

## Water (Special Measures) Bill: Written evidence for Public Bill Committee

07.01.2025

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### Executive summary

1. This written evidence for the Commons Public Bill Committee for the Water (Special Measures) Bill is submitted by Wildlife and Countryside Link (Link), an environmental coalition which brings together 86 organisations to campaign for the natural world. The Blueprint for Water Group leads Link's work on streams, rivers, ponds, lakes and wetlands and has informed Link's engagement with the Bill.<sup>1</sup>
2. Link supported peers to make a number of changes to the Bill during Lords stages to improve its environmental impact. These included strengthening the pollution incident reduction plans contained in clause 2 of the Bill and introducing clause 9, to give Ofwat a duty to have regard to climate change and to nature's decline.
3. There are a number of improvements that could still be made to the Bill, to make it more effective as a legislative tool to tackle the environmental consequences of water pollution.
4. These improvements include legally ringfencing all water company fines arising from environmental breaches for the Water Restoration Fund, to put this initiative on a proper footing as a safeguarded source of funding for water recovery.
5. Link will also continue to highlight that sewage pollution is just one of many man-made pressure points on overloaded freshwater systems and coastal waters, and that further action outside of the Bill is urgently required to restore freshwater and coastal ecosystems.<sup>2</sup>

### Changes to the Bill in the Lords

6. The Bill was significantly improved for climate and nature in the House of Lords and we are grateful to the cross-party group of peers who pressed environmental amendments, and to Defra for accepting these changes.<sup>3</sup> Key Lords stage improvements to the Bill included:
  - Amendments to clause 2 to apply pollution incident reduction plans to water only companies and to require all plans to be accompanied by implementation reports. These measures will help ensure that the plans have real-world impacts.
  - Clause 4, which requires water companies to address Nature-based solutions (NBS) use within their drainage and sewerage management plans. This will help to increase the use of high quality NBS to improve water quality, unlocking co-benefits for habitat restoration and carbon sequestration.
  - Clause 9, which gives the water regulator Ofwat a duty to have regard to the need to contribute to the achievement of environmental targets. This will enable the regulator to focus more on nature and climate impacts from the water sector. The ongoing Water Commission should consider further embedding these environmental considerations within water regulation.<sup>4</sup>

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<sup>1</sup> See background information on [Blueprint for Water](#) and [Wildlife and Countryside Link](#)

<sup>2</sup> See Link [briefing](#) on actions needed to restore the water environment

<sup>3</sup> See Link Lords report stage [briefing](#)

<sup>4</sup> See Link [letter](#) to the Chair of the Water Commission

## A critical change still required: Ringfencing the Water Restoration Fund

### Amendment NC2

7. In September the Secretary of State for the Environment, Food and Rural Affairs made a welcome commitment to *'make the polluter pay'* in the water sector.<sup>5</sup> The *'polluter pays'* principle this refers to states that payments from polluters should always *'restore or redistribute the costs of environmental damage'*.<sup>6</sup> The problem for the Government is that the water sector restoration mechanism it is relying on, the Water Restoration Fund (WRF), is not currently sufficient to ensure that the polluter always pays.
8. The WRF was set up by the previous Government in 2022 with the laudable intention of channelling *'environmental fines and penalties into projects that improve the water environment'*.<sup>7</sup> The WRF was intended to embody the polluters pay principle; financial sanctions on water companies that pollute would be used to rectify the environmental damage they caused. As proposed, the Water Restoration Fund was intended to ringfence all environmental fines on water companies for water quality improvement projects. The Defra announcement of the Fund's creation in November 2022 made this ringfencing clear, stating *that 'at present, money from these fines is returned to the Treasury. Under the new plans, ringfenced funds will go to Defra and will be invested directly back into environmental and water quality improvement projects'*<sup>8</sup>
9. This envisioned ringfencing has not come to pass. The first instalment of the WRF was announced in June this year and was meant to capture all environmental fines from 2022-23. Despite this, around 20% of water company fines for 2022-23 appear to have failed to make it into the Fund.<sup>9</sup> There is a risk that this could represent a high point; despite multiple opportunities the new Government has not yet repeated its predecessors' commitment to comprehensive ringfencing of environmental fines for environmental purposes. A letter sent by Link, asking the Government to commit to entering £140 million of 2024 proposed fines into the Fund in full, elicited a Defra response declining to give that commitment and stating that the Treasury was involved in deciding how such funds should be spent.<sup>10</sup> This strongly suggests that ringfencing is no longer being applied.
10. Without this ringfencing, a significant source funding for water restoration, embodying the polluters pays principle, could be lost to general Treasury funds. The WRF has been an important and impactful response to the public demand for more action to clean up England's waterways, its diminishment would undermine efforts to deliver in this area.
11. Building on earlier cross-party amendments in the Lords tabled by Baroness Bakewell of Hardington Mandeville and the Duke of Wellington<sup>11</sup>, Dr Neil Hudson MP and others have

