

## Report of the Lewes District Council

### Southern Water Panel

#### Introduction from Councillor Keene



There are many organisations, both locally and nationally, with an interest in the health of rivers, watercourses, and coastal waters in our district and the level of interest has generated many headlines.

This panel was set up to look at how Southern Water was performing in dealing with wastewater discharge into the district's rivers and seas. However, the panel decided early on that to review this effectively, it also needed to hear from other organisations and individuals with a particular interest or insight in this area.

The panel's role has been to listen to those views and consider what recommendations it can make to best support improvement in water quality, taking into account the health and wellbeing of our residents and the local environment, and the Council's own policy direction.

It should be acknowledged that this report is produced at a moment in time, and that the panel's position in relation to a number of the proposals and recommendations for the water industry and regulators is being echoed nationally and is also being considered by the Government.

#### **Members of the Southern Water Panel:**

Councillors Paul Keene (Chair), Ezra Cohen (Deputy Chair), Janet Baah, Christine Brett, Ciarron Clarkson.

**Dated:** November 2024

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## **SECTION 1 – Purpose, Analysis, and Conclusions**

### **1.1 Executive Summary**

In July 2023, the Policy and Performance Committee set up this panel to work with representatives from Southern Water and other stakeholders, **to monitor Southern Water’s progress in dealing with wastewater discharge into the district’s rivers and seas and its progress back to at least a 3-star rating.**

In its meetings with the panel, Southern Water reported on its strategies and plans to reduce permitted and non-permitted sewage spills in the district, to ensure that wastewater treatment works had sufficient capacity to meet increasing demands, to improve testing and monitoring of water quality, and to respond to the environment and residents in Lewes District experiencing sewage overflows and flooding.

It became evident to the panel early on that there were several themes and areas of concern beyond the original remit of the panel.

The panel decided to focus its meetings on five areas which it felt were key to gathering relevant information and understanding the conditions under which Southern Water and other water companies operated. The following organisations, interest groups, and campaigners were identified that the panel felt fitted in with these themes and spoke to the panel:

- 1) The Ouse and Adur Rivers Trust, Surfers Against Sewage, and the National Farmers Union talked about water quality in the Ouse River and local coastal areas, the work of campaign groups to improve the environment, and the levels of engagement by Southern Water with the public and local interest groups.
- 2) The Environment Agency and Natural England provided insight into the regulatory environment within which Southern Water and other water companies operate.
- 3) The Environmental Law Foundation described how it provided free legal support and advice to individuals and communities when challenging businesses and organisations on environmental issues.
- 4) ‘We Own It’ told the panel about its work as a campaign group who opposed privatisation and lobbied for public ownership of utility companies.
- 5) Richard Murphy, Professor of Accounting at Sheffield University Management School, spoke about his work on alternative sustainable financial models for delivering and maintaining water networks and water as a utility.

A summary of the discussions with all the organisations are reported in Section 2 of the report. In addition, the panel considered information from site visits to water

treatment facilities, information on how other councils have scrutinised water companies, and actions the Council has already taken to lobby Government through motions and its response to the recent National Planning Policy Framework (NPPF) consultation. Finally, it drew from a wide range of documents and press articles, and these are set out in Section 3.

Key findings from the panel are set out in the analysis within Section 1.5 and Recommendations in Section 1.6, but can be summarised as follows:

- Considerations around the structure and governance of the water industry, to deliver the investment needed for it to ensure water quality and storage, in the context of climate change and the resulting weather events.
- Considerations around how the water industry is regulated, to ensure it is robust and ethical, and capable of ensuring adequate environmental protection.
- Improvements to monitoring and reporting of sewage spills. Many of the current sewage spills are allowed within current permits. There should be reporting of the volume as well as duration of sewage spills, monitoring of bathing waters all year around, and the number of particles detected increased.
- Consideration should be given on land management and its influence on water quality, whether through better management of connections for new development and strategic planning, run off from roads and hard surfaces, and advice and funding for private landowners and farmers to ensure they are not contributing to pollution of waterways.
- Considerations for the Council in terms of its influence, projects, and how it can ensure it takes into account water quality and consumption in the district in all ways that it can and provides appropriate advice and guidance to its residents.

## **1.2 Background to the appointment of the Panel**

In May 2022, Lewes District Council approved a motion entitled ['To protect our local rivers and seas by taking into account the cumulative impact of sewage discharge'](#), and as part of this resolved to:

- 1. Ask the Policy and Performance Committee to invite the Chief Executive of Southern Water plus senior representatives from the Environment Agency and Natural England to attend a Lewes District Council Policy and Performance Committee meeting to answer questions on the current levels of sewage discharge.**

Representatives from Southern Water were invited to meet with the Lewes District Policy and Performance Advisory Committee in November 2022, to discuss the levels of sewage discharge in Lewes District at that time. This was a constructive

meeting, but there were issues that the Committee agreed needed further exploration.

In July 2023, the Committee set up a panel to work with representatives from Southern Water and others to monitor Southern Water's progress in dealing with wastewater discharge into the district's rivers and seas and its progress back to at least a 3-star rating.

The panel met on seven occasions. Its first and fifth meetings included representatives from Southern Water. It held three meetings with stakeholders gathering information on the local impact of Southern Water's management of wastewater treatment and sewage leaks and considered how Southern Water's performance compared more widely with the performance of other water companies in England.

### **1.3 The Panel's Scope**

At its first meeting the panel agreed that it would:

- Receive updates from Southern Water on its work towards reducing the number of compliant and non-compliant combined sewer overflows (CSOs) and sewage discharges, and the volume of sewage discharged overall.
- Seek to better understand the working relationship between Southern Water and other stakeholders and look at how other local authorities were scrutinising water companies.
- Consult with residents and determine whether levels of engagement around incidents of discharges have improved.
- Review levels of transparency in terms of the information, for example, the safety of bathing areas and waterways and data provided by Southern Water to the public.
- Report back to the Policy and Performance Advisory Committee (as the parent committee) when required and provide a written account of the panel's work and outcomes once a year (dependant on the duration of the panel).

### **1.4 Who the Panel talked to:**

Representatives of Southern Water (first and fifth meeting)

Ouse and Adur Rivers Trust

Surfers Against Sewage

National Farmers Union

Environment Agency

Natural England

Richard Murphy, professor of accounting at Sheffield University Management School

The Environmental Law Foundation

We Own It

## **1.5 The Panel's analysis of the discussions held, and the information gathered, leading to the recommendations:**

Water pollution from Sewage Treatment Works, pumping stations, and combined sewer overflows (CSOs) has been a focus of public outrage nationally, which in Lewes District has been directed at Southern Water's performance as the area's sewerage service provider.

### **Infrastructure**

Privately owned water companies typically blame the problem of frequent sewage discharges on the UK's supposedly 'Victorian' sewerage infrastructure, and in particular, on the fact that the UK has a combined sewer system, which receives foul, grey, and surface water. It has been stated that this can become overwhelmed by increased surface water runoff during heavy rainfall, with the system designed to release sewage into the environment to prevent it backing up into people's homes and flooding the streets. Southern Water was unable, when questioned during the panel's first meeting with them, to say how much of its network was Victorian, despite citing the fact that it dated from that era to explain its poor performance. However, a report commissioned for United Utilities contains data showing that 8% of Southern Water's sewers date back to the Victorian era (and approximately 12% of English and Welsh sewers in total), while only 8.26% has been constructed since 2001 (6.08% for England and Wales). The biggest share of sewer construction in Southern Water's area (and in England and Wales as a whole) occurred between the early 1960s and water privatisation in 1989 (Arup/Vivid Economics 2017, 116). **Error! Reference source not found.**

### **Sewage Discharges**

Public perception is that the issue of widespread sewage discharge is one of water companies breaking the law and failing to treat the sewage as they are legally obligated to do. Indeed, illegal sewage discharge has been a significant issue for Southern Water, with the company being issued a £90m fine after an Environment Agency (EA) prosecution in 2021 for 6,971 unpermitted sewage discharges, following a £126m fine for deliberately misreporting its performance in 2019.

Since then, the Consumer Council for Water named Southern Water one of the "standout poor performers" in the industry, receiving almost three times the overall water industry average number of customer complaints. A BBC investigation <sup>57</sup> further found that Southern Water had in 2022 discharged untreated sewage in dry weather conditions - which is likely to have breached its permits - on 63 occasions for a total of 792 hours.

Similarly, the panel received information from Surfers Against Sewage <sup>35</sup> indicating that Southern Water was responsible for a greater number of sewage discharge

events in 2022 than its publicly available official data reflects. While there clearly have been, and likely continues to be, issues with illegal sewage dumping, the panel found that illegal discharges were likely to be just the tip of the iceberg, accounting for perhaps 10% of total sewage discharges, with an estimated 90% of discharges being compliant with Southern Water's permits, and so considered legal.

It is acknowledged that the data underlying BBC and SAS analyses predates Southern Water's turnaround plan 2023-2025 brought in under the company's new CEO, who was appointed in 2022 following the company being purchased by the Australian investment manager Macquarie in 2021. Southern Water now acknowledges its unsatisfactory performance in the past years but insists that the company's change of leadership in 2022 and its turnaround plan has ended this widespread practice and that it now has a robust, near real-time sewage discharge reporting regime. Southern Water's Wastewater Investment Strategy Manager, David Murphy, told the panel on 5 October 2023 that it had a pollution incident reduction programme in place and was forecasting a reduction in pollution incidents for 2023.

**Nevertheless, Environment Agency data for 2023 shows that Southern Water released raw sewage for 317,285 hours, an increase of 116%, with 29,494 total spills or an average of 31 spills per overflow (EA 2024) 16.** A Surfers Against Sewage (SAS) analysis of the data forecasts that on current trends Southern Water will have an average sewage spill per asset figure of 72.86 hours by 2030 and of 101.11 hours by 2050. Assets encompass combined sewer overflows (CSOs) (including pumping stations), storm overflows at Sewage Treatment Works (STWs) and Storm Tanks at STWs. It is true that there was better coverage of Event Duration Monitoring (EDM) sensors, which detect the duration of sewage discharges, on sewer networks in 2023 compared to earlier years. However, as Surfers Against Sewage report 'data still shows an increase in sewage spills that cannot be explained by the installation of more monitors alone' (SAS 2024) 35. Southern Water told the panel that its analysis showed that sewer discharges from CSOs were mainly due to rainwater entering the system, but that there was also an issue with groundwater infiltration which was particularly challenging due to the chalk geology in many parts the local catchment area.

### **The financial and environmental viability of Southern Water and England's private water industry.**

The water industry was privatised in 1989 debt free, with the promise that it would bring substantial private investment in infrastructure and more efficient management of water, enabling the UK to meet the new European Drinking Water and Urban Wastewater Directives. 35 years later, we can all see that this has failed.

The water companies which were debt free had by March 2023 accumulated a total of £60.3bn of debts, while they have paid out a total of £65.9bn in shareholder



dividends (Hansard 2024) 19. Between 2003 and 2022 water company debt quadrupled, growing by £40.5bn, plus an additional £10.4bn in long-term liabilities including sums owed to pension funds. In the same 20-year period, there was approximately £91.5bn investment, of which £50.9bn was funded by borrowing, £38.9bn from income (i.e. consumer bills), and £1.7bn resulting from revaluation of assets, which is an accounting change involving no injection of cash. There was virtually no investment paid for through share capital. Instead, shareholder dividends were almost exactly matched by increasing company debts. Overpayments of dividends, in other words, was paid for by taking on unsustainable debts (Murphy 2023) 38.

In the case of Southern Water in particular, in 2023 it had accumulated £5.7bn of debts, while paying out £1.7bn in dividends. The cost of its debt-servicing amounted to an astonishing 27% of consumer water bills (Leach et al 2024) 1. Professor David Hall has noted the annual cost of dividends and interest payments for debts in the water industry as a whole is £2.3bn more expensive than it would be under public ownership (CIWEM 2019) [Error! Reference source not found.](#). Southern Water remains on Ofwat's financial watchlist, indicating that it considers the company to lack the necessary financial resilience. In 2023, downgrades to its credit rating led to a "trigger event" which prevents it from paying shareholder dividends until at least 2025. Consumer water bills across England have increased more than 40% on average, and Southern Water's recently proposed investment plan 13 would bring a projected further average 91% bill increase over the next 5 years, with Ofwat's draft determination recommending the lower, but still staggeringly high, 45% increase.

In its response, Southern Water says that under Ofwat's proposals 'there is no path for us to secure a reasonable return' and that this will prevent raising the investment and borrowing it needs. It describes Ofwat's proposed price control, which would limit bill increases to 45% as having a 'punitive effect' (Southern Water 2024b) 20. With Macquarie having acquired a poorly performing water company in 2021, Southern Water now seems to expect that Ofwat should prioritise its ability to pay shareholder returns to Macquarie through increased consumer bills, as a condition of further investment to turn the company around and achieve improvements in its sewage discharge record and other aspects of its environmental performance. However, Macquarie knew it was purchasing a failing water company with significant debt and requiring significant investment to turn the company around after record fines and **should not be permitted to rely on bill payers to fund necessary investment after shareholders extracted billions of pounds in dividends paid out from massive levels of borrowing.** This point is further brought to the fore as news articles say a new Independent Commission set up by Defra is looking at banning water companies from making a profit 45.



More importantly, water company accounting research presented to the panel (Murphy 2023) 38 found that the level of investment in infrastructure required to end the routine dumping of sewage in a reasonable timeframe would far exceed the ability of water companies to raise funds. In other words, the viability of the business model of private water companies depends on their being permitted to continue discharging sewage into our rivers, lakes, and seas. In Murphy's (2023) phrase, England's private water industry is 'environmentally insolvent.'

