

October 2022



Regulation is a public good, not a dirty word

The sewage pollution scandal shows the dangers of deregulation and weakening standards. Paul de Zylva asks how present ministers can make up for past failures and reboot regulation for good.

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Resigning Prime Minister Liz Truss [once said](#) that the government she served in as Environment Secretary would result in “great jobs and opportunities and fantastic beaches and rivers for families to enjoy.”

That was in 2014. In 2021, people were dismayed to discover deliberate and widespread dumping of untreated sewage into our rivers, seas and beaches. 2021 alone saw 372,533 sewage pollution incidents lasting a total of 3.1 million hours in England and Wales.

That 1-year snapshot shows how pollution was allowed to get out of hand for years. Ministers are mired in the sewage scandal for 3 main reasons: for ignoring the problem for years; for restricting the role of regulators; and, when they really woke up, for their actions being too little and too slow.

Turning a blind eye to pollution

Sewage is bad enough, but it's not the only pollutant harming water quality, wildlife and risking public health. Pesticides running off farmland and slurry from the growing number of livestock units intensively rearing chicken and pigs pollute even more than sewage and go largely unchecked.

There's also little monitoring of the pharmaceuticals, flame retardants, micro-plastics, industrial chemicals, construction waste and other nasties being allowed to harm our rivers, freshwaters and seas. When [MPs examined the issues, they reported](#): “So many emerging pollutants are being missed by inadequate and insufficient monitoring, and court actions against polluters have fallen dramatically.”

In their 2022 report into [Water Quality in Rivers](#), [MPs said their inquiry](#) had “uncovered multiple failures in the monitoring, governance and enforcement of water quality”, adding that “there had been a lack of political will to improve water quality, with successive governments, water companies and regulators seemingly turning a blind eye to antiquated practices of dumping sewage and other pollutants in rivers.”



Water flowing out of sewage outfall pipe onto beach Pixabay

Instead of rivers and bathing waters improving as Liz Truss said, the picture is one of steady deterioration. In England alone, most rivers aren't up to scratch ecologically, as government data shows.

A whopping 86% of England's rivers fail the ecological standards needed for wildlife to thrive. That's bad, but it's even worse than in 2014 when (only) 71% of rivers failed to make the grade. England's rivers have been on the slide for years, and ministers knew and had the time and the means to act.

The MPs' report makes sober reading. Scrutiny by parliamentary inquiries is an important democratic function, but why did it take until an MP inquiry in 2021-22 for ministers to wake up? Failure to listen and poor monitoring and enforcement highlight the importance of proper regulation and good governance for a thriving environment and healthy economy alike.

Failure to listen

People are often stunned to find that the dire state of our freshwaters and bathing waters isn't new. As the water companies' own trade body, [Water UK](#), says:

“Over much of the last 100 years, our rivers have been in a state of crisis. As recently as the early 1990s, over a fifth of sewage was not being treated properly, killing huge swathes of life in oxygen ‘dead zones’. Many rivers became rich in toxic metals, agricultural slurry and industrial chemicals. Particularly from the 1950s, the numbers of invertebrates, fish and mammals in or around rivers started to plummet catastrophically.”

Ministers can't claim ignorance, because we and others have been telling them of the problems and the consequences for years. In 2017 for example, we [told ministers and Ofwat](#), the economic regulator, that “dealing with pollution from sewer overflows should be a top priority”, given that sewage had affected 37,434 locations and 4,344 properties in England in 2015-16 alone.

Ministers have allowed the sewage scandal to engulf much of the nation, with discharges from town centres to coasts. [inews](#) reported on 18 August 2022 that in 2021, coastal bathing waters in England and Wales received 32,600 releases of sewage lasting a total of 220,000 hours.

MPs also knew, although some prefer to blame water companies and ignore government indolence. [268 MPs blocked sensible House of Lords proposals](#) that would've required water companies to act immediately to end harm from sewage. Instead, most MPs backed a weak plan that means rivers and seas will still be pumped and dumped with sewage in 2050 – more than 25 years away.

Who's responsible?

Water companies are obvious targets and are rightly in the firing line for failing to invest enough in preventing pollution, while paying their executives millions and their shareholders billions. In 2021 water bosses pocketed £24.8 million in pay, benefits, bonuses and incentives for performance. Since water privatisation in 1989, shareholders have enjoyed a £72 billion dividend deluge.

Nice work if you can get it, but it's easy to blame water companies and forget the government's role. Ministers can't dodge their ultimate responsibility for setting and enforcing the rules and standards, and for allowing sewage dumping and other pollution to become the norm.

The dire state of rivers, freshwaters and coastal bathing waters flows directly from ministers' persistent reluctance to set and uphold good standards, and to resource the regulators to enforce them. The apparent inability of ministers to link these persistent failings with the ongoing presence of sewage and other pollutants in our waters is bad governance, plain and simple.