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<sup>5</sup> [Speech](#) from the Secretary of State, September 2024

<sup>6</sup> See the Government's [Environmental Principles Policy Statement](#)

<sup>7</sup> [Plan for Water](#) 2023

<sup>8</sup> [Press release](#) announcing the WRF, November 2022

<sup>9</sup> The Fund came into being in 2024, with an initial pot of at [£11 million](#), drawn from fines levied on water companies between 2022 and 2023. Figures provided by the previous Government in late 2023 state that in those years, the total amount of fines levied on water companies by the Environment Agency stood at over [£13.5million](#).

<sup>10</sup> See [Link letter to the Prime Minister](#), August 2024 and [response](#).

<sup>11</sup> See [Lords report stage amendments](#) 46 & 47 and [debate](#) on them on 20<sup>th</sup> November 2024

tabled amendment **NC2** on the Water Restoration Fund.<sup>12</sup> The proposed new clause would establish a legislative basis for the WRF and specify which fines should be paid into it.

12. This amendment would effectively safeguard the WRF and ensure that the original ringfenced vision for the policy, which was supported on a cross-party basis, is fulfilled. It provides a tailor-made opportunity for the Government to put its polluter pays principle into action.

13. In the words of Baroness Bakewell, making the case for a Lords version of the amendment:  
*“Much of the money from fines goes into the Treasury coffers and supports other government departments. This is not what the public want. They want the money from fines to go into making good inadequate and out of date sewerage systems...A transparent and obvious way to achieve this is to set up a Water Restoration Fund.”*<sup>13</sup>

#### Other changes that would improve the Bill

Amendment NC1: Special administration for breach of environmental and other obligations (and NC9 and NC27)

Amendment NC5: Licence conditions about nature recovery (and NC10)

Amendment NC14: Duty to prevent chemical pollutants entering the water environment (and NC13)

Amendment NC15: Citizen science

14. Adrian Ramsay MP has tabled amendment **NC1**, which would clarify that the water companies can be subject to special administration when guilty of sizeable and sustained environmental breaches. The special administration regime can currently be triggered if a water company becomes insolvent or fails to carry out its statutory duties. To date, this mechanism has not been used to respond to environmental breaches by a water company. During Lords debates, peers raised the ambiguity over whether special administration could, under the current rules, be applied as the ultimate sanction for environmental pollution.<sup>14</sup> Mr Ramsay’s new clause would amend the Water Industry Act to make clear that special administration can apply to water companies on the grounds of sustained environmental breaches. Action in this area would provide a new incentive for improved environmental performance from water companies, in cases where repeated fines do not secure change. **NC9**, tabled by Tim Farron MP and Charlie Maynard MP, provides another option for action, proposing a new ‘special measures’ regime of fines and Government directed work projects for water companies that fail to meet pollution targets. Mr Farron and Mr Maynard also propose **NC27** in this area, which would apply special administration to water companies that fail to achieve targets to address pollution in waterways in National Parks. With every lake, river and stream in England’s National Parks polluted<sup>15</sup>, incentives for improvement on this scale are needed if waters in these protected landscapes are to reach the standard the public expects.

15. Dr Neil Hudson MP and others have tabled **NC5**, which makes consideration of opportunities to deploy nature-based solutions (NBS) a condition of water supply licences. The Government amended the Bill in the Lords (see clause 4) to require water companies to do more to deploy NBS within their drainage and sewerage management plans, and NC5 would helpfully build on this. NBS can create and restore habitats for wildlife, contributing to the achievement of

<sup>12</sup> See Commons committee stage [amendments](#)

<sup>13</sup> See [Hansard](#) for Lords report stage, 20<sup>th</sup> November 2024

<sup>14</sup> See [debate](#) around Lords report stage amendment 54

<sup>15</sup> See [material](#) from Campaign for National Parks

Environment Act targets, whilst providing effective pollution reduction, flooding protection and drought resilience services.<sup>16</sup> NBS use is still low amongst water companies, and Ofwat has been slow to encourage greater take-up.<sup>17</sup> The amendment's creation of a further governance inflection point when NBS use must be considered (at licence application stage and when adhering to licence conditions) would help increase deployment and unlock more co-benefits for nature protection, water quality and flood and drought resilience. Helpfully the amendment also requires Ofwat not to obstruct water company consideration of NBS use, removing a barrier that has in the past hindered NBS deployment. **NC10**, tabled by Mr Farron and Mr Maynard, would provide a further improvement in this area, requiring the Secretary of State to review the impact of the Bill on the Environment Agency and to consider increasing Environment Agency funding to meet new demands arising from the Bill. The Environment Agency is still struggling with the legacy of historic cuts<sup>18</sup> and funding increases will be necessary to enable it to increase its support for NBS, and enable it to play a full role in delivering Bill provisions.

