



Crystal Clear:

The Solution for Clean, Running Water

COMMON
WEALTH

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Key Points

- Privatised water and its regulation have failed so badly that England pays among the highest bills in Europe, yet nearly every river is illegally polluted, taps run dry and a trillion litres of water is leaked each year, wasting over a hundred times more water than all the hosepipe bans added together would save.
- Shareholders have taken over £85.2 billion in dividends, and creditors more in interest, since privatisation in 1989, evaporating UK investment, shipping capital overseas, and leaving billions of pounds in sewage treatment and pipe repair costs. These polluters should not be paid a penny more to run our water.
- To bring water into public ownership, the ratings agency Moody's estimated a one-off cost of £14.5 billion in 2019. By contrast, privatisation costs up to £22.047 billion extra for bill payers from 2025 to 2030, or £176 a household a year, in returns on capital to shareholders and banks, as set by Ofwat's price review.
- This report estimates that in 2026, public ownership of failed water companies, using the special administration procedure, will cost closer to £0. The higher the repair bills, the less that creditors or shareholders deserve under UK law, international law and our investment treaties. This applies to Thames Water, South East Water, and probably Anglian, Southern, South West and Yorkshire Water. Creditors will likely sue, but they have no reasonable prospect of success.

- For Northumbrian, Severn Trent, United Utilities and Wessex, public ownership through an Act of Parliament may be preferable. In total, public ownership of England's entire water and sewerage sector is estimated to save households up to £0.58 billion after three years before accounting for financing costs, with an initial investment of £12 billion. This is based on market capitalisations, limited repair cost information and the cardinal "polluter pays" principle. The initial investment could be lower, and the savings greater, once we know the true repair costs. The regulator should make companies disclose repair costs to fulfil their key statutory duties: to treat all sewage twice before safe release and stop pipes leaking enough to withstand drought and climate shocks.
- Water polluter lobbyists, think tanks and armies of lawyers have astroturfed a fantasy narrative that public ownership and control would cost £90 billion in 2018, £100 billion in 2024, and now, in 2026, £144 billion — this has no basis in reality or law yet has been very effective in scaring governments.
- Alternative proposals to re-privatise and split failed companies or to "mutualise" them, like in Welsh Water (and rejected for Yorkshire Water in 2000), will continue to cost bill payers up to £4.4 billion extra a year in payments to shareholders and banks, or by raising borrowing costs for capital investment.
- To take the handbrake off public investment, the government should bring our accounting practice up to international and European standards, by separating public corporation borrowing from the national debt. This would drive investment growth in every postcode for water, plus energy, housing and transport.

1. Introduction: The Choice Between Private, Mutual and Public Ownership

Andy Burnham has pledged stronger public control of water.¹ Nearly 90 per cent of water in wealthy democracies is in public ownership.² 82 per cent of the British public support public ownership of water.³ Getting to this future from England's disastrous present, however, seems hard. There is a whirlpool of lobbyists, lawyers, consultants and creditors actively funding misinformation. This misinformation is filtered to special advisers, to civil servants, to MPs and to ministers who are flooded with such different versions of reality, such different advice on legal options, such tempting incentives, that it is hard to know what to think. Add a mass of contested economic theories that assert the public sector is always inefficient, that government should always outsource,⁴ that competitive markets work better, and this explains why the status quo bias is so strong — acting to keep our failed water system as it is. It explains why the Cameron, May, Johnson, Sunak and Starmer governments failed to act, even though South East Water taps keep running dry, even though England has among the worst sewage and leakage records, among the worst surface and bathing water quality in Europe, yet pays among the highest bills.

Now is the time for clear heads in the new government and to firmly dispel myths. Sometimes, the answers the vast majority of people favour really are the right ones.

The three central points of this report are:

[1] Kate Whannel, "Burnham promises more devolution and public control of essential services", [BBC News](#), 1 September 2026.

[2] E. Pérard, "Water supply: Public or private?", *Policy and Society*, 2017, vol. 27(3), p. 193 — finding as few as 17 per cent of the OECD population served by private water companies; David Hall and E. Lobina, "Water privatisation", [Public Services International Research Unit WP](#), April 2008, 4: "Around 90 per cent of the 400 largest cities in the world, with populations of over 1 million, are served through public sector operators."; E. McGaughey, "Is Public Ownership or Privatisation Better? Law, Economic Theories, and How Data Helps", in G. Sitaraman, M. Ricks and E. McGaughey, *The Cambridge Handbook on Networks, Platforms and Utilities*, Cambridge University Press 2026, Ch. 2, p. 31, Table 2.2 (or part 3, Figure 3 on SSRN), showing over 90 per cent of OECD countries with predominantly public ownership of water.

[3] "Most Britons think water and energy companies should be nationalised", [YouGov](#), 27 May 2026.

[4] Oliver Hart, Andrei Shleifer and R. Vishny, "The proper scope of government: theory and application to prisons", *Quarterly Journal of Economics* 1127, 1997, vol. 112(4) p. 113. See footnote 4, equating outsourcing in an "incomplete contract" to regulation; A Shleifer, "State versus Private Ownership", *Journal of Economic Perspectives*, 1998, vol. 12(4), p. 133.

1. Privatisation of water was and still is the worst option⁵

The privatisation of water has meant that all English water companies are failures, and Thames Water has a ruinous record of sewage and leaks. Thames Water shareholders and creditors, at the least, should lose their licences and money through the special administration process. If we, as regular citizens, receive 12 points on our driving licence, we lose the right to drive. If companies pump sewage into rivers for millions of hours,⁶ and leak a trillion litres of water a year,⁷ those companies must lose their licences to run our water. Thames Water shareholders and creditors, and those of the other worst companies, deserve something close to £0 compensation, because they will leave costs of well over £23 billion in repairs to degraded infrastructure, and they have taken over £23 billion in dividends and interest since 1989. Water companies should not be re-privatised (like Bulb Energy or NatWest were), because the same problems will repeat. They should not be broken into different parts geographically or functionally (an American-style antitrust remedy), because the water basin sets natural boundaries for running a system, and bill payers do not want two sets of bills. England-wide the costs of privatisation, set by Ofwat in returns to capital for shareholders and banks, are up to £22.047 billion from 2025 to 2030.⁸ Every year privatised water in England and Wales costs bill payers up to £4.4 billion, or £176 per household and rising.⁹ Over £85.2 billion in real terms has been taken by shareholders since privatisation in 1989,¹⁰ a similar figure, in the high of billions, has

[5] See Section 7. This was favoured by Sunak's government, Rachel Reeves, Steve Reed, Dan Mead at Labour Together, and Thames Water.

[6] E. Stallard and J. Fisher, "England sewage spills hit record 3.6m hours last year", [BBC](#), 27 March 2025.

[7] A. Kersley, "Water firms in England and Wales lost more than 1tn litres from leaks last year", [Guardian](#), 8 September 2024.

[8] "PR24 final determinations: City briefing", [Ofwat](#), 19 December 2024, p. 12. (Increase in returns on capital £11.057bn to £22.047.)

[9] Namely $\text{£22.047bn} \div 5 \text{ years} = \text{£4.4bn a year} \div \text{roughly 25 million households} = \text{£176 a year per household}$. This assumes a public ownership counterfactual in which bills and expenditures are unchanged and in which capital expenditure is financed pay-as-you-go by bills and foregone subsidies. (Of this £22 billion, £5 billion is a return on new PR24 investment, which cannot so easily be financed pay-as-you-go, so this figure is an upper bound.) It is important to note that at privatisation water companies were given state aid to be debt free. Borrowing since has primarily funded dividends: K Yearwood, "The privatised water industry in the UK. An ATM for investors", September 2018, [PSIRU](#), 21. Also D Hall and E Lobina, "Clean water: A case for public ownership", [UNISON](#), June 2024, Chs 6, 14. Residential customers comprise roughly three quarters of industry revenue, so the notional £176 increase in bills per household includes both the direct household bill increase and the bill increases of commercial customers who are assumed to pass this cost through to households. Five per cent of the total is attributable to water-only companies.

[10] D. Jordan, "Water investors have withdrawn billions, says research", [BBC News](#), 20 May 2024. Ofwat argued the true figure is £52bn, which is not adjusted for inflation. It is unclear why Ofwat would prefer a non-adjusted figure.

been taken by bondholders,¹¹ and water companies' total debt stands well over £82 billion.¹² Meanwhile, no major new reservoir has been built since privatisation, but 35 reservoirs have been sold.¹³ A privatised system is the worst option.

2. Mutualisation is a second-best option, but it is more costly¹⁴

Mutual, non-profit ownership of water is rare worldwide. The major exception is Wales.¹⁵ Water could be transferred to non-profit companies through special administration or a new Act of Parliament, with the same costs (if any) as public ownership. However, a big risk of mutualisation is the presence of a less efficient, unaccountable, polluting governance structure like in Welsh Water. This can be resolved if workers and bill payers (e.g. via mayors) have voice to elect directors to the board.¹⁶ The main financial advantage of a mutual structure compared to private ownership is that it runs not-for-profit, so all bill payer money can be put into repairing sewage treatment and leaking pipes. The main financial disadvantage compared to public ownership is that costs of borrowing to invest in repairs are higher, because public bodies can borrow at the lowest rate available, and private bodies only access the bond market. Furthermore, mutualisation may not deal with problems of excessive debt and control by foreign banks. Similar plans to mutualise Yorkshire Water were shelved in 2000, as they could have “unfairly saddled customers with huge debt for no benefit”.¹⁷

The main reason to favour mutualisation is that the UK Treasury (and ONS) has since 1992 included public corporation debt in its calculation of national debt, unlike international and European accounting standards. This artificially scares governments off public ownership. Instead of changing public ownership policy, the

[11] See Stanley Root, “A financial history of the UK water industry since privatization”, 2025, slide 6, first chart, showing debt interest exceeding shareholder returns. Note that Root's figures are not adjusted for inflation as David Hall's calculation of £85.2bn is.

