consider please add it here. (not required)**

**We're particularly interested in information around:**

- **The use of multiple monitoring points**
- **Widening the definition of bathers at bathing water sites.**

Some further evidence from members of Blueprint for Water is summarised below. Further detail can be found in individual organisation's responses to the consultation.

- Surfers are three times more likely to harbour antimicrobial resistance than non-surfers. It is even expected that surfers are more vulnerable to poor water quality than sea swimmers, as they swallow ten times more sea water. Source:  
<https://www.sciencedirect.com/science/article/pii/S0160412017312345>

Blueprint members would welcome the opportunity to share views on and work with EA and NRW to develop the guidance, processes and criteria referred to in this consultation document. In particular, to ensure that wider catchment benefits are captured within feasibility and practicality assessments, and that the benefits and implications of the reform for the natural environment are acknowledged.

Bathing water designation should be a driver of water quality improvement, to the benefit of people and nature; Blueprint for Water is keen to work with Government to ensure that the proposed reforms can achieve this.

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Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 86 organisations to protect the natural world. Wildlife and Countryside Link is a registered charity number 1107460 and a company limited by guarantee registered in England and Wales number 3889519.

For questions or further information please contact:

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This response is supported by the following organisations:

- Marine Conservation Society
- Paddle UK
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- Surfers Against Sewage
- The Rivers Trust
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