Murphy (2023) 38 calculates that Southern Water would need to invest £19.141bn in sewerage infrastructure improvements over 10 years to end routine discharges, 7.4% of the total investment of £260bn required by the industry as a whole. However, this would result in a £15.7bn loss to the industry, or approximately £1.162bn to Southern Water. Covering this shortfall would require water bills to rise by 240%, an increase to the average bill of £645 bringing it to £1100 per year.

It is to Southern Water's credit that it acknowledges the scale of investment needed to improve its infrastructure, prepare for the increased water demand and extreme weather which climate change will bring, and the need to improve the environment. Indeed, it is to its credit that it has already established the Clear Rivers and Seas Taskforce and conducted a range of promising pathfinder projects to inform its plans to go well beyond its current regulatory obligations in addressing sewage discharges and poor environmental performance. Southern Water's draft investment plan 2025-30 proposes £7.8bn investment in total (not just for its sewerage services) - a big increase, but well below what is required, and already requiring a projected 91% rise in bills (Southern Water 2024a; Jack and Smith 2024) 3.

In the context of the current cost of living crisis, the panel already has significant concerns about the affordability for residents of even Ofwat's proposed 45% bill increase, let alone Southern Water's proposed 91%, or Murphy's estimate of 240% increases which would be required to fund the infrastructure to actually deal with the sewage dumping problem. Many residents are already struggling with current bill rates, and too many people would be likely to miss out on Southern Water's proposed expanded support package for its struggling customers, even if they were eligible for it. Such bill increases are unacceptable to the public given the vast sums already extracted by the water companies and paid for by taking on roughly equivalent debts, while failing for decades to make the necessary investments in its infrastructure.

In short, the business model of the privatised water system is not viable if it is to meet acceptable environmental and social standards, and it has not provided good value for money to the public.

It was explained to the panel that around 90% of water services across the world are publicly owned, making England's wholly privatised water system an outlier in global terms. The evidence from Europe shows that the top 10 countries for clean water have over 80% of their water in public ownership, with Austria, sitting at the top of the table, having 100% publicly owned water and being constitutionally prohibited from privatising its water industry. The evidence also shows that public ownership provides more investment in assets and infrastructure, and that if England's water system had received the same level of reinvestment as Scotland's publicly owned system, it would have received extra £28bn of investment. Paris was particularly highlighted to the panel, as an example in which a previously privatised water system has been brought back into public ownership, and in less than 10 years has managed to reduce leaks from 20% to 5%, while saving approximately €76m, and drastically improving river water quality.

There are several potential models of public ownership, including state ownership, as well as more democratic and localised models being pioneered in French and Spanish water companies, such as local ownership by Local Authorities with management boards including councillors, water consumer representatives, environmental advocates, and water industry union representatives. The panel would like to see such democratised and localised models of public ownership and governance explored for our local and national context.

There are several mechanisms which might be used to achieve the transition to a publicly owned water system. These include standard nationalisation, bringing failed water companies into special administration, and introducing equity fines in place of monetary fines for unlawful practices. In the current national context, using a combination of these mechanisms seems both viable and promising. A plausible case can be made that several of England's water companies are failing, based on their widespread and often illegal sewage dumping and extremely precarious financial position, making them good candidates to be brought into special administration.

Similarly, some experts suggest that the valuation of several water companies for nationalisation would be significantly lower than the Government's recently stated estimates. According to Murphy (2024) [40](#), for example, the £90bn figure suggested by the Social Market Foundation in 2018, and the upward revision of this figure based on Ofwat's Regulated Capital Value for water companies to £99bn, both referenced by junior environment minister Baroness Hayman of Ullock, depend on the 'standard assumption that most economists make...which is that the current reported state of these companies will continue into the future, [which] is obviously wrong.' Lord Prem Sikka (Hansard 2024b) [20](#) notes that the Social Market Foundation figure is 'utterly incorrect' and that 'When taking over an industry, one buys only the equity, not the debt-and that is what it included'. This was confirmed by

David Black, CEO of Ofwat [17](#), who advised in a letter to the EFRA committee that in case of nationalisation, the Government would not take on liability for Thames Water's, or its parent company Kemble Water's, debts (Black 2024) [18](#). The valuation should also take account of the future costs of bringing the industry up to an acceptable standard, and since 'there is no chance whatsoever that these costs can be covered without resorting to state support...for the Government to pay for a company that can only maintain its business with substantial government financial support makes no sense at all' (Murphy 2024) [40](#). Numerous commentators have pointed out that credit ratings agencies have given much lower estimates, such as Moody's 2019 estimate that the cost of nationalisation would be £14.5bn, and some water company's shares are now junk and virtually worthless. Professor Ewan McGaughey recently provided expert advice to water quality campaigners stating that 'Special administration would not cost the Treasury or taxpayers anything' and the Government could then 'put a plan before the high court to cancel a company's debt, if continued payments to banks would interfere with properly carrying out the water company's sewage or clean water functions' (Laville 2024) [9](#).

Given the state of sewage dumping across England at present, the outrage felt by the public, and the likelihood of further large fines issues by the regulators and/or courts, there is plenty of scope to introduce the legal basis to issue equity fines, and gradually acquire poorly performing water companies at no cost to the Government.

In October 2024, a report by Professor Pedro Arrojo Agudo, United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, was published and presented to the UN Human Rights Council which talked about the lack of public participation in the privatised water sector, the lack of transparency and the inability to control and regulate operators. [46a/46b](#). The report also calls into question the effectiveness of Ofwat as a regulator of water companies in the United Kingdom, the subject of the following subsection.

### **Ofwat**

The panel repeatedly sought to meet with Ofwat, but Ofwat said it was unable to attend the panel meetings each time it was invited. The panel therefore relied on information from other parties, offering a view that Ofwat should be either thoroughly reformed or replaced, something a new Independent Commission set up by the Environment Secretary Steve Reed has indicated may be being considered [44](#) .

The panel was told of several issues with Ofwat. Most important of these is the fact that Ofwat was established to regulate water companies as commercial entities. Here making a profit is a key part of companies' objectives and obligations to shareholders, while operating in a context of natural monopolies where there is no market competition. Since ensuring the viability of the private water sector is a key part of its remit, Ofwat has a significant conflict of interest when water companies

insist that they cannot stay afloat or make necessary investments without significant increases to consumer bills, even when this is a situation of their own making resulting from decades of underinvestment and debt loading. In recent months Ofwat seems to be on course to give in to pressure from Thames Water and negotiate to forgo massive fines for breaching its permits in return for greater regulatory oversight, all the while allowing it to raise water bills by 23% (Plimmer and Ralph 2024; Heath and Gartside 2024) 10. As then EFRA Committee Chair, Sir Robert Goodwill, stated in his letter to Ofwat:

‘In the case of Thames Water, shareholders of the parent company have made it clear that future infrastructure funding is contingent on Ofwat taking a positive view of its proposed bill rises and taking a lighter touch on its regulatory enforcement measures.

We are concerned...that it may not be in your organisation’s interest to use the full extent of its powers given the impact that the failure of a major business would have on the stability of the sector’ (Goodwill 2024) 18.

Already, Ofwat is allowing Thames Water to negotiate its way out of facing the force of new powers introduced earlier this year for Ofwat to fine water companies up to 10% of their turnover for providing poor customer service. The regulator appears to be more concerned with helping the company to recover than enforcing its legal obligations and protecting the interests of its customers, who have been monumentally failed along with the environment. The duty placed on Ofwat by the previous government to have regard to economic growth only exacerbates the problems.

Additionally, the panel was told of how Ofwat regularly requires water companies to scale back their investment plans to improve infrastructure and environmental outcomes to avoid higher consumer water bills. The importance of protecting consumers from higher water bills is acknowledged by the panel, and explicitly supported in EFRA committee chair Goodwill’s letter, where he writes...

‘We are conscious, however, of the potential impact of increased water bills on consumers already facing significant cost of living pressures, and request that you take this into account when making your assessment.’ (Goodwill 2024) 18

It is all too rarely acknowledged that blocking improvements to infrastructure to protect vulnerable bill-payers would not be necessary for a publicly owned water company receiving significant public investment for infrastructure, rather than relying on consumer bills to raise revenue and attract investment.

In addition, the panel agrees with Lord Sikka in his description of Ofwat as a ‘failed and conflicted regulator,’ and shares his concern over the problematic fact that ‘Two-

thirds of England's biggest water companies employ key executives who previously worked at Ofwat' (Hansard 2024).

Furthermore, the panel was told that the cycle and rigidity of 5-year investment plans was an obstacle to making agile investments, particularly when nature-based project opportunities arose working with partners and landowners and prevented the development of much needed long term investment strategies to achieve environmental improvements.

It has become clear to the panel that a regulator, which appears to prioritise propping up failing private water monopolies over enforcing environmental health and consumer interests, allows huge payouts to shareholders and executives paid for by company borrowing, and prevents much-needed investment, is not fit for purpose. However, it must be realised that protecting consumer interests by controlling bills and investment is in tension with promoting infrastructure investment and improved environmental performance. For example, increased water bills could put private water companies in what Southern Water calls an 'investable position' (Southern Water 2024b) 14: attracting the required private investment requires further exploitation of water consumers. This would not be necessary in a publicly owned water system where investment was not funded almost entirely through water bills and commercial borrowing.

A 'fit for purpose' water company regulator should be guided by principles that ensure water companies are investing in maintaining and improving infrastructure for future demands, ensuring water bills are limited to an affordable level, that the companies meet high standards of governance and financial management, and if they are privately owned, that shareholder dividends, executive pay and bonuses, and borrowing are not excessive and are based on performance.

### **Southern Water's Star Rating and Water Pollution.**

The panel was formed to investigate the issue of sewage pollution and Southern Water's poor 1-star rating in 2021, and 2-star rating in 2022, and look for ways the Lewes District Council can encourage and support SW's ambition to achieve a 3-star rating by 2025. However, the panel heard that **an estimated 90% of Southern Water's sewage discharges are permitted under its Environment Agency permits, and therefore do not have a negative impact on the company's star rating. The vast majority of sewage discharges do not breach its permits.**

An improvement to Southern Water's star rating, therefore, while welcome, would bear only a weak relation to the outcome Lewes District Council and its residents want to see, namely an end to the routine discharge of sewage into their waterways and seas.

To achieve this desired outcome, Southern Water will need to deliver significant improvements to its infrastructure and go well beyond the current requirements of its permits and regulators. The establishment of Southern Water's Clean Rivers and Seas Taskforce and the publication of the Clean Rivers and Seas Plan provides an encouraging sign that it is taking some steps to address this problem beyond the requirements of its regulators, but the company has been clear with the panel that its priority is improving its star rating and complying with its permits. In light of this, far-reaching reforms of water industry regulation will be required.

The panel therefore recommends that the Government introduces a new environmental impact performance rating, to be assessed and published by the EA and Defra, which takes into account all impacts the companies have on the environment, including in particular the estimated 90% of sewage discharges which are in conformity with their current EA permits.

### **Sources of Water Pollution in Lewes District**

Water pollution in Lewes District is not caused solely, or even predominantly, by sewage discharges. The panel heard two expert estimates of the sources of water pollution. The first, from the Ouse and Adur Rivers Trust (OART), based on a study from 2014, was that nearly 50% of pollution was due to sewage discharges, while nearly 50% was from agricultural livestock runoff. The second, from the EA based on data from 2019, estimated that nationally around 36% was from sewage discharges, while around 40% was from agriculture.

In addition, sewage pollution is not caused solely by Southern Water. There are around 1,100 private sewage work discharge points, many of which are poorly maintained and leak into the Ouse River basin. This is a far greater number than Southern Water's 123 discharge points, though Southern Water's sewage treatment network and discharge points are responsible for a vastly greater volume of sewage. Unfortunately, at present Southern Water only reports data for the time duration of sewage discharge events, not the volume of sewage which is discharged, while there is no monitoring or reporting for private sewage discharge points. There is, therefore, a severe lack of useful data available.

Neither the Ouse and Adur Rivers Trust's (OART) [Error! Reference source not found.](#) n or the Environment Agency's (EA) estimates [16/27](#) of the balance of sewage and agricultural water pollution include estimates of another source of water pollution raised by several of the representative from organisations the panel met with, which is toxic pollution from road runoff. This source of pollution can flow directly on to the land and into water bodies, but also flows through surface drains into Southern Water's combined sewer system. Many road runoff drainage systems are not the responsibility of Southern Water, but the local and national Highways agencies.



In addition, OART is increasingly gathering concerning data on pharmaceutical pollution from both human and livestock sources in the Ouse, working with the University of York on testing throughout the South Downs. The panel was told that currently the technology does not exist to filter such chemicals during wastewater treatment on an industrial scale. However, it was recently announced that Switzerland is initiating the process of upgrading its sewage treatment infrastructure to filter out micro-pollutants including microplastics and pharmaceuticals.

In light of this holistic picture of water pollution, the panel acknowledges that even were Southern Water to cease discharging sewage entirely, there would still be significant water pollution in Lewes District. Ending Southern Water's sewage discharge events would nevertheless vastly reduce overall sewage pollution.

The upshot of this is that while urgent action is needed to end the sewage scandal, restoring Lewes District's inland and coastal waterways to good health will require significant interventions beyond Southern Water, the water industry as a whole, and its regulation.