[12] Gill Plimmer, “The fight to save England's rivers”, [Financial Times](#), 22 August 2026. Also L. Barr, “UK water firms drowning in £65bn of debt with cost of repayments set to soar due to inflation (but they're still paying shareholders huge dividends)”, [This is Money](#), 2023.

[13] J. Clover, “Water firms in drought-hit UK flogged 35 reservoirs in five years — and built just two”, [Mirror](#), 2022

[14] See Section 7. This is favoured by the Good Growth Foundation.

[15] There are 1500 drinking water cooperatives in Denmark, serving a minority of the population, but unlike in Wales wastewater and sewage is all publicly owned: “Europe's Water in Figures”, EurEau, 2026, p. 17, Figures 10 and 11.

[16] Water Industry Act 1991 s 35B(1)(b) allows Ofwat to require governance changes in all water companies, private, mutual, or public.

[17] “Watchdog blocks Kelda plans for Yorkshire Water”, [Guardian](#), 25 July 2000.

Treasury's measure of debt should change, to exclude publicly owned corporations that fund themselves (even if they are government controlled), as in international and European accounting standards.¹⁸ The way to do this is that the Chancellor amends the definition within the fiscal rules (without changing the two core rules to balance the books and reduce debt).¹⁹ The UK's biggest bond market investors — representing £2 trillion assets under management — urged this to be done in February 2026 to boost infrastructure investment.²⁰

3. Public ownership of water is the best option and what is the government should do

Public ownership is what 90 per cent of the world does and what 82 per cent of the British public want because they see the failures of privatisation. Based on Environment Agency rankings, this report groups English water companies into three categories. These categories additionally inform the approach that should be taken to them.

They are:

- The worst companies that should be restructured now using existing laws.
- The very bad companies which need restructure rapidly.
- The bad but better companies that can be restructured in the coming year with an Act of Parliament.

[18] "European System of Accounts", Eurostat, 2010, p. 7, para 1.34, "The distinction between market and non-market activity is an important one. An entity controlled by government, which is shown to be a market corporation, is classified in the corporation sector, outside the general government sector. Thus, the deficit and debt levels of the corporation will not be part of the general government deficit and debt."

[19] E.g. HM Treasury, "Charter of Budget Responsibility", Autumn 2025, pp. 7-8, paras 3.4 and 4.7.2, updated to say the key measure is "Public Sector Non-Financial Liabilities" excluding Public Corporations (PSNFL ex PCs).

[20] S. Fleming, E. Dunkley and M. McDougall, "Ease borrowing curbs for development schemes, gilt investors urge Reeves", [Financial Times](#), 8 February 2026.

Box 1: Good governance in modern publicly owned companies

Three large water companies in Europe illustrate the modern governance of publicly owned companies:

- Groningen Waterbedrijf in the Netherlands has been publicly owned since its establishment in the nineteenth century and is required to never be privatised by Dutch law.²¹ It has a six-person board. Four directors are chosen by the city council (the shareholder), and two directors are chosen by the workers council.²²
- Berliner Wasserbetriebe was made public after privatisation failed in 2013. It was bought back from the private companies before their franchise expired, with RWE paid €618 million for its 24.95 per cent share and Veolia €590 million for its 24.95 per cent share to end the contract early. It now has a 16-person supervisory board with eight members chosen by the Berlin city council and eight elected by workers, which in turn elects an executive board.²³
- Eau de Paris was made public in 2009 after a failed privatisation. It was taken back into public ownership as the franchise expired with the private companies Veolia and Suez (similar to the franchise model of English train operating companies) paying £0 compensation. Since then, on the board of directors of Eau de Paris are 13 directors chosen by city councillors, two elected by workers, three representatives of consumer or environmental groups and two non-voting, city-appointed experts.²⁴

All these public companies borrow to invest in infrastructure, without adding to national debt, under their countries' fiscal rules, using the methods in the European System of Accounts (see Section 7 below).

[21] Drinkwateret, 2009, arts 1 and 15-16. Also, *Netherlands v Essent NV* (2013) C 105/12 (on electricity).

[22] Waterbedrijf Groningen: Statuten, 2020, art 20(5)-(6).

[23] See Berliner Wasserbetriebe, "Supervisory Board Members", <https://www.bwb.de/en/1713.php>

[24] [Eau de Paris](#), Board of Directors, 2025.

The worst companies

Thames Water and South East Water should be stripped of their licences and be put into special administration. After this, an orderly transfer of assets should be made to a new publicly owned company, just as Railtrack passed to Network Rail after a year of special administration at a cost of £70 million.²⁵ Shareholders should be paid nothing. Most have already written off their investments.²⁶ Secured creditors should also be paid close to £0, because markets have already priced the debt as junk and the repair costs for Thames Water's broken sewage and pipe networks to 2029 alone are over £23 billion,²⁷ exceeding the £20 billion debts. The company has systematically breached its primary statutory duties to keep sewage treatment and pipes in good repair, and shareholders and creditors have profited from this pollution. Creditors might well sue — likely led by the American fund Elliott Management, which is well known for its litigious business strategy. However, creditors are very likely to lose in court because, in law, they are due only “appropriate value”, not “market value” for their claims. This measure prioritises statutory duties over creditors' interests.²⁸ By contrast, all employees and their pensions should be fully protected and transferred to a new publicly owned company.²⁹ The new company's board should include directors elected by workers (who are among water's leading experts) and directors elected by mayors or by council leaders, until there are elected mayors (to represent bill payers). When a water company is acquired for £0, there is no additional debt on anyone's books, except the polluters.

The very bad companies

Anglian, Yorkshire, Southern and South Western Water have, after Thames Water, the worst pollution records and are likely to have repair costs exceeding debt. They should be brought into public ownership in an orderly process. First, the regulator can immediately require all companies to state the repair costs to fully meet legal duties to (i) treat all sewage twice before it can be safely released into waterways and (ii) repair pipes to stop leaks that may threaten supply in droughts. This should be

[25] A. Zea, “Railtrack administration costs not excessive”, [Accountancy Age](#), 24 June 2003.

[26] E.g. G. Plimmer, “USS warns on future investments after Thames Water loss”, [Financial Times](#), 25 July 2024

[27] Anna Isaac, “Thames Water supply ‘on knife-edge’ with £23bn repairs needed”, [Guardian](#), 17 November 2024. Even this will not comply with the legal duties.

[28] Water Industry (Special Administration) Regulations 2024 reg 22 and reg 40.

[29] This is partly done already in law: Transfer of Undertakings (Protection of Employment) Regulations 2006 prevents most changes to job terms on transfer of assets. The Pensions Act 2004 ss 107-119 create a Pension Protection Fund for defined benefit pensions.

released in three months.³⁰ It should be used to assess the fair level of compensation. Second, if there is no reasonable prospect that the companies will comply with their statutory duties, they should be put in special administration, have assets transferred to new public sector bodies, and their creditors and shareholders should receive something closer to £0 compensation.

The bad but better companies

United Utilities, Severn Trent, Northumbrian and Wessex have unacceptable pollution levels and leaks but are in better shape than others in England. Then there are four other smaller but significant drinking-water only companies: these overlap with the water and sewage companies shown in Figure 1. Based on current market capitalisations, discounting 50 per cent to reflect their monopolies, the “polluter pays” principle and high repair costs (without knowing the real sum yet), fair compensation could be estimated at £12 billion to take them into public ownership, with payment spread over a number of years. Moody’s, the rating agency, which was not paid by water companies, estimated £14.5 billion in 2019, before the increased levels of failure in the coming years.³¹ This compares to the upper bound of £20.973 billion in wastewater privatisation costs over five years for water and sewerage companies. So, even over three years, public ownership saves bill payers up to £0.58 billion (minus public financing costs), after an initial £12 billion investment. The UK should adopt international and European accounting standards, so that any debt that these publicly owned companies have is not artificially treated as national debt.³² This is not changing the core of the UK fiscal rules (to balance the budget and for national debt to fall by 2029) but will release the Treasury’s handbrake on investment-led growth in real household wealth.³³ This will enable much more infrastructure investment and real economic growth, from housing to energy and transport.

[30] This appears to be the time it took KKR to evaluate Thames Water’s position. KKR submitted its bid in February 2025 (E. Graham and A. Roach, [CNBC](#), 19 February 2025). It pulled out in June 2025 (J Kollewe and J Jolly, [Guardian](#), 3 June 2025; Gill Plimmer, “Thames Water paid £20mn to cover KKR’s due diligence for abortive bid”, [FT](#), 25 October 2025.)