River edge covered in plastic rubbish Pixabay

Yet even after all of this, it's still not clear that the plight of our rivers – which is just one indicator of the [poor state of nature in the UK](#) – is truly focusing ministers' minds, as they look to further scrap or weaken a range of rules designed to protect and improve our environment.

By ignoring the problem and presiding over lax regulation, the UK risks regaining its 1970-80's title of being the "Dirty Man of Europe", earned when the government also sought to evade standards to reduce air and water pollution from road traffic, pesticides and industry.

Northern Ireland's pollution – a sobering lesson in lax regulation

Lax regulation, and attempts to dilute or discard standards altogether, could see England and Wales go the way of the least-protected environment in the UK – Northern Ireland.

The lack of an independent Environmental Protection Agency in Northern Ireland (and Whitehall's reluctance to intervene) has seen decades of polluted rivers, freshwaters and wildlife havens, with little comeback for polluters who seem free to degrade water, soil and air quality and risk public health.

Most (90%) of Northern Ireland's supposedly protected nature sites are harmed by animal slurry and pesticide pollution. Lough Neagh, an iconic site theoretically protected by international and Northern Irish law, is in poor condition due to barely regulated sand dredging. [Fish and birds are disappearing](#)

as a lack of planning oversight or environmental assessment reduces water quality.

Taming the regulator

Even when regulations do exist, as in England and Wales, the basic tests are whether they're good enough and whether they're being applied consistently.

The sewage scandal resulted from regulations being reigned in as ministers focused on "cutting red tape", reducing regulators' funding and expertise, and letting polluters monitor themselves. Cowed by cuts and by ministers' obsession with deregulation, the once world-leading Environment Agency has been reduced to a shadow of its former self.

Ministers cut grants for the Agency to carry out its environmental protection work by more than half within a decade. Grants fell from £120 million in 2010-11 to £56 million in 2020-21, and, within that budget, funds for enforcement dropped by 80% as the National Audit Office (NAO) [reported to MPs](#):

"From 2010-2011 to 2019-20, the core grant-in-aid from which the Environment Agency's enforcement work is funded reduced by 80%, from £117 million to £23 million."

Shift from enforcement to voluntary action

The NAO also reported the Agency's shift from prosecuting and fining polluters to asking them to undertake voluntary measures: "Formal cautions moved from being the most common type of action used in 2015 to none being applied between 2019 and 2021."

The [Agency says](#) the new "business friendly", softly-softly approach is more effective and means that between 2015 and 2020 "environmental groups, such as county wildlife and river trusts, have received over £13 million as a result of enforcement undertakings."

Local environment action does need money, but instead of being given paltry payoffs from whatever polluters offer, community, river and wildlife groups may prefer decent funding for their efforts and plans, and to know proper regulations exist to help avoid as much pollution in the first place.

Cutting water testing

The Agency has also [cut its water quality testing](#). In 2013 it took water samples at 10,797 locations, but by 2018 only 5,796 points were tested. Unsurprisingly, the Angling Trust said:

"The Environment Agency can't say with any confidence what the state of our rivers is because they're not monitoring them closely enough."

Ironically, one effect of cuts is that, just when members of the public could be helpful eyes and ears in reporting any pollution they see, smell or both, the Agency has also had to scale back its ability to follow up on public tip-offs.

In its [report to MPs](#), the NAO noted the Agency's attendance at pollution incidents "has declined over the past five years". Even allowing for reduced inspections during the pandemic, the Agency now only attends incidents it thinks are serious.

A lack of responsiveness to people who bother to report problems erodes public confidence, especially when most pollution comes not from dramatic incidents but rather from routine sewage spills and the drip-drip of pesticides and other pollutants the Agency hardly tracks.

Cutting "red tape"

A toothless watchdog suits those who regard regulation as a dirty word. But it's hard to see how others gain – whether anglers, bathers, fishing crews, rowers, paddle boarders or tourist-dependent areas and communities trying to bring back nature in their area.



Close up of man's hand holding a fishing rod on river bank Unsplash

But enough hard-line politicians, lobbyists and what Liz Truss has called "vested interests dressed up as think tanks" still deride regulation as "red tape", and push for "bonfires" of regulations and more constraints on regulators in the belief that this'll see business boom without hindrance.

Politicians who like to look tough by cutting budgets and services and banishing "red tape" may calculate that pollution, fewer species and harm to habitats and health won't bother or be noticed by

the majority. After all, the consequences of cuts and weak regulation rarely make the headlines, although sewage becoming a touchstone issue may change that.

Blanket news coverage saw politicians and regulators back-peddling to claim they "take the issue very seriously" and are "doing all they can" to clamp down on the pollution they let happen in the first place. Ministers gave the Agency a short-term £21 million cash injection and some temporary staff for enforcement of pollution from farming and water companies from 2022 to 2025. That top-up from the 2021 Spending Review is welcome but doesn't make up for a decade of cuts.