### **Performance Monitoring**

Environment Agency funding has been cut by roughly 56% in real terms since 2009/10, and it has been struggling with a recruitment crisis with less than 25% of vacancies filled, despite dropping qualification requirements for some roles. In consequence, the EA has been prioritising investigations of only a limited number of the most egregious cases of non-compliance or threats to the environment and relying on self-reporting regime in most cases. Ouse and Adur Rivers Trust's (OART) testing data and Surfers Against Sewage's (SAS) analysis both suggest that self-reporting is inadequate and is responsible for serious under-reporting of sewage discharge events. The Observer headline dated 26 October 2024 reports that..... 'Revealed: water firms in England 'passed' pollution tests that were never carried out'. The article goes on to claim that Southern Water had already previously been found to have "deliberately manipulated" the effluent flow to avoid pollution detection. [48.](#)

The panel heard from several organisations, including OART and Love Our Ouse, which were implementing much needed citizen science water quality testing projects to help gain better data and help with the validation of Southern Water's published local self-reporting data. While these programmes are inspiring, both in how they are helping to fill the data gap and in how they are engaging local people with issues around water quality and river ecology, they are no substitute for an adequate monitoring regime conducted by the EA as the relevant government agency tasked with monitoring and safeguarding the health of the environment.



Similarly, the EA told the panel that regulation of both farm runoff and private sewers were “light touch.” The EA has widened its monitoring of POPs (Persistent Organic Pollutants), and a fourth Chemical Investigation Programme was being designed to look at chemical pressures from pharmaceuticals and anti-microbial resistance. The EA has received funding for at least one new staff member for the South Downs and Solent catchment and has targets to inspect all operational water company facilities over the coming years. The EA did not suggest that a single inspection of each facility would be sufficient to stop relying on self-reporting by the water industry. New investment for water company infrastructure was regulated by Ofwat, not the EA.

Southern Water told the panel it has now reached its 100% target for installing event duration monitors on sewage outlets. Its Clean Rivers and Seas Task Force has also been testing volumetric monitoring as part of its pathfinder projects and considers this a superior form of monitoring.

Southern Water told the panel in autumn 2023 that it was working towards extending its near real-time mapping of sewage discharges on its Beachbuoy app to include inland river outflows. In Spring 2024, the panel was told that this had been done on a new platform. However, in the intervening months, this platform has never been operational when panel members have tried to access it due to unspecified technical difficulties. The panel looks forward to the availability of this platform which will bring greater data transparency and availability to the public and campaigners.

### **Open Communication and Partnership Working**

The panel heard through discussions with local and national groups, such as Ouse and Adur Rivers Trust and the NFU, of the need for more proactive discussions with Southern Water not just in reaction to sewage leaks.

The NFU highlighted that it promoted many environmental land management to its members, but that there needed to be a consistent advice on best practice, and that grants, such as those from the Environment Agency to enhance drainage schemes on farmland, must align with the timescales required to deliver such schemes.

## **Bathing Waters**

**While water quality standards for rivers focused mainly on the ecological health of water habitats, coastal bathing water quality standards focused on safeguarding human health. There was weekly testing for e. coli and enterococci during summer months, but up to 15% of tests could be discounted if they were taken when advice had been posted at Bathing Water Designated Beaches that swimming was not recommended due to a forecasted pollution risk. There is no real-time monitoring of coastal waters and no ecological impact monitoring. Undesignated beaches and inland waters that are used for bathing are not monitored and there is no monitoring outside of the required period, despite changing bathing patterns. The EA would support year-round testing and inland testing, provided funding was in place. Bathing Water designation does not bring increased standards or monitoring of coastal waters beyond the requirements of the Water Framework Directive.**

## **Permitting**

The EA representatives explained to the panel that setting permits for Sewage Treatment Works (STW) took into account summer river flows and set expectations for dry-weather effluent flows out of the treatment works. Treatment capacity was supposed to enable treatment of sewage from the quantity of houses served, while permitted dry-weather flows were supposed to be restricted to a level which would not pose unacceptable ecological impact on the receiving river/water body. Setting permits did not take account of higher wet weather/winter flows into STW require adequate treatment/storage capacity, as it was assumed that higher river flows would be sufficient to mitigate the ecological impacts of storm discharges, which contain diluted sewage effluent. Permit flow levels were not routinely reviewed, and did not take account of changed weather patterns already present or the increased changes due to climate change, including increased rainfall and extreme weather (including in summer) and increased droughts leading to lower summer river flows.

Southern Water has run pilot projects implementing increased storm tank storage by agreeing revised permits to use more of the existing tank capacity at STWs which have significantly reduced permitted sewage discharges after heavy rainfall. However, they require individual applications to the EA to revise permits for each facility and this bureaucracy is an obstacle to implementing better practices which have proved successful.

Current regulation and permitting practices, in other words, actually appear to perversely require unnecessary sewage discharges in some circumstances. This requires urgent review and remediation.

## Law and Regulation

The Office for Environmental Protection (OEP) has been investigating Defra and the EA and issued a preliminary finding [21](#) that they are not applying the law correctly and are misinterpreting what constitutes a serious climatic event.

In another sign that the EA might be misapplying the law, the panel learned that EA permits require event duration monitoring despite legislation pointing to a requirement to put volumetric monitoring in place. The Environment Act 2021 section 80 subsection 2(b) requires that the Secretary of State prepares a plan aimed at reducing the *volume* of discharges from storm overflows in England; subsection 6 requires that the plan be published before 1 September 2022. The previous Secretary of State, therefore, appeared to be allowing the continuation of a permitting regime which was out of alignment with their duties under this legislation, and the new Secretary of State should urgently revise the plan as permitted by subsection 7 and ensure that volumetric monitoring is implemented to enable conformity with the Act.

The panel was briefed on the Manchester Ship Canal vs. United Utilities Supreme Court case of March 2023, which had the potential to change the interpretation of the law so that claims of common law trespass and nuisance would be allowed. Such claims have been assumed to be precluded under the Water Industry Act, meaning that only the EA or Ofwat could prosecute water companies.

Since then, the Supreme Court has ruled in favour of the Manchester Ship Canal, ushering in a new interpretation of the law. Water Companies can now be sued for public nuisance and trespass under common law by affected individuals or organisations.

At its final meeting, the panel recognised that there were national developments in relation to the water industry, with the new Government setting up a sector review to consider the future management of the water industry. There are also examples of other Governments successfully using public sector management of water and producing high-quality outcomes. During discussion it became evident that there were differing strengths of view in relation to the nationalisation of the water industry. All panel members acknowledged the need for change and for a clearer, stronger regulatory framework, but not all members felt that it was the right time to initiate such sweeping changes. Those same members recognised that whilst the Government was looking at 'reprivatisation' it was not considering bringing the water industry into public ownership. Other panel members felt that the time to lobby the Government was now and that the issue of a privatised water industry was very much in the public conscience, with continued failings being reported and not enough recognition of the fundamental issues.

## 1.6 The Panel's recommendations

The panel formulated the following recommendations, and the background to these can be found above and in Section 2.

### Recommendations:

#### A. To recommend to Full Council to ask the Leader of the Council:

##### 1. To write to the secretary of state for environment, food and rural affairs (Defra) calling for the Government:

- a) To welcome the Government's new sector review into the water industry, but express disappointment that this does not currently include nationalisation. To urge the Government to reconsider bringing water companies, including Southern Water, into public ownership and to ensure adequate funding (estimated at least £260bn) to upgrade sewerage infrastructure over 10 years.
- b) To support the Government's expressed intention to reform or replace Ofwat with a fit for purpose regulator capable of prioritising the public interest over company profits or financial viability, and of ensuring the environmental sustainability of water companies' whole operations.
- c) To restore funding and resources to the Environment Agency to at least 2009-10 levels in real terms, and to a level enabling it to be adequately funded and staffed to undertake active and regular monitoring and investigation of regulation breaches and take effective enforcement action.
- d) To ensure sufficient funding for farmers and landowners to reduce water wastage, improve natural water management, and reduce harmful runoff into waterways through sustainable land management practices.
- e) To introduce a new environmental impact rating for water companies which includes permitted and non-permitted sewage discharges.
- f) To instruct Defra, the EA, and Ofwat to cooperate fully with the Office for Environmental Protection's investigation into their possible failure to comply with environmental law in relation to the regulation of Combined Sewer Outflows.
- g) To revise the EA permitting regime and review water companies' sewerage asset permits, to take into account changing weather patterns as a result of climate change, and ensure sufficient storage and treatment of sewage to prevent sewage discharge.
- h) To commission a Defra review of new and micro pollutants which are not currently treated or filtered during sewage treatment, including pharmaceuticals, POPs (Persistent Organic Pollutants), PFAs (Perfluoroalkyl and Polyfluoroalkyl Substances), and microplastics, and; consider the potential to follow Switzerland's example in upgrading sewage treatment infrastructure and technology to remove such micro pollutants, and consider realigning UK regulations with updates to the EU Urban Waste

Water Treatment Directive. To ensure that findings from such a review are incorporated into relevant environmental improvement plans.

- i) To ensure the roll-out of volumetric sewage monitoring, rather than just event duration monitoring, to enable conformance with the Environment Act 2021.
- j) To require water companies to forecast surface water run-off events, increase volumetric data measurement, and report on the impact of surface water run-off on water quality.
- k) To instruct Defra and the Environment Agency to revise the monitoring regime for both coastal and inland bathing areas by:
  - Increasing the monitoring from May to September to all year round.
  - Improving the water testing regime for bathing waters to include all relevant pollutants.
  - Reporting on this data publicly.
- l) Until and unless the water industry is brought into public ownership, to put in place measures to ensure transparent and ethical management of water companies, including for example:
  - Requiring the publication of directors' remuneration and dividends.
  - Empowering the Government's new sector review into the water industry to consider requiring companies to have customers vote on executive bonuses.
  - That water industry employment contracts stop former regulator employees from working within water companies within 3 years, in order to ensure integrity of regulation.
  - To discourage the professional advisors (such as accountants or lawyers) from working for both water companies and regulators.
  - To introduce progressive water billing, linking the price of water to usage adjusted for household occupancy, so that the price increases with higher consumption.

**2. To write to the Secretary of State for Housing, Communities and Local Government (MHCLG):**

- a) Calling for the Government to introduce stronger requirements into the planning system to reduce water consumption; and
- b) As set out in the Council's consultation response to the proposed NPPF, to ensure the implementation of Schedule 3 of the Flood and Water Management Act 2010, to reiterate the need to end the duty to connect, and to ensure that the cumulative impact of development on the capacity of local sewerage and drainage infrastructure may be treated as a material consideration in planning decisions.

**B. To recommend to Full Council that it asks the Leader of the Council to write to the Chief Executive of Southern Water:**

1. To ensure that it engages fully with requests from Lewes District Council for information on the potential cumulative impact on sewage discharges of proposed major developments.
2. To continue encouraging Southern Water to take advantage of partnership opportunities, in particular with Lewes District Council and other partners within Lewes District, to implement efficient and cost-effective surface and rainwater management and to prioritise nature-based solutions to manage surface and groundwater infiltration of networks.
3. To request that it continues to engage with local authorities on the scrutiny of its performance including by engaging with local authorities' scrutiny committees via the Local Authority Stakeholder Group.
4. To review its engagement practices with farmers and landowners, aiming to develop proactive and constructive communication and partnerships, taking into account best practice elsewhere in the industry.
5. To continue to work on embedding a culture of environmental and social responsibility, in which illegal sewage discharges are never tolerated and routine permitted sewage discharges are never viewed as acceptable.

**C. To recommend to Full Council:**

1. To ask the Cabinet and Officers:
  - a) To continue to play a full part in any formal discussions between Southern Water and local Councils, including on the Southern Water Local Authority Stakeholder Group.
  - b) To continue to be proactive in seeking partnership and funding opportunities with Southern Water to implement innovative surface and rainwater management projects.
  - c) To publicly support campaigns as they arise for maintaining existing wetlands and the creation of new wetlands and natural flood solutions in the District.
  - d) To continue to explore new locations in the District which would be eligible for, and benefit from, the enhanced monitoring and testing regime

concomitant upon designation as 'bathing waters,' including exploring the potential of Newhaven's West Beach as part of the regeneration activities taking place there, and any other coastal or inland waters, and when assessed to write to the EA and Defra to support such designation.

- e) To seek to raise awareness of the public and businesses of the need to check on private septic tanks to ensure that they are not leaking or overflowing and contributing to pollution within the Ouse River Basin, via the council's existing social media activities.
- f) To seek to raise awareness of organisations which can assist and advise residents, businesses, and Town and Parish Councils on options for those affected negatively by sewage discharges.

**D) To recommend to the Policy and Performance Advisory Committee (PPAC) that:**

1. It requests that relevant officers and the relevant Cabinet Member provide a regular update to the Committee on ongoing discussions with Southern Water, including the work of the Southern Water Local Authority Stakeholder Group.
2. It invites the Head of Development Management to report back on the implementation of the inclusion in all reports relating to major developments, of a specific section on Core Policy 10 and the impact on watercourses, including the potential for the development to affect sewage outflow into watercourses (i.e. cumulative impact), or to flag if this information is not fully available, so that this information (or the lack of it) is clearly and transparently set out (approved in a motion by Full Council in May 2021).



## **Section 2 – Meetings and Evidence Gathering**

### **Section 2.1 The Panel's first meeting with Southern Water**

On 5 October 2023, the panel met with David Murphy, Wastewater Investment Strategy Manager and Sue Cobb, Stakeholder Engagement Manager, from Southern Water, who gave a presentation and answered questions from the panel.