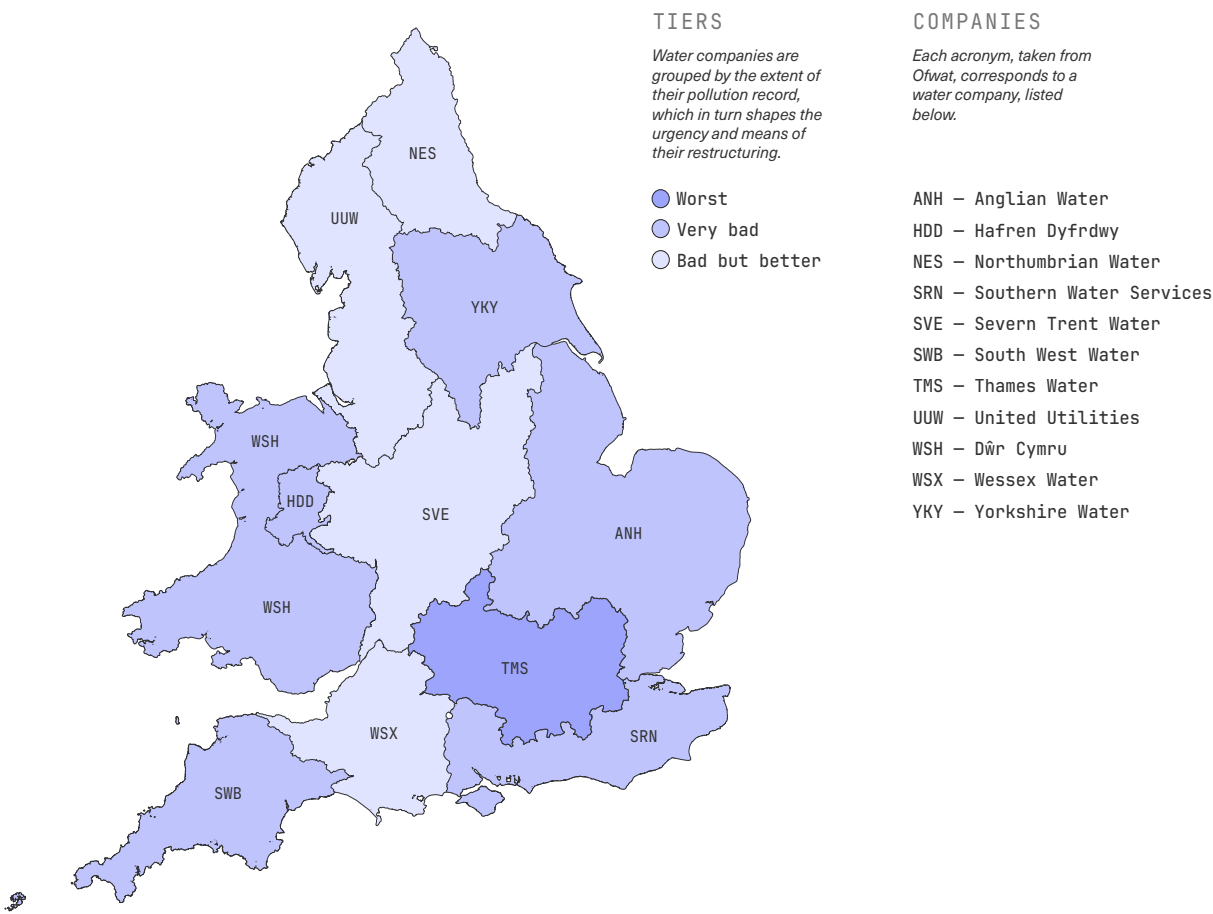
[31] Gill Plimmer, “Water renationalisation to cost as little as £14.5bn”, [FT](#), 26 April 2019

[32] See Section 7 below.

[33] On the concept of “growth in real household wealth” see E McGaughey, “Economic growth and labour rights: the case of the Employment Rights Act 2025”, *Industrial Law Journal*, 2026, part 2

Figure 1: The Worst, the Very Bad and the Bad but Better Water and Wastewater Companies in England and Wales

Map of appointed wastewater company boundaries in England and Wales



Source: “Appointed Wastewater Boundaries”, [Stream Water Data, 2025](#).

The rest of the report runs as follows: Section 2 sets out the brief historical, statistical and theoretical context of English (privatised) water, Welsh (mutualised) water and Scottish, Northern Irish and European (publicly owned) water. Section 3 explains how the special administration process operates for the failed companies. Section 4 sets out a table of water companies and estimates the likely costs to bring all big companies into public ownership through special administration or an Act of Parliament. Section 5 explains how the creditors might sue and why they will likely lose, whether in tort, judicial review, human rights or investment treaty challenges. Section 6 summarises the new systems of good governance for public services (with worker directors, and service-user directors in boardrooms) which can and should be adopted in all companies, whatever their ownership structure. Section 7 explains the problems, myths and conflicts in two other reform proposals that advocate re-privatisation or mutualisation and expands upon the fiscal and political reality. Section 8 concludes.

2. English, Welsh, Scottish, Irish and European Water Ownership: Data, History and Theory

The UK has three systems of water. Scottish Water and Northern Ireland Water are in public ownership.³⁴ Welsh Water is a non-profit company (after for-profit privatisation failed in 2001). English water is privatised. Between 1945 and 1989 it was all under public control — the Water Act 1945 created a national planning committee and merged local companies to create joint water boards.³⁵ The Water Act 1973 Section 1 said the “national policy” was “the restoration and maintenance of the wholesomeness of rivers and other inland water”.³⁶ In 1991, these clean water duties were scrapped. The new regulator (now Ofwat) had no duties for clean water, but instead a duty for “securing reasonable returns on their capital” for shareholders and banks.³⁷ By contrast, nearly 90 per cent of the world and nearly all wealthier democracies have water in public ownership — either run by central or municipal government. Many countries, such as France and Germany, experimented with privatising water; outsourcing management to private companies, or public-private partnerships. Most have brought water back into public ownership, as in the cases of Eau de Paris in 2009 or Berliner Wasserbetriebe in 2013.

Most countries follow the long-standing economic theory that water pipes, sewage plants and reservoir systems are a natural monopoly.³⁸ It is cheaper for one firm to run a water system, than many competing firms.³⁹ It makes no sense to build competing sewers, because the cost is too high. Even if that did make economic sense

[34] Water Industry (Scotland) Act 2002. Water and Sewerage Services (Northern Ireland) Order 2006. Northern Ireland Act 2000 Sch, para. 1. Water Supplies and Sewerage Act (Northern Ireland) 1945 s 4.

[35] See E. McGaughey, *Principles of Enterprise Law* (Cambridge UP 2022) ch 13(1), 457, for historical background.

[36] Water Act 1973 section 1(2)(c).

[37] Water Industry Act 1991 s 2(2A)(c).

[38] JS Mill, *Principles of Political Economy*, 1848, Book V, ch XI, §11, p. 584, private water as “a practical monopoly, with all the power it confers of taxing the community”. Mill also invented the term “natural monopoly in favour of skilled labourers against the unskilled” highlighting doctors and lawyers, which may be seen today as accounting for public health care, public courts and legal aid. See Mill, 1899, Book II, ch XIV, §2, p. 479.

[39] Joseph Stiglitz and Jay Rosengard, *Economics of the Public Sector*, 2015, p. 84.

there would be no real competitive constraint by consumers switching between two or three (oligopolistic) water providers. These oligopolies could rationally coordinate rip-off prices, even without forming a cartel. The alternative theory, driving Margaret Thatcher’s government, was that there could be effective competition in capital markets. So, the theory went, if good regulation set high standards and fixed fair prices, a company that performed poorly would be approached by takeover bidders to buy up the capital and replace it — this capital market competition would discipline managers.⁴⁰ In this line of theory, government is always going to be worse than regulated private companies because government employees have fewer incentives to innovate and produce efficiently than private owners.⁴¹

The problem is that these theories were always evidence free. The logic is wrong, since takeover bidders have no interest in consumer welfare rather than profit and government employees frequently do have better incentives to act in the public interest. Moreover, regulators get captured by industry, through lobbying and a revolving door between low paid regulator jobs and lucrative industry jobs.⁴² After 40 years of privatised water, we have seen privatisation fail completely in terms of environmental protections, resilience of infrastructure, the level of bills and the treatment of the workforce.

The data on different models of performance matches what most governments have concluded: that privatised water is much worse and more expensive than publicly owned systems. This can be seen in two key measurements required under UK and EU law.

Figure 2 shows countries in the UK and EU ranked according to their scores for surface water quality, a standardised measure of ecological quality of rivers, lakes and beaches. It shows that England is the seventh worst out of 30 nations, with Wales also in the bottom half.