Regulation can be good for business

Outmoded claims that protecting our environment somehow prevents economic growth and social progress still find their way into lobbyist and think tank briefings, and often end up in ministers' speeches if not government policy. Yet many reputable companies know how proper regulation is central to the certainty and level playing fields they say they need to plan and compete fairly.

In a [2017 study](#), "Help or Hindrance?", executives said the "impact of environmental regulation on the competitiveness of their business was positive overall". That could be because higher environmental standards and regulations tend to drive research and innovation in new products and clean technologies. In turn, these support the shift to clean industries and services, with new skills and jobs in businesses and economies that no longer profit from pollution and environmental decline.

Those who still want to weaken or cut regulation should spell out how regulatory failure that allows sewage and other pollutants to harm our rivers and seas for years is good for our economy. They should also explain to those living and trading in hard-pressed coastal areas, who rely on fishing, tourism and the "visitor economy", how they benefit from sewage-blighted seas and beaches.

Blighting beaches and local economies

In July 2021 [the Bournemouth Echo reported](#) the effects on local firms and fishing crews:

"Independent businesses and fishermen have told the Daily Echo how their livelihoods have been affected by the disposal of sewage into Poole Bay and Poole Harbour. Owner of Dorset Oysters Pete Miles said this is not the first time issues have surfaced. 'They keep building new developments but are unable to dispose of the waste effectively so sewage is getting pumped into the water. It's bonkers,' he said."

In 2022's peak August holiday season, 18 of Cornwall's beaches were off limits due to sewage. In Wales, sewage forced closure of 6 beaches along Cardigan Bay's 80-mile coastline and Porthcawl Surf School shut for 2 days. In Lincolnshire, visitors were advised to avoid beaches at Ingoldmells and near Cleethorpes and Grimsby. Brighton Beach in Sussex closed for the bank holiday weekend.

Into September and sewage warnings were still being issued for beaches at Walney in Cumbria and at St Annes in Lancashire. The Agency even “advised against bathing” at Blackpool Pleasure Beach.

Government’s inadequate reaction

When ministers eventually woke up to the sewage scandal, their late actions turned out to be inadequate – on monitoring pollution, on fines for polluters, and on the powers of regulators.

1. Monitoring pollution

“It is this Government who introduced the monitoring that allows us to know what is going on.”

That’s what MPs were told by the new Environment Secretary, Ranil Jayawardena, but that must be seen in the context of a decade of cuts that have weakened the Agency and left it reliant on water companies and polluters monitoring themselves, which isn’t independent, transparent or reliable.

2. Fines for polluters

“We have legislated to issue unlimited fines through a criminal process, and we will not hesitate to do more.”

That’s what Mr Jayawardena also told MPs, which is good. But the tough talk comes after years of ignoring conservation groups and residents who’ve been telling ministers and regulators that sewage spills are no longer an exceptional problem but rather happen almost every time it rains.

3. Regulators’ powers

The government says it has: “Set strategic priorities for Ofwat which made protecting and enhancing the environment a key priority for the first time.”

Better late than never, but when the poor state of our seas and freshwaters isn’t new and Ofwat formed in 1989 to act as the economic regulator of newly privatised water and sewerage companies, why is our environment only “a key priority” now?

4. Accountability

The government also claims: “Government and regulators also continue to hold the water industry to account on a scale never seen before” and “We are holding water companies to account over illegal discharges, with a record £90 million fine handed out in July 2021.”

Polluters should pay but when sewage has been polluting for years, why are fines only reaching record levels now?

Do polluters pay enough?

After the record £90 million fine handed to Southern Water in 2021, the next highest is Thames Water's £18.75 million fine in 2017. Those 2 fines stick out like sore thumbs, and yet the government boasted about the size of fines in its [response to MPs](#) on their Water Quality in Rivers inquiry:

"Since 2015 the Environment Agency has brought 48 prosecutions against water companies, securing fines of over £137 million."

Most of that £137 million is those 2 large fines, which together make up £108.75 million. That leaves £28.25 million in 46 smaller fines between 2015 and 2021, an average of £4.7 million a year or about £100,000 per fine. That seems like a mere rounding error, and raises questions about whether polluters have underpaid and, given the lax state of regulation, monitoring and investigation, whether many have polluted for free?

In October 2022 in [The Telegraph](#), Ranil Jayawardena announced that the £250,000 cap on fines for "serious" pollution by water companies would rise to £250 million:

"Ranil Jayawardena reveals how The Telegraph's Clean Rivers Campaign has inspired him to take a tough line on cutting pollution [...] Fines for water companies who seriously breach rules by dumping sewage in rivers and seas will be increased 1,000 fold, the new Environment Secretary has revealed."