#### **Operations and Business Plan**

The presentation gave an overview of Southern Water's operations and business plan 2025-2030, planned investments, its intended commitment towards the environment and customers, the current environmental picture and how it intended to achieve a 3-star status. The presentation also explained how storm overflows and the resulting sewage leaks occurred, and the solutions Southern Water was providing.

Southern Water confirmed that dividends had not been paid to shareholders since 2017, but it was noted that, as a business, it needed to provide a return to investors. The company had been bought in 2020 with a subsequent investment of £1.6bn from investors.

#### **Pathfinder Projects**

The panel was advised that six pathfinder projects had been established to find innovative responses to mitigate storm overflows. These included free and modified water butts, working with highway authorities to deliver specific projects, and garden schemes including the replacement of poorly maintained septic tanks.

A scheme for a new reservoir was being developed with Portsmouth Water and would be located in Hampshire, in the Southeast. The reservoir would be fed by spring water and recycled wastewater to provide drinking water. The panel was told that the reuse of wastewater, although not a popular idea with the public, would need to be considered as part of the mix to provide drinking water in the future. The Southeast had extensive groundwater resources, although its abstraction had to be carefully managed to avoid environmental impact. Alternative supplies needed to be considered and connectivity between water companies was key to this. There remained a number of deliverables within the current investment period across-the-board, including those included in the 'Water Industry National Environment Programme.'

#### **Performance Rating**

Southern Water recognised that there had been issues over the previous two years with outages, discharges and customer satisfaction, and that its performance was not at the level it, or its customers expected. The panel was told that the performance level had improved since the Consumer Council (CCW) report in 2022 and was now rated at two stars, with a pollution incident reduction programme in place and a forecast for a reduction in pollution incidents in 2023. It was anticipated that there

would be a significant reduction in storm overflows over the five-year investment period from 2025-2030. The previous Government had set targets in its Storm Overflow Discharge Reduction programme which went up to 2050 and- Southern Water states that all of the spill reporting data was available on its website.

## Section 2.2 - Regulation and Investment

The panel understood that Southern Water was in a highly regulated sector although as a private company, it was able to raise or borrow money for investment. The panel noted that

Southern Water had invested more in the current period than was allowed to be raised from customers and had taken less from the

### Turnaround Plan 2023-2025

 <b>Trusted and easy customer service</b>	 <b>A reliable supply of water for our customers</b>	 <b>Healthy rivers and seas</b>
<b>Objective:</b> Provide a great customer experience and reach a 7.5/10 C-Mex score (an 8% increase).	<b>Objective:</b> Provide reliability and quality reaching 3rd quartile for quality by 2025.	<b>Objective:</b> Improving our environmental performance and reach a 3 Star EPA rating.
		

business than the debts regulators allowed to be paid back to shareholders. The panel was told that more investment was needed than funding was available for and that, in real terms, customer bills had fallen since 2010, in line with Government regulations.

Southern Water said it processed and managed large amounts of data. Data was also processed through regulation by the Environment Agency, the Water Services Regulation Authority, (Ofwat) and the Drinking Water Inspectorate (DWI). Southern Water was required to provide annual reporting to those regulators, including all spills, pollution and flooding incidents, as part of the statutory reporting process. All of the data was verified by the Environment Agency.

### The Beachbuoy App

The Beachbuoy app was being developed by Southern Water to provide 'near' real-time data on storm overflow discharges and the potential impact on bathing water. Plans to expand the app to inland waters will require discussion with other water companies and regulators to provide consistency of information to customers. As part of later sessions and at the Stakeholder Group in October 2024, it was confirmed that there are now plans to retire the Beachbuoy App in early 2025. It is to be replaced by the Rivers and Seas Watch App (currently in Beta stage) which would

provide an improved service with greater transparency. Data on volume was not currently included, but it was expected that this would be addressed as the programme progressed. 47

### **Overflows in the South East**

Southern Water's analysis of the 978 storm overflows in the Southeast demonstrated that the main issue was rainwater entering the combined sewage system. However, ground water was also a problem, particularly as a result of the chalk-based geography of the South and North Downs. This affected a number of sewage catchments and resulted in dry-weather sewage leaks.

The size of a water treatment works was based on the population it served and permits for dry weather flows were based on the capacity of each treatment works. Storm overflows in dry weather occurred due to operational issues such as pump failures or blockages (although this was a small percentage).

The panel was advised that investigations were needed at treatment works where additional spills occurred above the capacity that was licenced to serve the population. These types of investigation had been built into the next investment period.

### **New Connections**

The panel was told that it was not Southern Water's responsibility to refuse the supply of water and the management of wastewater to developers, where planning permission had been granted by the local planning authority. Connection charges for developers to connect to both water and wastewater services were set and regulated. Closer work with planning authorities was high on the agenda for Southern Water, with a focus on sustainable drainage systems and ensuring developments had sustainable homes.

### **Permits for overflows**

Along with some fundamental changes to infrastructure, Southern Water needed to review the permits for stormwater overflows, in order to reduce the number of discharges. It was explained, however, that there was not a quick-fix and compliance with existing permits had been a focus for Southern Water, to meet regulatory requirements and avoid further fines. Discussions were ongoing around where responsibility for water quality monitoring lay and Southern Water felt that, in terms of public trust, this was a role for the Environment Agency.

The permits specified how much water would need to be pumped forward to wastewater treatment works, and any flow in excess of this was treated as a permitted discharge. Any flow that was above the capacity for the treatment works was put into a storm tank and when the storm tank was full, the permit allowed the storm tank to discharge into the environment.

The panel was advised that the target for 100% monitoring of overflows would be achieved by the end of the current year.

## **Section 2.3 - Discussions on the Local Impact**

On the 12 January 2024, the panel met with Peter King, Director of Ouse and Adur Rivers Trust, Louise Reddy, Policy Officer for Surfers Against Sewage, Andrew Coleman, Brighton representative Surfers Against Sewage, and Bee Barton-Broomhead, Environment and Land Use Advisor - East and Southeast.

### **Ouse and Adur Rivers Trust**

Councillors highlighted that there continued to be local concern regarding the environmental status of the Ouse River, its tributaries and the wildlife it supports. Discussions with the Ouse and Adur Rivers Trust highlighted that, as well as the impact of sewage leaks that are the responsibility of Southern Water, there was run-off from farmland, approximately 1,100 private treatment works, and the now emerging evidence of pharmaceutical content in the river.

It was clear that Southern Water needed to improve its management of sewage spills. However, even without notifiable and non-notifiable sewage leaks through the Southern Water network, there would still be a significant amount of sewage in the river.

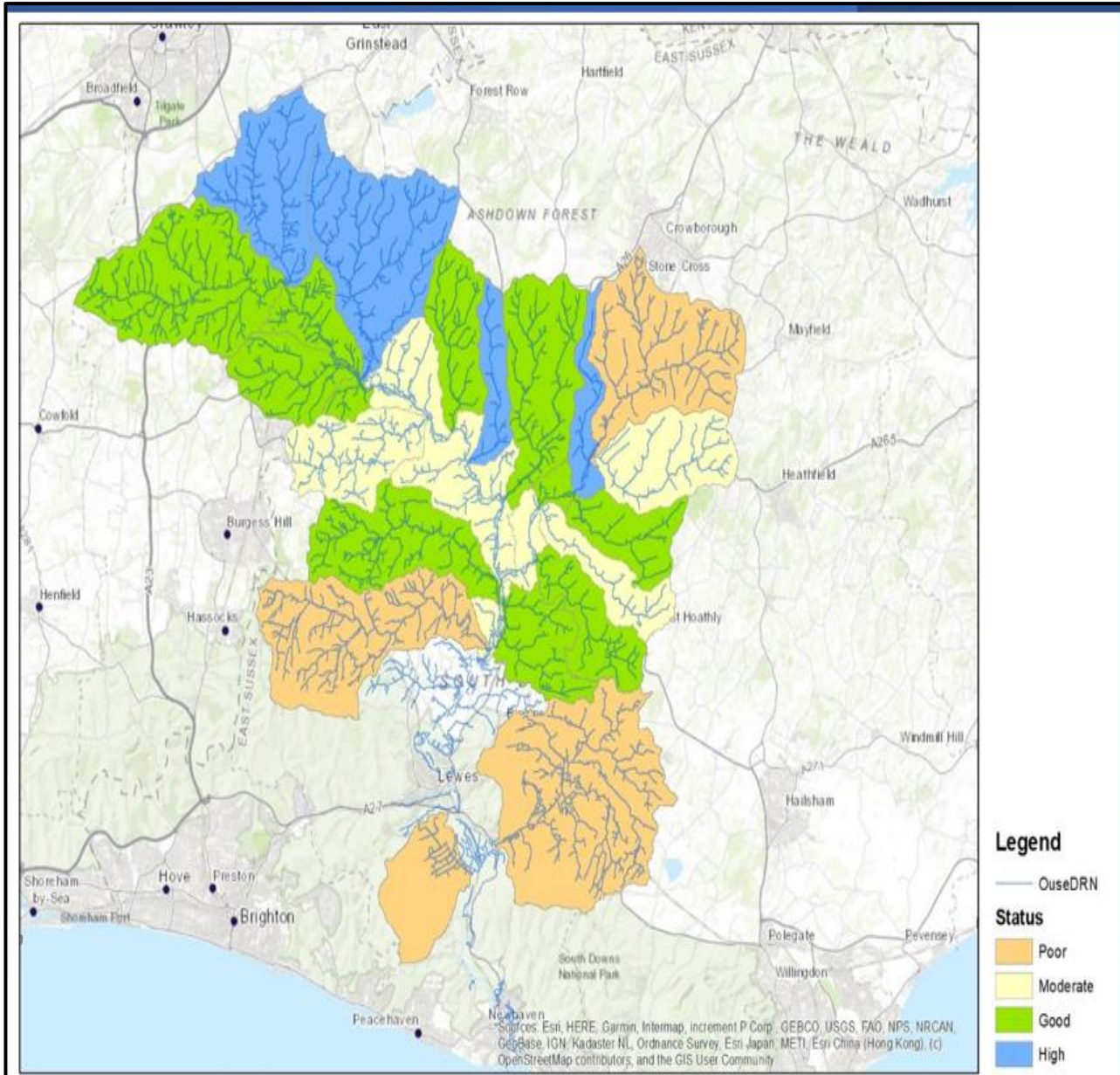
The Ouse and Adur Rivers Trust undertook a study in 2014 with Brighton University on source-apportionment on the whole of the river Ouse, to determine where waste matter originated. At that time there was a 50/50 split between human and animal waste. E. coli was now appearing in springs which indicated that it was in groundwater and more likely to be an agricultural issue.

### **Water quality performance areas on the river Ouse**

The Trust had been collecting data on the Ouse River catchment area for 20 years on data it shared with the Environment Agency. The Trust was able to demonstrate that two areas that were known to impact on water quality in the Ouse were:

- a larger number of septic-tanks that leaked small amounts of sewage consistently over a sustained period; and
- less frequent but large-scale leaks from water-treatment works.



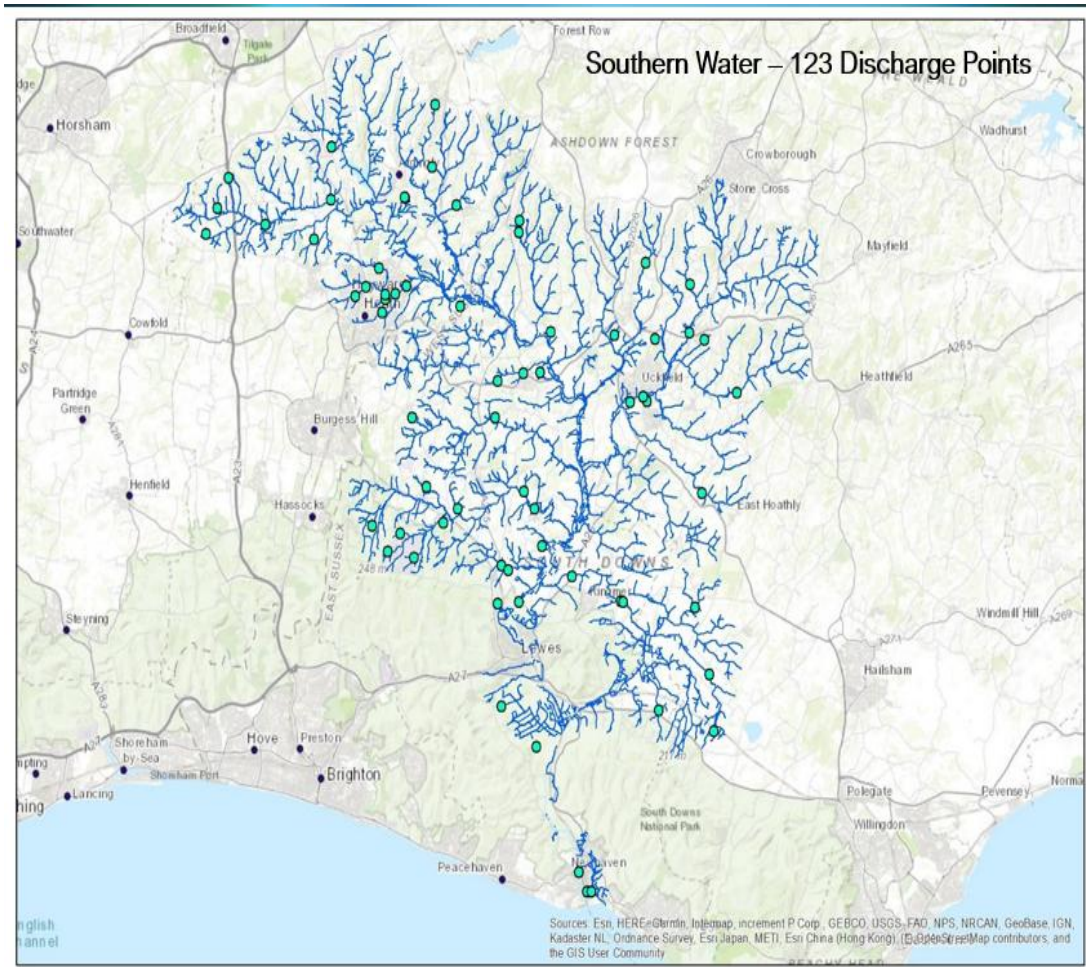


## Permitted Southern Water sewage discharge points on the River Ouse catchment

Images provided by the Ouse and Adur Rivers Trust

The panel was advised of campaigners and voluntary organisations which were working hard to highlight the current environmental status of the Ouse River, and to promote and implement sustainable, long-term nature-based solutions.