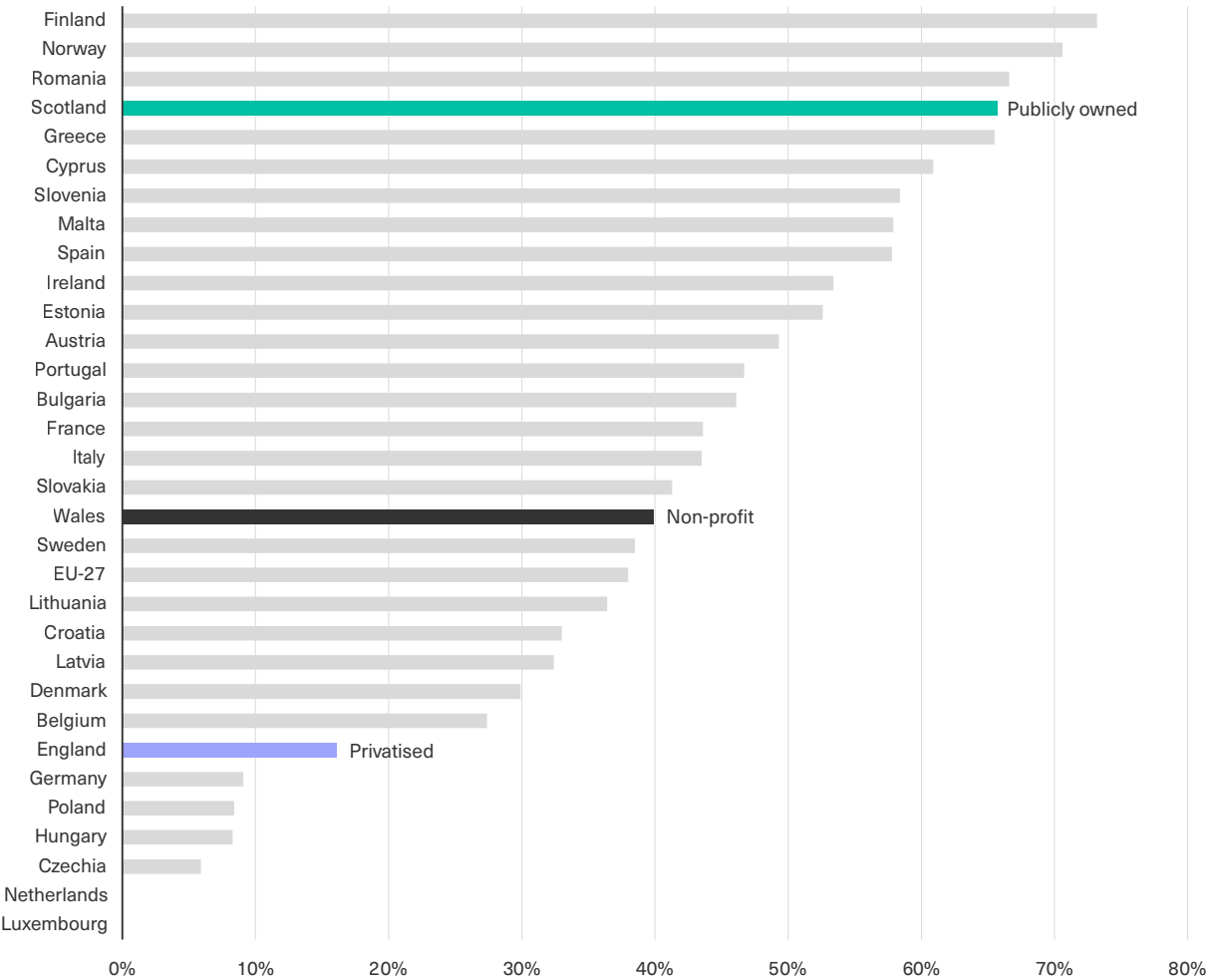
[40] S.C. Littlechild, “Economic Regulation of Privatised Water Authorities”, 25 January 1986, 2.8 and 2.22.

[41] Hart, Shleifer and Vishny, QJE, 1997, vol. 112(4), p. 1127. Shleifer, JEP, 1998 vol 12(4), p. 133. See also McGaughey, 2026, ch 2.

[42] See e.g. J. Ungood-Thomas, “Exclusive: UK water giants recruit top staff from regulator Ofwat”, [Guardian](#), 1 July 2023.

Figure 2: England's Privatised Water System Ranks Low for Surface Water Quality

Surface water quality in Europe, % "High" or "Good" (2016-2023)



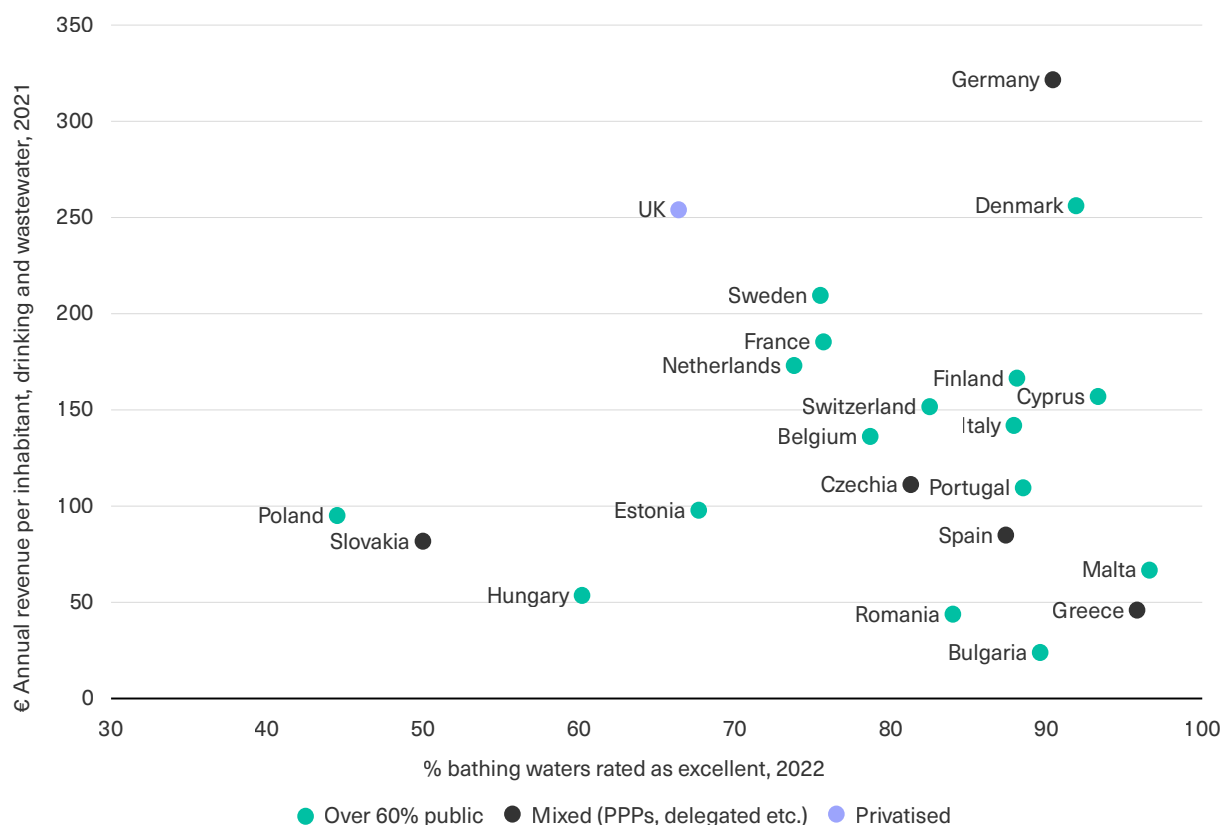
Source: EEA, "Surface water bodies: ecological status or potential, by country", Defra, 2024; "Surface Water Status", Defra, 2025.

In addition, there are measurements of bathing water quality where people swim and there is data on the typical cost of bills. Figure 3 puts these measures together. The UK is the fifth worst in Europe on available data and has among the highest bills for water. UK water is so costly partly because in the last "Price Review 24" for 2025-2030, Ofwat and Steve Reed let prices rise by an average of 26 per cent across England, paying polluting companies more despite their record pollution. This included a doubling of the maximum profits for shareholders and banks that were allowed: from £11.057 billion to £22.047 billion,⁴³ ostensibly to secure more investment in repairs.

[43] "PR24 final determinations: City briefing", [Ofwat](#), 19 December 2024, p. 12.

Figure 3: The UK Has Some of Europe's Highest Water Bills and Poorest Bathing Water Quality

Bathing water quality and water bills in Europe



Source: EurEau, “Europe’s water in figures”, 2021, p. 33, Annex, 3 (water prices); European Environment Agency, “European bathing water quality in 2021” (bathing water quality).

Note: The EEA data shows Albania with 68.1 per cent of bathing waters rated “excellent” and the UK with just 66.4 per cent of bathing waters “excellent”. See Defra, “2023 Statistics on English coastal and inland bathing waters: A summary of compliance with the 2013 bathing water regulations”, [2024](#).

There is not really any serious debate about privatisation of water. Privatised water fails and it has failed the worst in England, where evidence-free theories of privatisation still grip politics.

3. How to Remove a Water Company's Licence (Or How Special Administration Works)

If a water company fails in its duties or goes bust, it can have its licence taken away. This is known as “special administration”. It requires no new law-making. The “special” part of this administration (compared to other companies that go insolvent, such as Carillion, BHS or Sheffield Wednesday FC) is that the company is restructured to prioritise the public interest, not the interests of creditors (mainly banks). There are many special administration regimes (SARs) for companies that fulfil important public functions, such as for railways, electricity or banks. “None of the regimes prioritise the creditors”, wrote Justice Briggs, “but prioritise the social interests.”⁴⁴ The same is true for water. A special administrator does not have to prioritise paying back creditors as much as possible and instead must put the purposes of the water company first — which is the fulfilment of the water company's statutory duties.⁴⁵

Removal of licence for insolvency

Either the Minister for the Environment or Ofwat, with her consent, can start a special administration process in court.⁴⁶ This can either be because a company is insolvent, or because it has seriously breached its statutory duties.⁴⁷ No water company has ever lost a licence for either reason. The directors and creditors have very strong incentives to never admit they are insolvent, because this means a special

[44] *Secretary of State for Education v Hadlow College* [2019] EWHC 2035 (Ch) per Briggs J. Also, *Re Railtrack Plc* [2002] EWCA Civ 955, [12] per Lord Woolf MR.