16. Commons second reading on 16<sup>th</sup> December also saw mention of another form of NBS, Sustainable Urban Drainage Systems (SuDs).<sup>19</sup> SuDs are a form of water management for developments, which use natural drainage systems to move runoff water from built areas. Schedule 3 of the Flood and Water Management Act 2010 was introduced drive up use of SuDs but over a decade on has yet to be implemented.<sup>20</sup> An attempt to amend the Water (Special Measures) Bill to finally deliver on Schedule 3 was rejected by the Government in the Lords, with the promise that they would enact the schedule separately and soon.<sup>21</sup> Further assurances at Committee stage that action to implement Schedule 3 will be taken soon would be welcome.
17. Mr Farron and Mr Maynard have tabled amendment **NC14** to require water companies to take steps to prevent chemical pollutants from entering the water environment. This welcome amendment would address a water pollutant that been overlooked, compared to the well-understood dangers of sewage pollution. Not a single river in England has achieved good chemical status, with chemical pollution also affecting estuaries and coastal waters<sup>22</sup>, and posing health risks to people.<sup>23</sup>
18. Unlike sewage pollution, chemical pollution is not primarily the fault of water companies. Manufacturing processes can release harmful chemicals into water systems, and water companies are not fully resourced to treat this pollution from source. The manufacturer is the primary polluter but mechanisms to compel them to pay are extremely limited. The lack of such mechanisms has created a growing disparity between sewage and chemical pollution; the primary polluter in the first instance (water companies) are at long last being required to pay through a series of legislative interventions including this Bill, whilst the primary polluter in the second (manufacturers using harmful chemicals) continue to pollute with relative impunity.<sup>24</sup>
19. Amendment NC14 would help address this disparity, by requiring each water company to publish a strategy proposing measures to address chemical pollution, including consideration

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<sup>16</sup> See Link [briefing](#) on NBS

<sup>17</sup> See Link [research](#) on NBS use within PR24 plans

<sup>18</sup> See Link [briefing](#) on Environment Agency funding

<sup>19</sup> See contribution from Blake Stephenson MP at Commons [second reading](#), 16<sup>th</sup> December 2024

<sup>20</sup> See CIWEM [briefing](#)

<sup>21</sup> See [Hansard](#) for Lords report stage, 20<sup>th</sup> November 2024

<sup>22</sup> See Link research

<sup>23</sup> See CHEMTrust [material](#)

<sup>24</sup> See Link chemical pollution [research paper](#), June 2024

of how the costs of these measures can be covered. It is important that this cost recovery is levied on the primary polluters, manufacturers using harmful chemicals, and if the amendment is adopted further legislative action would be required to create mechanisms for this. Such mechanism could adopt the approach taken in the EU's new Urban Wastewater Treatment Directive 2024, which introduces extended producer responsibility to manufacturers of pharmaceutical and cosmetic products, requiring them to cover 80% of the costs of the treatment needed to remove micro-pollutants from urban wastewater.<sup>25</sup>

20. Mr Farron and Mr Manyard have also tabled **NC13**, which requires the Secretary of State to issue new regulation of poly- and perfluorinated alkyl substances (PFAS). PFAS are a particularly harmful group of 'forever' chemicals which linger in the water environment, harming the health of both wildlife and people, and new, stricter regulation is urgently needed.<sup>26</sup> The combination of NC14 and NC13, if adopted by the Government, would ensure that the Bill provides a springboard for better tackling chemical pollution, complementing its primary measures on sewage pollution.
21. Mr Farron and Mr Manyard have tabled **NC15**, which would require the Secretary of State to support citizen science to monitor water pollution, including through the provision of datasets and funding. This welcome amendment would provide much-needed support for the community groups who have led the way in revealing and tackling pollution in local water systems.<sup>27</sup> These local achievements have been achieved with scarce resources, an increase in support delivered through the amendment could deliver catchment-wide improvements in monitoring and water quality.

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For further information, contact:

Matt Browne, Link Director of Policy & Advocacy, [matt@wcl.org.uk](mailto:matt@wcl.org.uk)

Eleanor Ward, Link Freshwater Policy Lead, [eleanor@wcl.org.uk](mailto:eleanor@wcl.org.uk)

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<sup>25</sup> See new EU Wastewater Treatment [Directive](#)

<sup>26</sup> See Link [research](#) on PFAS chemicals

<sup>27</sup> See [paper](#) on citizen science impacts in England