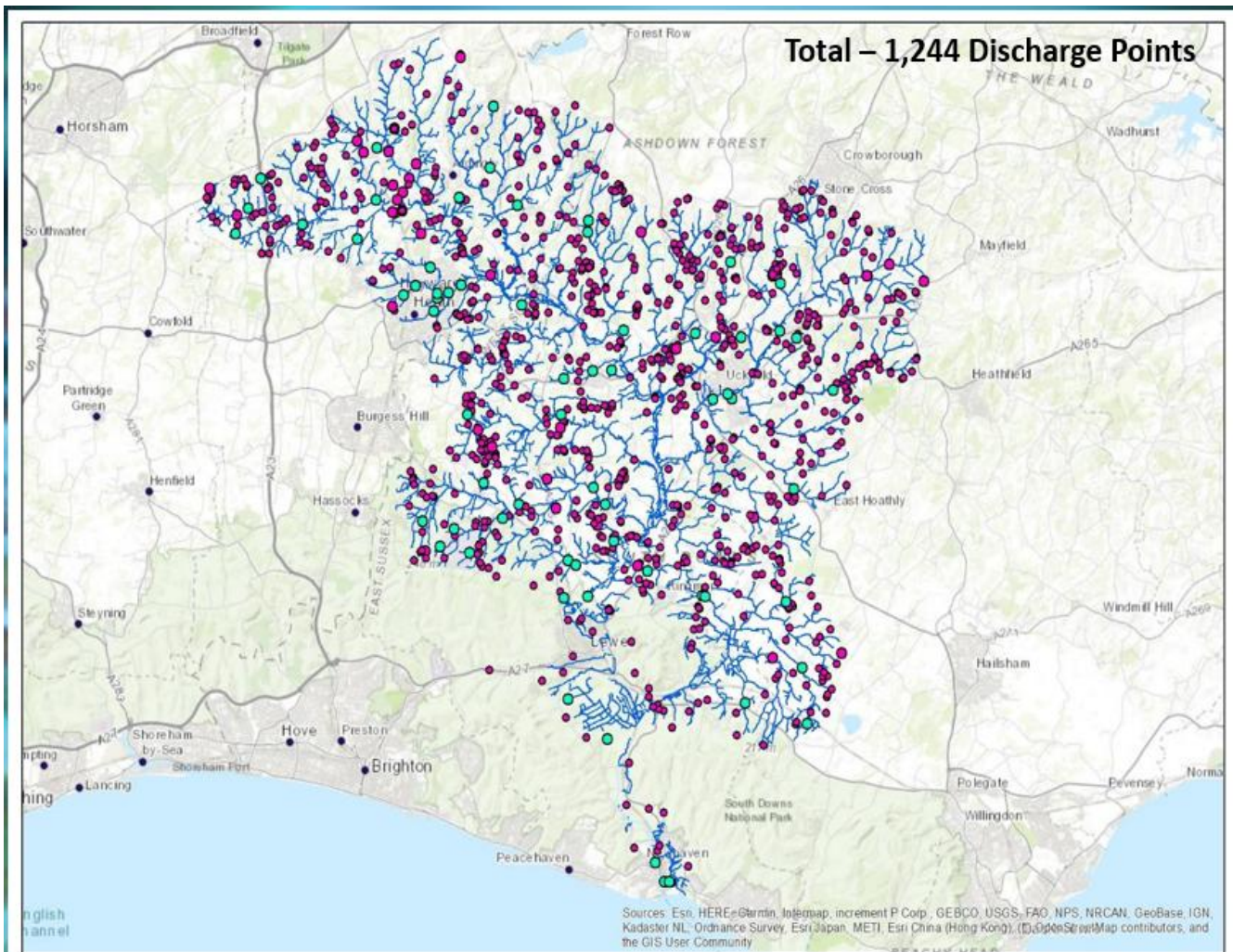
Through discussion, the panel learnt that the regulated environment within which water companies operate, with business strategies that have a set criterion to mitigate spills and sewages, do not, as a whole, support these types of solutions.



Love Our Ouse, a local community interest group, included the promotion of a 'Rights of River' charter for the Ouse in its work. This had the eventual aim of the river being recognised and represented in areas that might impact on it, such as policy direction for housing and business development.



**All sewage water discharge points (including private and Southern Water points) in the Ouse catchment area**



The River Ouse runs southeast for 35 miles from Upper Beeding in West Sussex, through Lewes, and into the sea at Newhaven. The river's journey takes in 750 miles of rivers, streams, and brooks.

As well as supporting a diverse range of habitat, stretches of the river are used by rowing clubs, paddle boarders, and canoers. The banks of the river are also a popular destination for walkers, runners, and hikers.

The five-mile stretch of river at Barcombe Mills is a popular spot for bathers and this stretch of the river is promoted on several wild-swimming and camping websites. However, the area was not designated as a recognised bathing site and does not have inland water-quality testing apparatus. It was also situated near the Barcombe wastewater treatment works.



## Surfers Against Sewage

Discussions with Surfers Against Sewage highlighted the need for a longer period of monitoring through the year in the district's coastal areas.

Currently, the testing regime for bathing water rating (tested by the Environment Agency) took place in the months from May until September and once a week, for E. coli and Enterococci.

The panel was told about the Group's concerns over Southern Water's assumptions in its Clean Season Rivers Plan and the impact on bathing beaches around the Newhaven and Seaford outfalls.



Beaches that were not officially designated bathing beaches were not currently monitored but were being used by bathers.

Barcombe Mills is a popular site for visitors and is used by bathers, however it is not monitored and has not been designated as a bathing site.



Surfers Against Sewage, along with other interest groups are pushing for more rigorous inland water monitoring.

## National Farmers Union

Discussions with the National Farmers Union reinforced the issues around sewage leaks on farmland and run-

offs into waterways. The panel was advised that although Southern Water responds well to notifications by farmers of sewage leaks, the measures seem to be reactive, and concerns remain for the NFU around proper engagement with Southern Water and that the fundamental issues are not being dealt with. There were also concerns



raised over whether sustained sewage leaks on farmland by Southern Water were being correctly reported to the Environment agency.

The NFU had promoted the availability of grants and worked with farmers and landowners to encourage environmental approaches to land management.

The panel was told that there had been some funding from the Environment Agency to enhance drainage schemes on farmland, but, as with all funding, it was difficult to obtain.



The changing environment within which farmers and landowners now carried out land-management, along with conflicting advice and varying types of funding and funding applications made the entire process confusing. Another issue highlighted in the funding process was that schemes were often projected over a 3-year period, however, drainage schemes on their own could take up to five years to complete. Therefore, funding needed to be over a longer, more sustainable period of time for water management. In 2022 Defra introduced the Environmental Land Management Scheme to replace the EU's Common Agricultural Policy. The scheme focused on farmers and land managers improving the natural environment alongside food production and provides funding for:

- Improvements to water quality, by reductions in nitrogen, phosphorus and sediment pollution from agricultural activities, building on an existing Catchment Sensitive Farming approach.
- An increased resilience to flooding and drought through nature-based solutions such as natural flood management.

The panel heard that the NFU had good working relationships with other water companies. For example, meetings were held between the NFU and Anglian Water at least three times a year, through boards and steering groups, and there were similar levels of engagement with other water companies. This engagement had resulted in open reporting-lines and warnings of incidents that could impact on farmers and landowners, e.g. the NFU was currently being consulted as a non-statutory consultee on proposals by Anglian Water for two new reservoirs in the east of England. The NFU representatives advised that it did not feel that it had this relationship with Southern Water.

The panel was advised that a much-needed water resources and management specialist for the East (and Southeast) had joined the NFU and the organisation would be looking at working with water companies to improve water storage.

## Section 2.4 - Information about the performance of water companies across England.

Evidence provided by stakeholders also looked at the national picture and how the 9 water companies in England measured in terms of performance.

A report was produced by the Environment Agency in July 2023 - **Water and sewerage companies in England: Environmental Performance report 2022** which showed that 2 of the 9 water companies were rated as poor (1 star) and 4 were rated as requiring improvement (2 stars). The number of pollution incidents (from sewerage and water supply assets) increased from 1,883 in 2021 to 2,026 in 2022.

Ranked EPA performance star ratings (out of 4) for the 9 water and sewerage companies in 2021/2022:

<b>Water company</b>	<b>2021 (year 1)</b>	<b>2022 (year 2)</b>
<b>Severn Trent Water</b>	4 stars	4 stars
<b>Northumbrian Water</b>	4 stars	3 stars
<b>United Utilities</b>	4 stars	3 stars
<b>Yorkshire Water</b>	2 stars	3 stars
<b>Anglian Water</b>	2 stars	2 stars
<b>Thames Water</b>	2 stars	2 stars
<b>Wessex Water</b>	2 stars	2 stars
<b>Southern Water</b>	1 star	2 stars
<b>South West Water</b>	1 star	2 stars

One concern in particular, raised by stakeholders when discussing both Southern Water and other water companies, was levels of engagement.

The panel heard through most of the meetings that the experiences of people local to incidents of pollution were not being properly recognised and that, other than through campaign and interest groups, those people did not necessarily have a voice.

## Section 2.5 - The Regulatory Framework

On the 1 March 2024 the panel spoke to Mike Jolley, Natural England, Strategic Plans for Freshwater Senior Advisor and Michael Turner, Environment Agency (EA), Area Environment Manager (East).

## The Environment Agency

It was explained to the panel that the Environment Agency (EA) was a non-government departmental body (a quango) rather than a government department, and was sponsored by the Department for Environment, Food and Rural Affairs (DEFRA), and that this was an important distinction for its role.

### The Role of the EA

The policy framework within which the EA and the water companies functioned included the Environment Act 2021 and the Environment Improvement Plan 2023.

The EA also worked to the Flood and Coastal Erosion Risk Management Strategy, which had three long-term ambitions:

- working with partners to bolster resilience to flooding and coastal change across the UK, and provide climate resilient places;
- ensuring that investment and planning decisions secured sustainable growth, environmental improvements and a resilient infrastructure for future climates; and
- that the UK was in a position to respond and adapt to flooding and coastal change, with people understanding the risk locally from flooding and coastal change, and how to respond.

The EA's role was to hold water companies to account to reduce pollution and tackle storm overflows, as well as carrying out criminal investigations into potential non-compliance at wastewater treatment works. There had been 58 prosecutions against water and sewage companies since 2015, securing fines of over £147million.

The EA was working with farmers/landowners and non-governmental organisations to improve water quality. In addition, it was a Category 1 Responder to environmental incidents which occurred, on average, every 45 minutes.



## Water Quality Permits

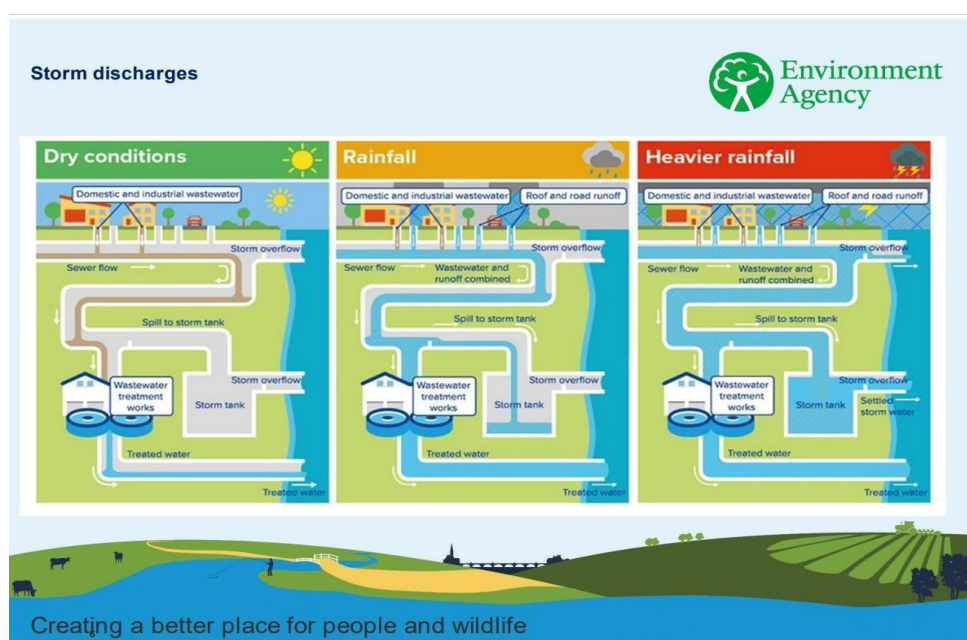
The EA had received permission for a new charging scheme for water quality permit regulation, which would mainly affect water company charges (the consultation was available on the Government website).