[45] Water Industry (Special Administration) Regulations 2024 reg 22 “appropriate value”, not market value, due to secured creditors; reg 40, “appropriate value” means the best price that could be reasonably available on a sale consistent with the achievement of the purposes of the special administration; Water Industry Act 1991 s 23(2) purposes of special administration include transfer to another company to ensure its “functions which have been vested in the company by virtue of its appointment may be properly carried out”. These functions are the principal statutory duties in WIA 1991 ss 37 and 94 (including secondary sewage treatment), plus licence conditions.

[46] WIA 1991 s 24(1).

[47] WIA 1991 s 24(2)(a) and (c). Other grounds include the Secretary of State launching a company investigation, that finds reasons for it to be wound up in the public interest, for instance by pursuing an unlawful purpose. Most water companies could be wound up this basis, since they have business plans of externalising the costs of pollution, in violation of the Urban Waste Water Treatment Regulations 1994 regs 4-5. Yet this would be slower, and unnecessary as the serious breaches are well documented. It can be used for other firms.

administrator — who must put the public interest first — would take over. They prefer to try anything else — lobbying, pleading, misleading or threatening ministers to not enforce their pollution duties or continuing to take on massive loans at punitive rates — rather than admit they are insolvent.

Thames Water has tried all of these, without success — its last loan was for £3 billion, at a rate of 9.75 per cent interest a year, resulting in around £1 billion in interest payments and lawyer fees for the creditors. Because the interest rates are escalating, it is likely the game is up. Ministers could have intervened and halted these payday loans, which in effect are a “get rich quick” scheme for Elliott Management and other banks. The Ministers could have said that although companies have cash flow, this depends on Ofwat not enforcing the law, and on an objective view there. The company is balance sheet insolvent, and, on an objective view, there is no reasonable prospect of Thames Water avoiding insolvency. Ministers have not done so yet.

Removal of licence for breaching duties for clean, running water

There is special administration on performance grounds — if a company breaches “any principal duty” in a way “as is serious enough to make it inappropriate for the company to continue to hold its... licence”.⁴⁸ The two main principal duties are to keep water systems in repair (i) to ensure sewage is “effectually drained”,⁴⁹ and to (ii) keep running water supplied.⁵⁰ The sewage duty requires that all sewage is treated at least twice before being released into rivers, lakes and beaches — unless there are exceptional circumstances, such as a torrential rainstorm.⁵¹ Put simply, when you flush the toilet, it is piped to a plant and should be screened, filtered after being settled in two of these big circular holding drums in Figure 4, spun around slowly, settled, aerated, settled, and then the wastewater is safe enough to go back into rivers and beaches.⁵² It simply requires building more of these plants and keeping the pipes in repair. This has not happened.

[48] WIA 1991 s 24(2)(a).

[49] WIA 1991 s 94.

[50] WIA 1991 s 37.

[51] Urban Wastewater Treatment Regulations 1994 regs 4-5. Interpreted in *Commission v UK* (2012) C-301/10, especially [54].

[52] Treated wastewater should not normally go into lakes, which are not flowing systems, because of the build-up of algae and nutrients.

Figure 4: Sewage Treatment Plant



Source: David Dixon, “Sewage Treatment Plant, Ringley Fold”, [Geograph](#), 2012.

The duty to treat sewage twice came from EU law and was enforced by the Court of Justice of the EU before Brexit.⁵³ In *Commission v UK*, the EU Commission sued the UK government for unlawful sewage dumping by Thames Water at Crossness and Beckton, and Northumbria Water at the Whitburn Steel pumping station. The government argued that there was no breach of the rules if untreated sewage was dumped when there was “unusually heavy rainfall”. The Court rejected this and said it is a breach “if overflows of untreated urban wastewater occurred regularly.”⁵⁴ As we know, water companies regularly and illegally dump untreated sewage, come rain, hail or shine.

The same standards still apply, but our regulators — Ofwat and the Environment Agency — and Ministers simply have not enforced the law to any meaningful degree. Back in 2012, Thames Water and Northumbria Water’s licences to operate could have been revoked for that case alone: if the whole of the UK is successfully sued by the EU Commission, that is good enough ground to show a “serious” breach of statutory duties and licence conditions. Instead, and especially after Brexit, nothing happened.

[53] Urban Waste Water Treatment Directive 1991/271/EEC art 4. Now recast in Directive 2024/3019 art 6.

[54] *European Commission v United Kingdom* (2012) C-301/10, [54].

Ofwat in PR19 allowed companies to set pitiful targets to reduce unlawful sewage dumps instead of fully complying with statutory obligations and even these were not met: in fact, the reverse (see Section 4 below). Ofwat currently says, “we expect Thames Water to deliver a 29 per cent reduction in spills”, but not until 2030.⁵⁵ In PR19 it said that it wanted a 30 per cent reduction in pollution incidents, but by 2024-25 pollution had risen by 57 per cent.⁵⁶ Whatever the latest hope and prayer, under Ofwat’s non-regulation of private companies, the situation has become worse and worse.

The second major duty of water companies is to keep the taps running. The law says this means “providing supplies of water to premises in that area and for making such supplies available to persons who demand them” and “maintaining, improving and extending the water undertaker’s water mains and other pipes”.⁵⁷ However, across England, a trillion litres of water is leaked each year.⁵⁸ The UK had the seventh worst record based on European data in 2021,⁵⁹ and had sunk to sixth worst in 2026.⁶⁰ Most of the south of England and Wales started hosepipe bans in July 2026,⁶¹ because water companies have failed to invest in stopping leaks and failed to ensure resilience of water supplies (such as by expanding floating solar panels over reservoirs to slow evaporation).⁶² Bill payers of South East Water have seen their taps run dry repeatedly since 2023, leaving hospitals, care homes, schools and nurseries without drinking water.⁶³ The taps have also repeatedly run dry for bill payers of Southern Water and South West Water.⁶⁴

[55] “Overview of Thames Water’s PR24 final determination”, [Ofwat](#), December 2024, p. 3.

[56] “PR19 final determinations: Thames Water”, [Ofwat](#), December 2019, p. 7.

[57] WIA 1991 s 37.

[58] See e.g. M. Powell, “Water firms lost more than a TRILLION litres last year - 2,923 million litres a day - due to leaky pipes, figures reveal as parts of drought-hit UK face hosepipe bans”, [Daily Mail](#), 21 August 2022; A Kersley, “Water firms in England and Wales lost more than 1tn litres from leaks last year”, [Guardian](#), 8 September 2024; E. Langford, “Water farce as firms lose 2.6bn litres a day... more than hosepipe bans save”, [inews](#), 3 August 2026.

[59] “Europe’s water in figures”, EurEau, 2021, p. 21 (leaks, i.e. ‘non-revenue’ water, in m3 per km of pipes)

[60] “Europe’s Water in Figures: An overview of the European drinking water and waste water sectors”, EurEau, 2026, p. 27, Figure 21.

[61] E Feilden, “Which UK areas have a hosepipe ban? Full list of locations and when restrictions will end”, [TimeOut](#), 22 July 2026

[62] See [lightsourcebp.com/project/queen-elizabeth-ii-reservoir-solar](#) for one good, albeit small example.

[63] Gill Plimmer, “South East Water spent more on dividends and interest than infrastructure”, [ET](#), 7 July 2023. “South East Water bosses recalled by MPs over outage”, [ET](#), 13 January 2026. “Debt and disruption: South East Water’s creaking infrastructure and finances”, [ET](#), 22 January 2026.

[64] See e.g. Helena Horton, “Taps dry in 58,000 Hampshire homes due to Southern Water fault”, [Guardian](#), 19 December 2024. “South West Water ‘not honest’ about drought preparations, watchdog claims”, [Guardian](#), 15 January 2024.

To sum up:

1. Water companies can lose their licences in special administration if they are either insolvent or if they breach their “principal duties” to treat sewage twice or keep water running (plus any other licence breach).
2. Even if they go insolvent, water companies do everything to deny they are bust.
3. Even if they regularly dump untreated sewage or if water is not supplied and the taps run dry, ministers, Ofwat and the Environment Agency have refused to enforce any meaningful standards.
4. Non-enforcement can change with a government that has the will to use their existing powers to ensure all sewage is treated twice before release and water systems are improved, not leaking.

The compensation payable to shareholders and banks

If a company loses its licence to operate, shareholders and banks may try to claim they should be compensated. Shareholders may claim their lost equity investments, as happened in the Railtrack case: shareholders sued the government after the company was forced into special administration. They lost in court and eventually received (a generous) £1.312 billion or £2.625 per share from asset transfer proceeds, compared to the £4.57 billion or £9.15 per share they claimed.⁶⁵ In the case of Thames Water, shareholders have already written off their investments,⁶⁶ and instead creditors are in control. If companies are insolvent, shareholders usually get nothing. If water companies have their licences withdrawn for poor performance, in principle they should also get paid nothing. This is because the only saleable value in the company is its future revenue from bills. Water companies are not allowed to sell our reservoirs, pipes or waterways,⁶⁷ so market value comes from future bills. If they lose their licence for poor performance, the shareholders lose any right to future bills and so the shares have zero market value.