How bill payers have already paid

The mess ministers have presided over is also illustrated by an ongoing [criminal investigation](#) into sewage treatment works possibly polluting above permitted levels. That matters because of the pollution, of course, but also because of the way our water bills are set.

Every 5 years, Ofwat's Price Review agrees the pollution control and environmental actions water companies will carry out. The cost of the agreed measures is then reflected in our bills. The cost of the actions agreed under Ofwat's current Price Review for 2024 to 2029 (PR24) will reflect in water bills up until 2029.

Crucially, because the agreed actions are geared towards what pollution is permitted, any breaches above authorised levels mean that our money is being banked without the pollution being curbed. When bill payers have already paid for rivers to be cleaner than they are, should they be expected to pay more?

Government's weak action plan

On Friday 26 August – the eve of the bank holiday weekend – ministers slipped out their [Storm Overflows Discharge Reduction Plan](#). Ministers say their plan "sets stringent new targets to protect people and the environment", which makes it sound like a cure-all when regulations and regulators

have been weakened and the plans themselves are too weak and too slow.

Ministers' "long-term ambition of eliminating the harm" means that almost half of sewage outfalls will still be polluting in 2040. Spills will also continue up until 2050 if there's "unusually heavy rainfall", which seems likely given the harsher and more frequent storms predicted with untamed climate change.

Ministers planning for rivers and seas in 2050 to be in the improved condition they should be in by now – and would've been had they acted properly sooner – is hardly a watershed moment.

Good governance means anticipating and avoiding problems, and not being late to the party with inadequate action. Is it possible for ministers to get behind proper regulation that prevents persistent pollution in the first place?

Clear compliance would see a cleaner environment and would be a more effective solution than lax enforcement and polluters self-regulating. That would avoid the need for after-the-event checks and fines, however huge they get.

Clear solutions ministers should adopt

Rather than snail's pace action while reaching to deregulate even more, ministers must:

1. Invest in comprehensive monitoring

The nation needs an independent, comprehensive system of real-time, round-the-clock pollution monitoring for sewage and for the cocktail of other contaminants. Monitoring matters because it'd help ministers track sewage and pollution to the source and know what harm is being done.

That would help reduce pollution incidents so that problems are solved, avoiding the need for costly clean-ups all round and helping ministers hit their own aims for a healthy water environment.

A big bonus of proper water-quality testing would be vital early warnings of diseases, infections and other health threats such as COVID-19, which was detected in waste water months before it was picked up in clinical tests.

The government says it's assessing suitable monitoring and assessment methods and is developing a chemical strategy. It's therefore unclear how and when the government will have a credible and robust monitoring system at its disposal to inform good decisions.

2. Resource the regulators

The government must restore the ability of the Environment Agency and other bodies to do their jobs properly. Cutting and constraining regulators and regulations has been a false economy that also hinders ministers from making informed decisions based on good evidence.

People carrying out their own water testing and other citizen science sampling has a role, but it's no substitute for the proper job being done by a fully functioning Environment Agency.

3. Drop "red tape" rhetoric

Tough talk of "cutting red tape" has nothing to do with diligent, evidence-based decision making, which is what underpins sound stewardship and good governance.

Costly cuts and deregulation don't make a good basis for businesses to operate fairly and responsibly. They also undermine people's voluntary effort to improve their area and make a mockery of thousands of volunteers and community groups who are already working against the tide to clean up local rivers and beaches. They haven't gained from previous weakening of regulation, and further deregulation is unlikely to help.

Notably, the pollution problem existed well before the UK left the European Union, and during and since the 2016 Brexit referendum ministers pledged that the UK's environment standards would match or exceed the EU's, including those the UK helped design when a member, such as the vital Habitats Directives the UK now wants to scrap.

Failure to regulate helps edge nature closer to the edge – another sign of bad governance.

What'll the new Prime Minister deliver?

As this story about the government's approach to the water industry demonstrates, proper regulation and good governance would avoid and prevent harm, support aims for public health and a thriving environment, and make economic and business sense.

Far from harming our economy, proper regulation helps avoid costly pollution, protects the public, and helps create certainty and a level playing field for business. As Liz Truss rightly said in 2014:

“A clean, beautiful, healthy natural environment is about more jobs and greater prosperity, contributing to our long-term economic plan, our wellbeing, and our future security. Our £100 billion food industry needs the environment to be in top condition if it is to be at its most productive. So does the whole £210 billion rural economy. In the 21st century modern economy, we are not trading off between prosperity and a thriving natural environment – we are trading up.”

Liz Truss's successor as Prime Minister can end the era of failure, bad governance and weak regulation. Will they do that, or will they deregulate for economic growth at any cost?



River meandering through countryside, green fields and footpath along waters edge
Pixabay