It was explained that when setting the permit conditions for waste-water treatment works (including in particular, the quality of discharge into controlled water), the EA would take into account the flow of the river, and the dry-weather flow (the expected level of effluent coming out of the treatment works). The process relied on the actual environment cleaning up organic pollutants both within the treatment works and downstream.

This process, however, did not help with persistent pollutants. There were hundreds of private treatment plants that operated under light-touch regulations in Lewes District and as long as they met the 'general binding rules' they could discharge into watercourses.

## Overflows

Achieving the appropriate flow, particularly during dry periods, was complex and impacted on areas such the amount of water available for abstraction upstream, for example, to farmland. Storm overflows, when allowed, could be pumped back into the treatment system. During heavy rain events, storm water settled in the storm tanks and received primary treatment, and under agreed permit conditions water could be discharged into rivers, water courses and seas. Water companies were required to provide data on the storm overflow occurrences to the EA to ensure that the overflow took place in the correct conditions. This data was available publicly, online.





### **Water Quality for rivers and coastal areas:**

The panel was told that the environment for river water quality in terms of bathing water, differed from coastal areas. The requirements for river water quality were based more on an ecological need for maintenance of the habitat. Additionally, there would be run-offs from farmland that would include pathogens. Whereas marine bathing waters were driven by human health needs. The EA monitored the quality of bathing water to ensure regulations were being complied with.

The EA worked to ensure permit holders were complying with the permit requirements, and with water companies and local authorities for necessary changes to be made, such as fixing incorrect connections, minimising the impact of dog fouling and improving the knowledge of local communities and landowners (including farmers).

The panel heard that bathing water quality had improved significantly over the last decade due to robust EA regulations and work done with partners and that 96% of bathing waters in Southeast England met minimum standards in 2023.

There was one bathing water area in the South Downs that had not met the sufficient standards, but this was not in the Lewes District.

The panel was advised that local authorities chose where they wished bathing waters to be located and contacted the Department for Environment, Food and Rural Affairs (DEFRA) with the request. The areas tended to be small and had public access, such as a carpark, and as a consequence, there was the risk of surface water contamination. The panel was told that water samples were collected up to 20 times during the water bathing season and analysed for bacteria, but it did not follow that an excellent rating meant there was no risk at all to human health.

However, a poor rating meant that the water quality warranted local health advice that people should not bathe. The EA used pollution risk forecasting to assess when environmental conditions, such as predicted heavy rainfall, would necessitate the advice that swimming in the area was not safe. If a beach was closed for a period of time, it would not automatically affect the rating.

### **Impact of Agriculture**

The panel heard that agriculture had a significant impact on the environment and water quality, at a national level it impacted on 40% of waters, compared to the 36% of waters impacted by pollution from wastewater (based on a 2019 source of data).

The EA was working with farmers and although the regulations were light touch, there were controls around areas that could result in major pollution such as silo and fuel storage. Farmers used fertiliser and grew crops on flood plains, which impacted on waterways. The EA had 13 agricultural officers in the South Downs and Solent

area to regulate farms and provide advice on improving the environment. Many farmers were already aware of their responsibilities. It was explained that the EA had widened monitoring of Persistent Organic Pollutants (POP), which in turn was broadening its understating of the areas that chemicals and other pollutants came from. A fourth Chemical Investigation Programme was currently being designed, with support from water companies, which would look at chemical pressures from pharmaceuticals and antimicrobial resistance. Standard sewage treatment works were not designed to remove these types of trace chemicals and a general awareness by the public of the emerging pollutants was needed.

### **Resourcing**

The panel then heard that the EA was focused on doing the best work it could with the resources available. It had recently received additional funding specifically for implementing water industry regulations. The funding would provide at least one additional team for the South Downs and Solent catchment, with ambitious targets set for future years with the aim of inspecting all operational water company facilities.

### **Water Availability**

The panel was advised that in terms of overall water availability/volume, there was a sufficient amount for the population and local demands. However, at both an industrial and domestic level, the issue was how efficiently it was being used.

The EA's target was for each person in England to use 100 litres of water a day or less, and the usage was currently 140 litres per person, per day.

The EA had a responsibility to ensure that the right for water abstraction within a granted permit was fulfilled.

Water companies (such as South East Water in this area) had a responsibility to provide sufficient drinking water to customers.

Ofwat was the regulator that considered the investment strategies put forward by water companies and allowed spend on new resources. The EA, along with Defra, Ofwat and the water companies planned for water security and demand.

### **Coastal Waters**

It was explained that although the driver for coastal bathing waters was human health the coastal water bodies continued to have responsibility for maintaining a good ecological status through the Water Framework Directive. The Government

#### **Call to arms for Local Authorities**

- Well thought through sustainable development, enacted through the planning process and detailed in the new levelling up bill.
- Consider water holistically – code for sustainable homes, water use, soak aways, SUDs.
- Keep strategic flood risk assessments (as part of your local planning duties) up to date and in line with latest climate change guidance
- Maintain highways assets





was considering the parameters for bathing water quality testing. Quality was monitored between the months of May to September. The EA would welcome the monitoring of the waters all-year round, to reflect the changing habits of beach users. However, this would be resource dependant and would have caveats such as being able to accurately test waters during and after seasonal storms and following heavy rainfall.

Self-monitoring by operators (providing results for assessment by the EA to ensure permit compliance) was partly driven by a reduction in funding. This process was being reviewed and any changes to strengthen the auditing element would require more staff and resources. The Blue Star rating for beaches was not within the EA's remit and took into account other factors. The star rating awarded to water companies was based on performance.

### **Fines on water companies**

The panel heard that the guidance for fines had been reviewed and updated several years previously, with larger fines now imposed. Some of the monies from water company fines were being provided to the EA but the EA had to demonstrate that it was able to invest the monies competently.

In terms of funding, the EA raised funds from: flood defence (from both the government and local flood defence committees), grant-in-aid (from the public funds), permit fees and charges (including abstractions and discharges), and major industry.

### **Natural England:**

Mike Jolly, Natural England Senior Advisor, Fresh Water, spoke to the panel. His team covered the geographical area of the Solent and South Downs, which included Lewes.

He explained to the panel that Natural England's remit was around the protected sites network. Natural England worked with Southern Water and other water companies on their strategic plans, which included water resources and water quality.

It was recognised through the Lewes Brooks triple SI assessment that water quality was shown to have been one of the areas impacted, and that the sewage treatment works was a contributor. The site had been put forward to Southern Water for inclusion in its Water Industry National Environment Programme, in order to further investigation how much responsibility Southern Water had for the impact on water quality. Natural England and the EA would collaborate with Southern Water on development of an 'actions specification form' that would detail what needed to be looked at over the investigation period. An options appraisal plan would then be used

to implement actions from the data gathering stage. Ofwat would ultimately decide on its inclusion.

\*Previous discussions between the panel and stakeholders did identify a disconnect between the EA, Ofwat, and Southern Water (this could possibly extend to other water companies). There was a sense that the investment strategies that water companies wish to undertake are regulated to the point where the intended outcomes from the final, regulated levels of investment are not achievable. Part of the EA's and Ofwat's role is to monitor any significant increase in customer bills.

\* The Water Services Regulatory Authority (Ofwat) was invited to speak to the panel but declined the invitation.

East Sussex County Council was also invited but advised that it was undertaking its own scrutiny of Southern Water.

## **Section 2.6 - The Current Financial Structure for Water Companies in England**

As noted at the beginning of the report, the panel's remit as a sub-committee was to monitor and work with Southern Water so improvements in performance and a reduction in sewage spills could be achieved and Southern Water could return to at least a 3-star ranking. However, in its efforts to gain insight and context into how the current situation had come about, with Southern water incurring a record fine in 2021 of £90 million, the panel chose to also look at the current ownership, funding, and service models for the water industry in the UK.

In 1965, 27 river authorities were created in the UK following the enactment of the 1963 Water Resources Act with membership partly nominated by local authorities and partly appointed by the government. In April 1974, the river authorities were abolished with the powers being passed to 10 regional water authorities, following the 1973 Water Act. This structure was maintained until 1989 when the water industry was privatised. Wastewater management in Wales is managed by Welsh Water (a not-for-profit organisation with no shareholders), Scottish Water is owned by the Scottish Government, and Northern Ireland Water is similarly government owned. The privatisation of the water industry in England led to the creation of nine privatised companies with the Government writing off any existing debts of £5bn as part of the process. England is the only country in the world to have fully privatised for profit water industry.

## Professor Richard Murphy

On the 22 April 2024 the panel talked to Professor Richard Murphy, Professor of Accounting at Sheffield University (author of the report '[Cut the Crap – accounting for clean water](#)'). Professor Richard Murphy, Sheffield University

The presentation from Professor Murphy (based on the 'Cut the crap' publication) had been produced the previous year (2023) and was a review of the viability of water companies in England and their ability to keep rivers and beaches clean. Professor Murphy explained that a report submitted to Defra by independent reviewers in 2021 stated that the cost of supplying clean water to rivers and beaches in the UK would be £260bn per year – this figure was prior to the more recent inflationary forecasts. Subsequently, the House of Lords undertook a review of the work done to produce the report and along with other estimates, concluded that, unless fresh and wastewater systems were going to be split (which was not considered likely), this was the likely, best estimate, and the figure used for the basis of his work detailed in the presentation.

The panel was advised that water companies announced in 2023 that they intended to spend 10 billion a year in new investment by 2030, and Thames Water had recently announced that it would expand its investment, at a significantly increased cost to consumers. The Department for Environment, Food and Rural Affairs (Defra) required an investment of £56bn by 2050 under its 'Plan for Water' – this figure amounted to 20% of the required investment or £2bn over a 27-year period and was insufficient. Although technically, it may not be feasible, the required figure was nearer £260bn over a 10-year period.

Professor Murphy went on to explain that a database of accounts from 2022-2023, for all UK water companies (water-supply only companies were not included), was created and consolidated to test the financial viability of the proposition. The average result was then compared to the 2022 results. The results showed an average operating profit level of 37%, which was considered good for a product-supplying company. Customer deposits were held, and the interest paid on the deposits made up a significant proportion of the profit - the dividends paid were larger than profits earned, despite declared losses (dividends were able to be paid because they were paid from retained losses). The panel was told that the majority of funding was through loans, overdrafts, long-term debts, as well as other long-term and pension liabilities. £77.4bn was spent on equipment (tangible assets) which was funded by £65bn of borrowing. Total investment by shareholders (including ordinary shares and share capital) was £2.24bn.

Professor Murphy's work calculated that there had been £91.5bn of investment over a 20-year period, which equated to £4.5bn a year (with shareholders contributing the smallest percentage), and annually was more than the £2bn a year that Defra was requesting to be invested over the next 27 years. There had been no significant

investment by shareholders. A model was tested that assumed the investment of £260bn, with the amount of investment required weighted by the number of customers, the number of employees, and the value of existing assets, to provide a 'weighting' by each company (it was noted that Southern Water had a weighting of 7.4 percent). This demonstrated that the apportioned investment required (the previously stated total of £260bn) was out of all proportion to the total net worth of the water companies, of £13.38bn and left a deficit of approximately £246.62bn. The study considered that the water companies were environmentally insolvent, the business models were dependent on pollution, and did not meet societal needs.

The panel learnt about the projection of how the accounts might look like in 10-years if the £260bn investment was modelled. It was assumed that new assets had a lifespan of 100 years (with an assumed £2.6bn of depreciation per year and other operating costs of £0.1bn), and an assumption that extra interest on the cost of funding £260bn would be £13bn. The total losses were approximately £15.7bn per year, which would be greater than the revenue generated, and unsustainable as a financial model. Government support and subsidies would be needed to ensure a carbon-neutral, sustainable model. The total wealth of the UK (according to the Office for National Statistics) stood at £15,221bn and suggested that funding could be made available through an innovative/creative approach to financing or nationalisation (The panel noted that £700bn was currently invested nationally in ISA's).

## **Section 2.7 - Challenging the actions of water companies**

On the 22 April 2024 the panel also spoke to Emma Montlake, Director of Casework at Environmental Law Foundation, and Matthew Topham, at We Own It.

### **Emma Montlake, Environmental Law Foundation:**

Emma Montlake talked to the panel and outlined the role of the Environmental Law Foundation (ELF), which supported communities in engaging with environmental decision making. She told the panel that she is also an active member of 'Love our Ouse', a community interest group, which sought to benefit all life (human and wildlife) along the length of the river Ouse. Emma Montlake explained that the ELF had supported a number of communities with environmental water pollution issues; the examples she gave were:

- An environmental campaigner in Northeast England who provided sewage discharge records over approximately 20 years, which in turn provided evidence for a number of complaints. There was a resulting EU Commission ruling in 2012 (reaffirmed in 2023) that the (Combined Sewer Overflow) CSO for the area had not complied with the Urban Wastewater Directive. A further complaint was made to the Office of Environmental Protection (OEP), which has led to an OEP

investigation and a preliminary finding that the Government, the Water Services Regulation Authority (Ofwat) and the Environment Agency (EA) were not applying the law correctly in the interpretation of what constitutes a serious climatic event.