[65] L. Butcher, “Railways: Railtrack administration and the private shareholders, 2001-2005”, 2010, SN/BT/1076, 8. M. Tran, “Railtrack shareholders lose compensation fight”, [Guardian](#), 14 October 2005.

[66] See e.g. G Plimmer, “USS warns on future investments after Thames Water loss”, [Financial Times](#), 25 July 2024

[67] Water Industry Act 1991 ss 156 and 219 (restrictions on disposal of land, needing Ministerial consent, including for water functions).

Creditors (mainly banks and asset managers) have debt contracts with water companies and receive interest. For instance, Thames Water creditors have taken over £13.68 billion in interest since privatisation.⁶⁸ The companies’ business strategies have been to load up more and more debt to pay dividends to shareholders. This has become so extreme that there are now more returns on capital to water creditors than to shareholders.⁶⁹ Creditors may not pay the face value of debt for their claims. For instance, Thames Water debt is rated as junk, so Elliott Management and others have bought up the original lenders’ claims at a heavy discount, likely less than 50 per cent of the face value. So, Thames Water may have £20 billion in debt on its face, but banks may have paid £10 billion, £5 billion, £2 billion or some sum less to acquire it. We do not know, even though Ofwat could force the release of the data.⁷⁰

The Water Industry (Special Administration) Regulations 2024 say that creditors are due “appropriate value”, not “market value” for their claims in special administration.⁷¹ This means the “best price that could be reasonably available on a sale” of the assets that fulfils “the purposes of the special administration”.⁷² The “purposes” are to carry out the water company’s main statutory duties — stop the sewage and keep taps running and fulfilling licence conditions. That does not mean fulfilling standards far below statutory duties that Ofwat or the Environment Agency have allowed. It means fully complying with statutory duties, so that these functions are “properly carried out”.⁷³ The special administrator can and must, by law, transfer the assets of a failed water company to the party most likely to fulfil the statutory duties, not to prioritise paying back creditors as much as possible.

[68] Author calculations from Thames Water Annual reports, under “gross finance expense” in years 2016-2024, and “interest payable and similar charges”, for 1990-2015. This amounts to £10.12bn nominally, and £13.68bn adjusted for CPI inflation using the Bank of England calculator. It would be £15.42bn adjusted for RPI inflation (as “regulatory capital value” is).

[69] Stanley Root, “A financial history of the UK water industry since privatization”, (2025), Slide 6, first chart, showing debt interest exceeding shareholder returns.

[70] Water Industry Act 1991 s 27ZA.

[71] Water Industry (Special Administration) Regulations 2024 reg 22.

[72] Water Industry (Special Administration) Regulations 2024 reg 40.

[73] Water Industry Act 1991 s 23(2)(a).

Box 2: Hypothetical bidding process of Thames Water in special administration

Suppose that Thames Water goes into special administration and a private bidder emerges, promising to pay £2 billion for the Thames Water assets. This private bidder pledges to fulfil its statutory duties while securing a return for shareholders over time. This £2 billion could go to pay creditors and the special administrator should pay regard to them.⁷⁴ But, then a public company, set up by the government,⁷⁵ or the Mayor of London and councils, says it will pay £0 and, unlike the private bidder, will put all revenue into improving infrastructure. Although the private bidder is promising more money that would go creditors, the special administrator has the discretion — and a legal duty — to prefer the party most likely to ensure the statutory duties are “properly carried out”.⁷⁶ This will invariably be the public-body bid because it will pledge to put all bill payer money into repairs. A bid from a public sector will be credible and the private bidder’s pledges will be less so. The special administrator may seek directions from the court, but the law is clear that they can put the public interest above a bailout for Wall Street banks.

A refusal to pay compensation to secured creditors will be lawful up to the limits allowed in international law on compulsory purchase.⁷⁷ The leading case is *Lithgow v United Kingdom*, where the Aircraft and Shipbuilding Industries Act 1977 had nationalised the shipbuilding and aerospace companies, and their owners sued for more compensation up to Strasbourg. According to the European Court of Human Rights, they were only entitled to what was fair, and the UK had paid a fair sum under the right to property in Article 1 or Protocol 1 of the European Convention. The court said this:

[74] Water Industry Act 1991 s 23(1)(b), after achieving the purposes of the order, which means fulfilling statutory duties.

[75] NB. the Water Act 1989 s 89 requires a limit of 0.5 per cent ownership of an English water company by the UK government. So until this is removed by an Act, the best course would be for the UK government to establish a water company, and transfer share ownership to the Mayor of London, and other mayors in the Thames Valley catchment when they are created, and allocate the governance and voting rights to workers and bill-payer representatives in the desired form: see Section 6 below.

[76] Water Industry Act 1991 s 23(2).

[77] HRA 1998 ss 3, 4 and 6 require UK courts to interpret our law compatibly with international standards in the European Convention.

“ 121.... Article 1 (P1-1) does not, however, guarantee a right to full compensation in all circumstances, since legitimate objectives of “public interest”, such as pursued in measures of economic reform or measures designed to achieve greater social justice, may call for less than reimbursement of the full market value... The valuation of major industrial enterprises for the purpose of nationalising a whole industry is in itself a far more complex operation than, for instance, the valuation of land compulsorily acquired... provided always that the aforesaid fair balance is preserved, the standard of compensation required in a nationalisation case may be different from that required in regard to other takings of property.

122. Whilst not disputing that the State enjoyed a margin of appreciation in deciding whether to deprive an owner of his property, the applicants submitted that the Commission had wrongly concluded from this premise that the State also had a wide discretion in laying down the terms and conditions on which property was to be taken. The Court is unable to accept this submission. A decision to enact nationalisation legislation will commonly involve consideration of various issues on which opinions within a democratic society may reasonably differ widely. Because of their direct knowledge of their society and its needs and resources, the national authorities are in principle better placed than the international judge to appreciate what measures are appropriate in this area and consequently the margin of appreciation available to them should be a wide one.⁷⁸

These principles apply to creditors in a special administration, as do the “general principles of international environmental law” including the “polluter pays principle”.⁷⁹ This is recognised as a “cardinal general principle” in the UK courts.⁸⁰ This means repair costs are an important factor to take into account in the public interest. High repair costs show that water company infrastructure has been starved of investment while returns to capital escalated (both in dividends to shareholders and interest payments to creditors). Banks are highly sophisticated market actors who calculate risks and get high rewards. It is not the duty of the state to reward those risks when it has resulted in such damage, and it is not the duty of the state to ensure polluters get paid. The higher the repair costs, the bigger the failure to fulfil statutory duties, the less debt should be made whole, potentially down to £0.

The same principles apply if Parliament sets compensation standards in an Act of Parliament. It has a “wide” discretion to set fair terms of compensation, because

[78] *Lithgow v United Kingdom* [1986] ECHR 8, [121]-[122].

[79] *Verein KlimaSeniorinnen Schweiz v. Switzerland* [2024] ECHR 304, [199]. See also Treaty on the Functioning of the EU art 191(2).

[80] *R (National Grid Gas plc (formerly Transco plc)) v Environment Agency* [2007] UKHL 30, [28].

transition to public ownership for companies involves many issues to balance in the public interest, so long as the sum is in “reasonably related to its value”.⁸¹

To sum up:

1. Shareholders are due no compensation if a company loses its licence for insolvency or breaking statutory duties, because market value of water companies is from future bills and they lose the right to bills.
2. Creditors may be due no compensation if a company loses its licence, if repair costs are very high, as they are due “appropriate” value not “market value” and the public interest in clean water is put first.
3. Shareholders and creditors of a solvent company that performs its statutory duties will be due fair compensation, which may be less than market value, to take account of repairs and the public interest.

The Minister’s discretion, guidance, and selecting an administrator

Ministers have wide discretion to place a company into special administration or not and decide what they think is a “serious” failure. However, Ministers had refused to state when they will use these powers, if ever.⁸² Behind the scenes, at least since 2024, the Department for the Environment, Food and Rural Affairs was persuaded or threatened by the Treasury against putting companies into special administration, by being told they would have to pay for all costs out of the existing budget, and then also told (falsely) that the costs would be around £4 billion.⁸³ This is grossly overinflated: the cost of special administration of Railtrack for a year was £70 million.⁸⁴

There is guidance for the National Health Service about when a hospital trust would be put into “special measures” (an equivalent for special administration) which defines what constitutes a “serious failure”.⁸⁵ The guidance says the government should step in if:

[81] *Lithgow v UK* [1986] ECHR 8, [121].

[82] The decision was with Steve Reed and Emma Reynolds. In a moment of candour, Emma Hardy, Parliamentary Under-Secretary of State (Minister for Water and Flooding), told the Environment, Food and Rural Affairs Committee, 9 September 2025, Q1173, “A serious breach of principal statutory duties would mean that fundamentally water does not come out of the tap and your toilets do not flush and sewage does not go away. That is a serious breach of fundamental duties.” That test is too high on any reasonable interpretation of the law, but has been met by Thames Water, and South East Water, at the very least, repeatedly. Emma Hardy then went on to say that the “advice” (of what quality we know not) been given to her was that the threshold was not met. That advice is mistaken.

[83] Anna Isaac, “Treasury threatens Defra with £4bn bill if Thames Water nationalised”, [Guardian](#), 3 May 2025.

[84] A. Zea, “Railtrack administration costs not excessive”, [Accountancy Age](#), 24 June 2003.

[85] NHS Act 2006 s 65D.

“ [R]epeated local attempts over a *prolonged period* to resolve a very significant financial crisis have failed and could increasingly *impact on a foundation trust's ability to maintain clinical services of the required quality*. Under such circumstances, a trust special administrator can be appointed to take over the running of the foundation trust. ⁸⁶ [Emphasis added.]

Applying the same logic to water, guidance could be that if there are three or more breaches that go to the root of a principal duty or licence condition (the “required quality”) within three years (a “prolonged period”), the Secretary of State will apply for special administration.⁸⁷ Most water companies would fail even by this generous and permissive standard, because they are regularly dumping untreated sewage, and/or letting taps run dry. The test could be more or less stringent, but whatever it is, the Secretary of State’s discretion will be very hard to challenge.

The government also has very wide discretion to select a special administrator. Formally, the High Court appoints the special administrator, but the government selects them. They should select one that understands the paramount importance that repair of sewage infrastructure and leaking pipes is put first. The last government has put an insolvency practice, FTI Consulting, on standby for a Thames Water collapse. If kept, it is vital that FTI understands the new government’s priorities for clean water and resilient supply and that these take priority in law over the interests of creditors.⁸⁸ The special administrator should evaluate which potential transferees of the company will best perform the statutory duties and (secondarily) have regard to the price offered. The government should make clear (as it did with Railtrack and Network Rail) that another company that is publicly owned will fulfil statutory duties, have good governance and invest all revenue in upgrading infrastructure. On that basis, it is unthinkable that a privately owned bidder could do better or should ever be appointed.

To sum up:

1. Ministers have discretion about when to start special administration and they should issue guidance, similar to the NHS, that they will act if basic breaches of duties threaten clean and running water.
2. The government should make very clear to the special administrator that they expect the public interest to be prioritised for clean, running water and should organise new public entities to take up water assets.

[86] “Statutory guidance for trust special administrators appointed to NHS foundation trusts”, Monitor, February 2015, p. 8.

[87] The language of “serious” and what “goes to the root” is the same as the language of breach of a condition in English contract law.

[88] WISAR 2024 reg 40. WIA 1991 s 23(1) purposes first and second “respects the respective interests” of members and creditors.

4. Table of Costs to Bring All Water and Sewage Companies Into Public Ownership

So far, Section 2 has shown the data on how privatised English water has failed and Section 3 has explained the steps and choices for a government revoking a failed water company’s licence via special administration, likely costing closer to £0. This requires no new law, but it does require a government willing to use its powers and prioritise clean, running water. A company can also be compulsorily purchased by passing a new Act of Parliament, whether or not it is solvent, or has breached its statutory duties seriously.⁸⁹

To assess the cost, a transparent problem is we do not know exactly how big the repair bills are to fulfil the two main statutory duties, which are to ensure that:

- All sewage is treated twice before release into rivers and beaches, save for exceptional weather events.
- Leaks are fixed so that taps always run, and supply is resilient, including in droughts and in a context of climate crisis.

This is information that water companies must hold but have failed to release. Ofwat has failed to publish it. It is vital to show how badly water companies are truly performing. If water companies are taken out of the private sector (into public ownership, or mutualised) either through special administration, or through an Act of Parliament, it is essential to calculate a fair outer bound for compensation to shareholders or creditors.

The following summary table is based on is publicly available on water and sewage companies.⁹⁰

[89] An Act of Parliament should also remove the Water Act 1989 s 89 that absurdly prohibits UK government ownership of UK water but allows other countries’ governments to own it. This does not preclude ownership of water by mayors, regional or local government.

[90] Figures for upgrade or “enhancement” spending, spill or “storm overflows” improvement targets and “leakage” reduction targets are from [Ofwat](#), *Overview of Thames Water’s PR24 final determination*, April 2024, pp. 3 and 7, and equivalents for each company.

	Water and sewerage company	Market capitalisation (owners)	People served	Ofwat upgrade spending to 2030	Spill reduction target % 2025-2030	Leak reduction target % 2025-2030	Cost for public owner
	Already public or non-profit = 10.5mn people						
1	Scottish Water	Publicly owned	5.5mn	-	-	-	-
2	Northern Ireland	Publicly owned	1.9mn	-	-	-	-
3	Dŵr Cymru	Mutual (guarantors)	3.1mn	£2.4bn	30%	24%	-
	Worst performing companies: candidates for special admin⁹¹ = 34.9mn						
4	Thames Water	≈£4bn (KKR bid)	16mn	£8.2bn	29%	22%	≈£0
5	Southern Water	Private (Greensands)	4.6mn	£4.6bn	24%	34%	≈£0
6	Yorkshire Water	Private (Kelda)	5.5mn	£3bn	32%	14%	≈£0
7	South West Water	£2.45bn (Pennon plc)	1.8mn	£1.6bn	62%	17%	≈£0
8	Anglian Water	Private (Osprey)	7mn	£5bn	30%	3%	≈£0
	Bad but better water companies: compulsory purchase in Act = 20.9mn						
9	United Utilities	£8.19bn	7.3mn	£6bn	33%	13%	≈£4.1bn
10	Severn Trent	£8.37bn	8mn	£6.5bn	26%	16%	≈£4.2bn
11	Wessex Water	Private (YTL)	2.9mn	£2bn	43%	13%	≈£1.9bn
12	Northumbrian	Private (CKH, KKR)	2.7mn	£2.6bn	28%	7%	≈£1.8bn

[91] “Water and sewerage companies in England: environmental performance report for 2024”, Environment Agency, 23 October 2025, Table 1. Performance star rating: the “worst performing” companies in the Table are those below 10 stars.

There are similar considerations for the five other (smaller) drinking water companies. Dŵr Cymru, Welsh Water, is a special case, because it was bought for £1, and so there are no shareholders to compensate. The table shows the market capitalisation of trade companies and the private owners. It also shows the amount of money Ofwat requires each company to spend on upgrades to 2030 and its targets for reducing sewage spills and repairing leaks. The problem is that even with the investment, these targets do not have a good track record. Buried across multiple reports from Ofwat for each company called “PR19 final determinations”⁹² and another set of reports by the Environment Agency, such as “Thames Water EPA data report 2024”,⁹³ we can see how the targets and regulators have failed. All water companies had targets of reducing the number of pollution incidents to 19.5 per 10,000 kilometres of sewers in 2019, which translated into a figure such as “30 per cent reduction” for Thames Water. In 2025, the Environment Agency reported the outcomes separately by company in terms of pollution incidents per 10,000 kilometres. The table below converts these into the percentage of pollution incidents. Leakage targets were set in PR19 documents in (low) percentage terms, and outcomes were reported in yet another separate report.⁹⁴

[92] See e.g. “PR19 final determinations: Thames Water final determination”, Ofwat, December 2019. The full and bewildering list of reports is here: www.ofwat.gov.uk/regulated-companies/price-review/2019-price-review/final-determinations

[93] See e.g. “Thames Water EPA data report 2024”, Environment Agency, 23 October 2025, and equivalent for each company. As before, the full and equally bewildering list of reports is here: www.gov.uk/government/publications/water-and-sewerage-companies-in-england-environmental-performance-report-2024

[94] “Water company performance report 2024-25”, Ofwat, October 2025, p. 18.

	Water and sewerage company	Ofwat upgrade spending to 2025	Ofwat PR19 pollution reduction target by 2024 as %	EA pollution rises by 2024 as %	Ofwat PR19 leak reduction target	Ofwat reported outcome in 2024
	Already public or non-profit = 10.5mn people					
1	Scottish Water	-	-	-	-	-
2	Northern Ireland	-	-	-	-	-
3	Dŵr Cymru	£584mn	- 25%	+40%	- 13.3%	+ 15%
	Worst performing companies: candidates for special admin⁹⁵ = 34.9mn					
4	Thames Water	£1.469bn	- 30%	+53.6%	- 20.4%	- 13.2%
5	Southern Water	£855mn	- 41%	+106.1%	- 15%	+ 4.7%
6	Yorkshire Water	£905mn	- 41%	- 12.1%	- 15%	- 15.1%
7	South West Water	£312mn	- 58%	+134.8%	- 15%	- 9.2%
8	Anglian Water	£1.425bn	- 33%	+96.6%	- 16.4%	- 3.9%
	Bad but better water companies: compulsory purchase in Act = 20.9mn					
9	United Utilities	£837mn	- 20%	+84.6%	- 10.8%	- 7.3%
10	Severn Trent	£864mn	- 29%	+5.8%	- 14.3%	- 16.8%
11	Wessex Water	£509mn	- 11%	+181.8%	- 12.8%	- 4.5%
12	Northumbrian	£352mn	- 22%	+56%	- 11%	- 12%

[95] “Water and sewerage companies in England: environmental performance report for 2024”, Environment Agency, 23 October 2025, Table 1. Performance star rating: the “worst performing” companies in the Table are those below ten stars.