- An Intervention in the Supreme Court case of Manchester Ship Canal v United Utilities in March 2023, which involved an illegal sewage discharge case and may change the law on claims for common law trespass and nuisance (such claims are currently precluded under the Water Industry Act and only the EA and Ofwat can prosecute).
- Supporting Hayling Sewage Watch (a local campaign group which promotes use of electronic sewage pollution warning signs on beaches) to look into the Blue Flag system of awarding beaches excellence when known sewage discharges are taking place. This included campaigning to get the EA to monitor bathing water areas more frequently.
- Assisting Love our Ouse with work on the Lewes Ouse Charter and working to produce a charter acceptable to stakeholders, including Lewes District Council (the Full Council motion for a Rights of River Charter for the river Ouse was noted)

The panel heard about Love our Ouse, a small but dynamically led organisation that supports River People tours, community mapping and consultation rights, as well as a number of community events which promote the importance of the river. The organisation also leads on the Rights of River Charter (the final 'right' on the Charter was the 'right to not be polluted') and sought to engage with stakeholders. Love our Ouse had started to engage with Southern Water and had been invited onto the Catchment Partnership.

### **Matthew Topham (We Own It)**

Matthew Topham presented to the panel and outlined the role of We Own It, an organisation with 200,000 members across the UK which campaigned for public ownership of public services.

He explained that approximately 90% of water services across the world were provided through public ownership and that the UK model was not the norm throughout Europe. There had been a significant fall in the number of reservoirs brought online since privatisation of the water industry (1989).





Regulators were expected to recognise the water companies as commercial entities in a market and that profit was a key part of how the industry is run. The regulatory framework had to meet the needs of the market and ensure the appropriate performance of water companies.

Mathew stated that, as well as the sustainability of water in the future as a valuable resource, sewage spills was an area of water company operations that was of great concern to the public, with Southern Water responsible on its own for approximately 800,000 hours of spills since 2020. 27% of Southern Water bills from 2019 to 2023 had been spent on servicing debt, the second highest level after Thames Water. Many of the creditors at Thames Water were also bondholders and received income from dividends and debt.

Matthew Topham stated that the argument for public ownership of water companies was supported by evidence that the top 10 European countries for clean water all had over 80% their water in public ownership. Austria, often top of the table, was 100% publicly owned and was constitutionally not allowed to privatise its water. Public ownership also provided more investment in assets and infrastructure, and the last available comparable statistics for the UK showed that, when not affected by Covid, it was in the bottom 6 of countries measured, in a group with countries that had considerably less resources. Comparative studies showed that if England's water system had received the same level of reinvestment as Scotland's (which is publicly owned), an extra £28bn would have been available for investment in England's water services. An example of the efficiency of public ownership was Paris Water, which was privatised until 2010 and then brought back into public ownership. In less than a decade, leaks from pipes had reduced from 20% to 5%, with savings of approximately €76 million.

Matthew Topham advised the panel that 'We Own It' had a vision for a system of democratic English water, with Board members having accountability to the consumers. Further, the system should be run locally, with ownership and stewardship by the local council and Board representation to include councillors, household user groups, water campaign groups and staff (through union representation). There were French and Spanish water companies that included voting rights for board members who represented consumers (Paris Waterfront Observatory as an example), and the boards brought businesses and households together to discuss what was needed from the water companies. There was an opportunity to approach the issue through a democratic process.

The panel heard that the recognised forms of public ownership were:

- Standard nationalisation – a difficult challenge but the system could pay for itself and bring down the cost for householders.

- Special administration – an easier system, through emergency legislation, which would come into use if a utility provider failed.
- Shares, not fines/equity fines – an appropriate level of compensation for the public when being failed by a utility provider (for example, the continued polluting by a water company). A slow transfer of shares to public ownership based on the cost of a fine as a percentage of shares.

The panel discussed with Professor Murphy, Emma Montlake, and Matthew Topham a number of the issues raised. The panel listened to concerns around the regulatory environment and whether it was fit for purpose. There were concerns that private companies often employed staff from the organisations that were supposed to be regulating them. It was suggested that the same law firms and accountants were sometimes advising both regulators and the private sector. Although there was a regulatory framework for water companies, the companies, to a large extent, were regulating themselves with the resulting issues of leaks and non-permitted overflows. Water companies were receiving fines from regulators whilst at the same time looking for investment for infrastructure; the result of which was a significant price rise for customers. It was noted that regulators such as the Environment Agency had received significant reductions in funding with an approximate reduction in prosecutions of 80% since 2010.

Different models of financing the water industry were discussed including government backed bonds and ISAS, with direct control by local authorities. It was explained that in order to correctly price a bond in the market, local authorities would have to group together to produce the levels investment needed. However, the current bond-markets were not flexible and new legislation and new expertise would be needed. It was suggested that rivers and waterways would be represented on any Board through a charter. In terms of legislation, there was environmental law, but it was not necessarily being enforced correctly. Again, this could be as a result of the lack of available resources. The Water Industry Act included immunity for water companies from what were termed nuisance prosecutions. Local Authorities had control over policy direction, and this could provide more focus on sustainable development and water abstraction. By-laws could be used to control water management.

## **Section 2.8 - How other local authorities are scrutinising water companies**

In June 2022 the Lead Member for Transport and Environment at East Sussex County Council approved a motion which included a request for ‘Southern Water to take responsibility for sewage discharges in East Sussex and apologise to residents, businesses and visitors where appropriate to do so and offer a full explanation’. In November 2022 Southern Water met with the County Council’s Place Scrutiny Committee to discuss the actions Southern Water was taking to reduce the use of storm overflows and sewage discharges in the County. The Committee met Southern Water again in November 2023 to receive an update on the work done to deal with storm overflows in East Sussex [54](#).

In July 2022 Wealden District Council carried a motion at its Full Council meeting asking for Southern Water to be held to account in a number of areas, including sewage discharge, deteriorating water quality and more open data sharing, and asking that the Council continues to take a lead on addressing the issue and works constructively with other agencies. Subsequently, Wealden District Council now co-ordinates the Southern Water Local Authority Stakeholder Group with representatives from more than 20 councils across the Southeast. Lewes District Council is represented on the Group by senior planning officers and a Cabinet Member in the role of Lewes District Council Water Champion. The Group has met five times and meetings have been attended by senior representatives from Southern Water, the Environment Agency, and Ofwat. A working group was also appointed to set a strategy and priorities for the main Group [55](#).

In November 2023 Arun District Council formed the Arun Flood Forum, which is independently chaired. The forum held its first meeting in January 2024, and it includes, but is not limited to representatives from Southern Water, the Environment Agency, and West Sussex County Council, as well as councillors from Arun wards affected by flooding issues. One of the areas of focus for the forum is the promotion and implementation of permanent, sustainable solutions to flood reduction [56](#).

Looking outside of East and West Sussex and scrutiny of other water companies, Norfolk County Council held a [Scrutiny meeting in March 2024](#) with Anglian Water and EA representatives to talk about the monitoring and prevention of drainage issues [57](#).

In 2023/2024, Bracknell Forest Council and Woking, Guildford, and Lewisham Borough Councils all used their scrutiny functions to review the activities of Thames Water [58](#).

In November 2023, North Yorkshire Council’s Full Council agreed a motion that included a request for Yorkshire Water and other stakeholders to speak to the Council’s Transport, Economy, Environment and Enterprise Overview and Scrutiny

Committee. The City of York Council also has a review of Yorkshire Water and sewage dumping on its Scrutiny work programme 59.

## **Section 2.9 - Site visits**

Two members of the panel, Councillors Keene and Cohen, visited the Barcombe Wastewater Treatment Works. The site visit included a presentation outlining the upgrades being made to the facility to increase its capacity and a tour of the facility and upgraded works. The improvements being made at the facility included greater storm water tank capacity, a new phosphate digestion tank, and new water contaminant sensors at the outflow. Panel Members who went on the tour were advised by Southern water staff that:

- The Barcombe works had been serving a greater number of households than its design capacity for several years. The question from Members was how Southern Water planned for infrastructure investment to ensure it was sufficient to meet demand (following the visit the panel was sent an official statement from Southern Water advising that, in terms of dwellings, the Barcombe Works had never operated beyond its capacity. The contradiction with the information from staff was not explained).
- There appeared to be a communication failure during the tour, with questions about sewage spills being interpreted as concerning specifically accidental sewage discharges, which were claimed to be rare. Panel members on the tour felt this was indicative of an industry culture in which sewage discharges per se were not considered unusual or particularly problematic.
- Discharges in high water-flow conditions were not worrying because most solids would have settled and would be contained. A claim also made by Southern Water representatives at an earlier panel meeting. There was no acknowledgment that bacterial and chemical pollution would not be contained solely in large solid matter.
- Approximately 90% of sewage discharges were compliant with the Works permits. Unpermitted discharges would usually be caused by an equipment failure, e.g. a pump breakdown. Southern Water claimed to keep a good supply of replacement parts in stock, which would be dispatched rapidly in the event of plant failure. In line with sewage industry standard practice, the site operated a self-reporting system for data and discharge incidents to the Environment Agency'
- There were a limited number of contaminants which were tested for at the Works outflow, and these did not include Persistent Organic Pollutants (POPs), pharmaceuticals, or microplastics, as testing for and removing these contaminants is not required by the Environment Agency. All sewage treatment processes at the site are dictated by the Environment Agency (EA) permits, as is standard practice at wastewater treatment works, and Southern Water's priority as a business is to only conform with EA permits.

- The process for rolling out new technology to wastewater treatment works is slow, (the panel members felt there was little company appetite to do so) in order to improve water quality beyond the requirements of their Environment Agency permits. While there is some academic R&D occurring into new methods to treat new and emerging water pollutants such as microplastics, pharmaceuticals, and PFASs or other POPs, much more would be needed to develop viable methods to address such pollutants at an industry scale.



## **Section 2.10 - The Panel's final meeting with Southern Water**

In June 2024 the panel had a final meeting with Southern Water and received a presentation from Jonathan Yates, Head of Delivery for the Clean Rivers and Seas Taskforce.

### **Clean Rivers and Seas Taskforce**

The presentation provided an update on the work of the Taskforce, which had responsibility for delivering pathfinder projects through an accelerated programme. The presentation described the taskforce's progress from its inception in 2021 through to its plans for the delivery of overflow reductions over the next five-year period.

The panel heard that the taskforce had been charged with reducing the number of combined sewer overflows from their current levels to levels that were significantly lower, and its primary focus was source control and using implementable and sustainable solutions to prevent rainwater entering the system.

Efficient stormwater treatment was also an area of focus for the Taskforce. There were a number of pathfinder projects across the South that took a holistic approach to community wastewater management, including a scheme in Fairlight in East Sussex. Southern Water was looking at the following solution areas to reduce overflows, optimisation, illegal connections, domestic and industrial sustainable drainage systems, and highways schemes.

The process by which sewage and wastewater was dealt with in a combined system during dry, rainfall and heavy rainfall periods was explained to the panel, as were the circumstances that would lead to a combined sewer overflow.

The panel then heard that, following the launching of the Clean Rivers and Seas Plan, which would look at a thousand combined sewer overflows across the region, a further £10 million of accelerated funding had been provided by the Government to support the work of the Taskforce.

Southern Water was looking at the following solution areas to reduce overflows including optimisation, illegal connections, domestic and industrial sustainable drainage systems, and highways schemes. The panel was told that the Taskforce's aim was to look differently at engineering solutions for providing and maintaining infrastructure and providing pathfinder schemes, with a focus on providing solutions tailored to the environmental demands of differing catchment areas. The panel was advised that highways schemes were a key area, and Southern Water was working with authorities to mitigate the impact of surface water run-off.

In response to a question from the panel regarding the priorities of the Taskforce, it was explained that each catchment area had an engineer and a project manager, and part of their roles was to understand the catchment area and the combined sewer overflows in the catchment. Southern Water's priority across the region was

to target areas where numbers of sewage spills were highest. It was reiterated to the panel that each catchment area had a different set of demands and catchment-based work and understanding the demands was critical in providing solutions.

The panel was told that all of the funding for the Taskforce was being used for preventative measures and being put back into local areas. It did not relate to Southern Water's core business. The Taskforce would work with local communities and other stakeholders to bring solutions forward. A similar approach was intended for the £1bn included in the draft determination referred to previously.

### **Groundwater Management**

The panel heard about new approaches being taken by Southern Water to groundwater management including the piloting of a programme of relining pipework and the sealing of its own network as well as private systems. The process also included the monitoring of the systems following the completion of the work.

### **Wetland Areas**

Southern Water had committed to four wetland areas as part of its ambitions to prioritise green solutions. The panel was told that Southern Water was working through its draft determination with Ofwat and other regulators and in terms of combined sewer overflows, the programme of work on the 1000 overflows in the region until 2035, with the inclusion of green solutions, was estimated to cost approximately £1bn within Southern Water's business plan.

### **Monitoring the health of the seas and coastal areas**

The key drivers for regulators when looking at the sewage levels monitored were the health of bathers and shellfish.

Southern Water recognised that communication with stakeholders and other water users within catchment areas was crucial. Catchment partnership meetings for all those with a vested interest in water quality were being held. Southern Water said it wanted to be part of the conversation. The importance of volume data when measuring sewage spills was acknowledged by Southern Water as the duration of time alone did not accurately reflect occurrences.

### **Surface Water and Development**

The panel discussed the management and measurement of surface water and the impact of development, a reduction of porous surfaces and climate change.

Concern was expressed over the entry of microplastics, rubber materiel, and diesel entering the water system through run-off from highways and other road surfaces. Southern Water recognised that improved communication with highways authorities was needed.

The panel was told that solutions for capturing the run-off could be engineered. However, there would be an additional impact on water companies, local authorities, and communities as a result of the work. Sustainable solutions were needed. There

was not a requirement to measure surface water volume separately, but through analysis Southern Water could predict levels.

The panel was reminded that Southern Water, as a provider, was not able to refuse a connection. However, it would not expect surface water from new developments to enter the combined sewer network directly.

### **Final questions to Southern Water**

Following the panel's final meeting with Southern Water, a number of questions were left with Southern Water to respond to. These are summarised below:

- a) **What is Southern Water doing to respond to comments that it was resistant to partnership working, despite the opportunities it presents to achieve more effective and efficient projects such as managing surface storm water/runoff and reducing pressure on SW's sewage network?**

As part of the Clean River and Seas Task Force Southern Water as a team dedicated to partnership and grant funded work with other parties. Southern Water has recently completed a two-year Sustainable drainage System programme in Schools project with the Department for Education, managing surface water and carrying out educational talks at approximately 100 schools. Additionally, Southern Water is working with the NHS, Network Rail, Fire Service, and the Police to manage surface water as part of those organisations' projects as well as supporting charities and animal sanctuaries in surface water management.

- b) **Lewes District Council has a very successful track record of partnership working to implement nature-based surface/storm/flood waters, which reduce the pressure on SW's network while also providing environmental, social and flood-prevention gains. SW representatives were recently given a tour of some of these projects. Would SW be able and willing to direct additional funding to LDC to scale up and expand such projects, which would provide value for money to Southern Water?**

As part of our Strategic Partnerships Team, we would encourage the partnership working between the two organisations. Please share any proposals and we will connect with the Strategic Partnerships team.

- c) **Has Southern Water studied the potential of funding farmers/landowners to increase the water storage capacity of their land/soil, thereby decreasing the pressure from surface/storm waters on its sewer network?**

Southern Water is exploring how catchment solutions methods, e.g. working with our extensive network of farmer/landowner stakeholders, may help with the ongoing work to reduce pressure on the wastewater network. This work includes both urban and rural areas.

- d) **The National Farmers Union (NFU) reported to us that the standard of Southern Waters communications was well below that of other water companies. Anglian Water was singled out as a positive role model in this respect, with meetings 3 times per year through boards and steering groups, resulting in open reporting lines and proactive warnings of incidents that could impact on farmers/landowners. Does Southern Water have plans to improve its dealings with stakeholders such as the NFU, and how can it improve its practices in this area?**

Southern Water has a very good relationships with the farmers and landowners that we deal with for our water catchment work. This work involves grant payments for improving how land is managed to improve aquifer water quality in the Brighton chalk block, i.e. the aquifer adjacent to Lewes and Newhaven. It is important to note that not all stakeholders are part of the NFU. The NFU are represented on our Independent Climate and Environment Group which meets quarterly to discuss environmental matters.

- e) **Several organisations the panel has spoken to raised concerns that Southern Water may be underreporting the full extent of its sewage discharges to the Environment Agency. Additionally, there have been recent news reports about whistleblowers reporting that water companies are knowingly breaching their legal obligations, by "flow trimming" to manipulate the amount of sewage reaching sewage treatment works. What mechanisms do you have in place to ensure you are consistently treating the full amount of sewage at your works that you are meant to, and are meeting your self-reporting obligations? What mechanisms do you have to rectify and correct any breaches which are found to have occurred?**

This is not the case, Southern Water report all events to the Environment Agency via the Event Duration monitoring programme where all of the 1000 overflows across our region send real time data, not only to the EA, but also via the Beachbuoy/Rivers and Seas Watch app. We have a very robust reporting and review process which reinforces this communication flow.

- f) **Water UK reports that water companies are proposing to spend £96bn between 2025-30. What proportion of this will go to upgrading the network to stop sewage discharges?**

Southern Water is currently having its Business Plan reviewed by our regulators. As part of our overall plan 14% is targeted towards the reduction in combined sewer overflow events.

- g) **Will any of the proposed investment go towards improving monitoring of sewage discharges to capture volume, rather than just duration, data?**

This is something Southern Water is working towards. It is planned to have volumetric trials underway on some of Southern Water's outfalls this year.

- h) The House of Lords estimates the level of investment required to stop sewage discharges/spills is £260bn. The Environment Agency estimates that it will cost £51bn to clean up England's waters, while there is so far confirmed investment of only £6.2bn. How much progress towards these goals can be achieved with the planned investment level in Southern Waters's area?**

Southern Water has a robust plan that will reduce the combined sewer overflow numbers substantially throughout 2025-2030 as part of the commitment to the environment, and also the regulatory output. 14% of our business plan is dedicated to the reduction of combined sewer overflow usages.

- i) Recent research by Prof Richard Murphy (2023) has found that the amount of investment in the water industry required across England to achieve the goals of ending the scandal of sewage discharges (permitted and unpermitted) is incompatible with the current business model of the privatised water companies, and if undertaken would bankrupt them. It states that 'Using an accounting methodology known as 'sustainable cost accounting' it is shown that all of England's water companies are environmentally insolvent. In other words, they are unable to raise the required financial capital to continue in operation and meet the requirement that they deliver clean water to people in England, while avoiding pollution of waterways, rivers and beaches from untreated storm overflows.' (Murphy 2023). To what extent can the environmental goal of eliminating sewage discharges be achieved without unreasonable increases in water consumer's bills? How will this be achieved?**

**Richard Murphy's (2023) research into water industry accounting found that there has been 'no net investment of shareholder's funds in the water industry' during the period 2003-2023, and that 'investment has been funded by borrowing.' He calculates that 'Less than £4.6bn a year has been invested in the water sector on average over a twenty-year period' and that '£26bn a year is required' across England, with a weighted apportionment of £19.1bn over 10 years from Southern Water. How could the required investment be made without large government subsidies or unreasonable increases to water consumers' bills?**

[Response to the previous two questions:](#)

Bill increases- please note this is subject to regulatory approval so is not confirmed. There are several reasons for price of water and wastewater

services rising from 2025–30, alongside inflation and energy and the cost of materials increasing. Most importantly, Southern Water needs to invest in new water sources and infrastructure to meet demand. The average combined water and sewage bill will increase by 73% between 2025 and 2030. At the same time, Southern Water is offering more support for customers than ever before with a £235 million support package for those in the most vulnerable of circumstances and a minimum of 45% off for those who qualify for our Essentials tariff. Southern Water plans to increase the number of people on such tariffs, raise its Hardship Fund to £1.25m and increase the number of people on its Priority Services Register. As Southern Water developed its Business Plan 2025–30, more than 25,000 customers across our region said that alongside providing reliable services, protecting the environment was a priority for them, and Southern Water has listened.

- j) If adequate investment funding would require high levels of government subsidies/unsustainable increases to consumer bills, does that show that a privatised water industry model can only operate at the cost of the health of our environment? Does achieving a healthy environment free of sewage pollution require the government to involve itself in funding the water industry, and if so, would it be better off taking water companies back into public ownership?**

This is not for Southern Water to respond to.

- k) The OEP report 9 May 2024 found that Defra/Environment Agency plans to achieve the goal of 77% of England's water bodies being in 'Good' ecological status by 2027 were woefully inadequate and would fail to achieve statutory targets in the Water Framework Directive, adopted into English law after Brexit. What does Southern Water consider to be the most important measures to take, to get England back on track, and which should be incorporated into any forthcoming updated plans, to ensure its adequacy?**

This is not for Southern Water to respond to

- l) Will Southern Water invest in and implement plans which go beyond the current inadequate Defra/EA plans and regulations in order to achieve these Water Framework Directive targets, or will it do only as much as is required by its regulators?**

Southern Water is focussed on improving storm overflows where there is impact to shellfish and bathing waters – The high priority sites. Southern Water will also be improving storm overflows in areas that have high customer impact. Southern Water is committed to improving storm overflows over a time. Southern Water simply cannot afford and will not be able to physically



deliver improvement on all storm overflows at once; so Southern Water is having to prioritise, but the most impactful sites are being dealt with first.

On river water quality improvements, the Southern Water plan looks to improve nutrients into rivers. In many locations the nutrients loads coming from wastewater treatment works will get down to technically achievable limits in the next 5 years through Southern Water investments; so there will not be much more that can be done than this, once built. Southern Water will continue to investigate new pollutants that may need further improvement and investment in future. Southern Water is also further expanding and improving river monitoring and will continue to spend on maintaining its assets to reduce the number of emergency or asset failure related pollutions.

**m) Is Southern Water developing technology/plans/methods to address the issue of treating/filtering persistent organic pollutants, PFASs, pharmaceuticals and microplastics pollution?**

For the water side of the business Southern Water is working with the Drinking Water Inspectorate to understand the PFAS risk to the water supplies in rivers and groundwaters. On the wastewater side Southern Water has work ongoing at a national level to understand how wastewater treatment can remove microplastics, focussed on sludge/bioresources.

**n) There were recent reports from ITV News Meridian following the water outage in Hastings caused by a major pipe burst that Southern Water failed to replace pipes which were declared 'outworn' 17 years ago, even though it received permission from Rother District Council to carry out the necessary works. What can Southern Water tell us to reassure us that it is not ignoring worn out piping/equipment which would pose risks to its ability to manage the sewage (and in some areas supply fresh water) in Lewes District?**

Subject to regulatory approval, Southern Water is investing £451 million to maintain its wastewater network, to reduce overall pollution incidents by 67% and to eliminate serious pollution incidents.

Smart monitoring devices means Southern Water can better target maintenance and monitor its 3,499 pumping stations, increase the amount of sewer and rising main refurbishment to reduce collapses and focus on the highest risk sewer mains. Southern Water will open two new advanced bioresources treatment centres in Kent, increasing power generation and enabling Southern Water to recycle and repurpose more waste from its treatment processes.

Southern Water is predicting the highest amount of housing growth of any wastewater company (0.85% per year compared to an industry average of 0.63%). Southern Water will invest £318 million to improve resilience and

manage growth by providing additional treatment capacity at 38 sites, accommodating more than 86,000 new homes by 2030.

£3.41bn will be invested [to 2035] to deliver a reliable supply of water to customers. This is a 90% increase on the previous five-year period. It includes:

- 300 kilometres of mains replaced – reducing leakage by a further 13% by 2030; using smart networks and meters to find and fix leaks faster.
- £320 million to upgrade Southern Water’s four largest treatment works, improving the reliability of our services for 62% of customers.
- £1.68bn water resources programme to create new sources, ensuring future supplies for customers through new pipelines and transfers from neighbouring water companies, four new water recycling plants and a new reservoir (Havant Thicket) – the first built in the UK for a decade.
- 1 million new smart meters – helping customers reduce their daily water use to 121 litres per person per day (from 123 litres) through access to real-time smart metering data and a new billing service. Reducing business demand by 9% by 2037.

All of this will provide an additional 189 million litres per day from new sources and capacity improvements by 2030, and a further 82 million litres per day by 2035, reducing interruptions to supply for our customers.

## **Section 2.11 – Lewes District Council’s response to the NPPF**

In September 2024 the new Government issued a consultation on the [proposed national planning policy framework](#), to which this Council issued a formal consultation response.

**Question 67** - Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

**Response - Yes. Reference to significant weight being placed on the importance of new, expanded or upgraded public service infrastructure when considering proposals for development is supported. While LDC works with infrastructure providers to assess future infrastructure requirements through the Infrastructure Delivery Plan, the council does experience some difficulties obtaining appropriate information from some public service infrastructure providers. Delivery of housing at the levels expected will require infrastructure being in place either ahead or at the same time as the housing is delivered. This will require forward funding in most cases, as developer contributions cannot achieve it under the existing business models.**

**In addition, the Environmental Audit Committee has recommended within the 2022 “Water Quality in Rivers” report, that Schedule 3 to the Flood and Water Management Act 2010 be enacted. Implementation would end the current automatic right to connect to sewerage systems and mitigate the**

**accompanying risks of overloading sewer capacity. This change would allow the capacity of the waste-water system to be considered as a material consideration in planning decision making.**

**Question 80 - Are any changes needed to policy for managing flood risk to improve its effectiveness?**

**Response - Yes. Footnote 7 in para 11 of the NPPF refers to 'areas at risk of flooding or coastal change' as 'a strong reason for restricting the overall scale, type or distribution of development in the plan area'. It would be helpful for greater clarification to be provided on how this relates to present-day and future flood zones to provide greater certainty around how flood risk is used to 'justify a lower housing requirement than the figure the method sets on the basis of local constraints on land and delivery', as identified in this consultation and as the basis for considering planning applications. This may require additional consideration around the policy and guidance on exception testing for flood risk.**

**There is also a need for greater emphasis on the ability of local hydrological conditions to meet the challenges of climate change and the impact that additional development is having on natural drainage systems. This is likely to require policy changes in accordance with the recommendations of the Environmental Audit Committee in the 2022 "Water Quality in Rivers" report in order to future proof homes from localised flooding and to enhance riparian law.**

**In addition, additional resource is required for the Environment Agency, as currently they are not able to provide appropriate and timely to be considered as a material consideration in planning decision making.**

**Question 85 - Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?**

**Response - The Environmental Audit Committee has recommended within the 2022 "Water Quality in Rivers" report, that Schedule 3 to the Flood and Water Management Act 2010 be enacted. Implementation would end the current automatic right to connect to sewerage systems and mitigate the accompanying risks of overloading sewer capacity. This change would allow the capacity of the waste-water system to be considered as a material consideration in planning decision making.**

## Section 2.12 – Recent Developments

The panel was aware, even as it was in the process of finalising its report, of a number of developments nationally, which could change the recognised position for the water industry in the future.

These included:

- The publication by the new Government of a Sector Review which would look at the governance of the water industry and its regulation. [50](#)
- The publication of a private member's bill calling for a Citizen's Assembly to restructure the water industry. [49](#)

The panel sought to reflect these developments in its final report but recognised that there would be changes over the next few months not reflected here.

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