By 2024, nearly every company had increased pollution dramatically, making Ofwat's latest improvement targets non-credible. Yorkshire Water had reduced pollution incidents, marginally, far behind its target. Most companies reduced leakage, yet two-thirds of companies missed their targets. This is in the context of Ofwat setting goals so weak that they bear no relationship to the trillion litres leaked a year, the droughts or climate crises facing England.

We may assume that the worst performing companies are dealt with using the special administration procedure and investors are paid something close to £0. Then among other companies, Wessex and Northumbrian Water are not publicly traded, and so do not have a market value, but based on the populations they serve, we may guess a market value of around £7.5 billion. Summing these together, United Utilities, Severn Trent, Wessex Water and Northumbrian may have a market value of around £24 billion. Discounting for monopoly prices and repair costs (without knowing precisely) we can posit that a fair discount is, say, 50 per cent. This would lead to a cost of £12 billion to bring all wastewater into public ownership,⁹⁶ compared to up to £20,973 billion privatisation costs over five years,⁹⁷ or up to £12.58 billion in the next three years. Shareholders and bondholders could be given bonds at the appropriate discount in exchange for their claims, as the companies are brought into public ownership.

It must be made clear, first, that these are back-of-the-envelope estimates, because the full repair costs are not clear for each company to comply with their statutory duties to treat all sewage twice and bring leaks down to the level that water will always be supplied, including in times of drought. The repair costs could be higher, which would bring the compensation bill for all companies, including the "better" ones, closer to £0. Second, newly publicly owned companies, either through a SAR or an Act of Parliament, would be free to reinvest a much greater share of billpayer money into infrastructure if they are debt free, as they were at privatisation. However, if they borrowed to invest, this would be a future capital cost: it could be significantly lower than borrowing on private bond markets, because the Public Works Loan Board rates are generally lower. Third, a £12 billion investment involves a finance cost, and the government would have to choose whether to raise this from taxes on polluters, monopolies or others, or from borrowing. Fourth, there are different price considerations for each water

[96] Recall that Moody's estimated £14.5bn in 2019. See Gill Plimmer, "Water renationalisation to cost as little as £14.5bn", [FT](#), 26 April 2019.

[97] "PR24 final determinations: City briefing", [Ofwat](#), 19 December 2024, p. 12, (increase in returns on capital £11.057bn to £22.047). Note that Welsh Water is a separate case, not included in the EPA's rankings: there are good grounds to say that its licence should be withdrawn for poor performance, through special administration, like the other "worst performing companies" in England.

company, and it could be legitimate for the government to take the worst and bad companies into public ownership through special administration, at a low cost, while, at the same time, setting out a longer-term plan for “bad but better” companies. Fifth, the government could also consider passing a law to make shareholders and creditors pay for the damage that they leave if a company is insolvent or has its licence stripped (a “bail in” law), so instead of getting £0, they get a bill.⁹⁸

[98] See the limited “bail-in” provisions in Banking Act 2009 ss 12A-B, which may convert unsecured debt to equity, to recapitalise an insolvent bank. A next step would be to make secured creditors and shareholders pay additional sums where they have caused measurable harm.

5. How the Creditors Will Sue and Lose

It is likely that secured creditors (and perhaps shareholders) will sue if any water company is put into special administration, is compulsorily purchased, mutualised or put in public ownership. Creditors have bought billions in debt, so spending millions on lawyers to litigate is worth it. At the moment, the largest creditors of Thames Water appear to be Elliott Management (a Florida fund), Silver Point Capital (a Connecticut fund) and Appollo Global (a Wall Street fund). They specialise in buying up distressed assets, sweating them dry and aggressively litigating to make profit. They have set up a “London & Valley Water Consortium” which organises many other creditors and have the Thames Water board under their control. A major win was to force Thames Water to take a £3 billion loan, to realise £1 billion in profit, interest, lawyer and consultant fees in three years, at a rate of 9.75 per cent per annum. This £1 billion could have repaired sewage treatment and pipes. Instead, this money is being shipped overseas. Dealing with this problem firmly can set a map for other water companies.

If creditors of Thames Water (and other failed companies) are paid close to £0 (or anything less than they demand) as this report advocates, they should be, there are at least three types of claims that creditors and their armies of lawyers, might bring.

The first might be to sue the Secretary of State in tort or bring judicial review against their decision to put a company into special administration. In the *Railtrack* case, the shareholders argued the Secretary of Transport committed a tort of misfeasance in public office, which requires proof of targeted malice. This failed because there was no credible evidence that the government had somehow “created” Railtrack’s insolvency. It was Railtrack’s own failure.⁹⁹ In the case of water companies, there is no wrong in ministers ensuring that statutory duties of water companies are prioritised and refusing to bail out creditors who have taken risks, gambled and lost. Creditors could also apply for judicial review of ministerial decisions, arguing for instance that refusal to pay compensation is irrational or defeats their legitimate expectations. However, the fact is that ministers will be acting according to the law and the markets have already priced the debt as junk. JP Morgan stated in 2024 that lower ranking creditors would have “zero recovery” if Thames Water went into special

[99] *Weir v Secretary of State for Transport* [2005] EWHC 2192 (Ch), [267].

administration,¹⁰⁰ and the same is increasingly likely for senior creditors as the cost of neglected infrastructure and repairs mount.

A second type of claim that creditors might try, like the Railtrack shareholders, is to claim that their human rights are being violated. Under the European Convention on Human Rights, Article 1 of Protocol 1 creates a right to property, and the case law requires fair compensation if people's assets are compulsorily purchased (as opposed to freely purchased in a contract). Under the Human Rights Act 1998 Sections 3 and 4 require our courts to interpret our common law and Acts of Parliament compatibly with Convention standards or declare it incompatible. This is because, since World War Two, we have understood that international protection of human rights is an essential weapon against political control by dictators, oligarchs and their followers. The Railtrack shareholders lost their case on human rights grounds, primarily because although there was interference with property rights, this was provided for by law, under the special admin regime.¹⁰¹ Following the *Lithgow v UK* decision there is no reasonable prospect for creditors of water companies to say that the government is not acting within its margin of appreciation if it refuses to give Wall Street banks another bailout. They can sue, but they will lose.

A third type of claim could be that creditors or shareholders search for a bilateral investment treaty that requires market value compensation, plus compound interest, in an Investor State Dispute Settlement mechanism. Unfortunately for the US creditors, there is no bilateral investment treaty between the US and UK to appeal to. Even if there were any such treaty, it is doubtful that "expropriation" provisions apply to special administration regimes, either for insolvency or performance, because they are provided for by law. Even where they do apply, as through an Act that does compulsory purchase, a market value standard might only get the bondholder as much as they had themselves paid (on the secondary debt market). There is a bilateral treaty between the UK and China and the China Investment Corp bought 8.68 per cent of Thames Water shares in 2012. However, the treaty merely requires "reasonable compensation" (not market value compensation) for compulsory purchase,¹⁰² which should be read as the same standard as under the European Convention and *Lithgow*. Moreover, Thames Water is properly regarded as insolvent and will have no equity value once it is in special administration, so shareholders will be due nothing. There is a bilateral treaty between the UK and Hong Kong, relevant since CK Hutchison owns Northumbrian Water. This requires that compensation reflects the "real value" of the

[100] B. Elder, "Fix your insolvent UK water utility with this one simple trick", [Financial Times](#), 2 April 2024.

[101] *Weir v Secretary of State for Transport* [2005] EWHC 2192 (Ch), [292].

[102] China - United Kingdom BIT (1986) art 5.

investment before compulsory purchase. “Real” value must be read to take market failures into account (such as pollution and monopoly prices) because these distort real values.¹⁰³ Finally, there is a bilateral treaty between the UK and Malaysia, relevant since YTL Corp owns Wessex Water. This requires the standard of “prompt, adequate and effective compensation”. Again, “adequate” compensation must be read to take account of market failures, and the cost of fulfilling statutory duties.¹⁰⁴ It is notable that in the Northern Rock litigation, the government’s review of compensation for expropriated shareholders was based on the position without continuing financial aid.¹⁰⁵ For shareholders and creditors of water companies, there is similarly no right to continuing state aid in the form of non-enforcement of statutory duties for clean, running water.¹⁰⁶

Creditors and shareholders have high incentives to sue, but if ministers stick to the law when using their powers and make the requirement to fulfil all statutory duties crystal clear, all claims in tort, judicial review, human rights or investment treaties are likely to lose.

[103] Hong Kong - United Kingdom BIT (1998) art 5.

[104] Malaysia - å Kingdom BIT (1981) art 4.

[105] See *R (SRM Global Master Fund LP) v Commissioners of HM Treasury* [2009] EWCA Civ 788. *Grainger v United Kingdom* [2012] ECHR 1675. National Audit Office, HM Treasury: The Nationalisation of Northern Rock (20 March 2009) HC 298.

[106] See e.g. “Undertakings for the purpose of Section 19 of the Water Industry Act 1991”, Ofwat, (21 August 2024) accepting undertakings in lieu of enforcement action, for Thames Water’s investment downgrade.

6. New Public Governance, with Workers and Service-Users

The governance of water companies — especially who holds voting rights for the board of directors — is central to our water system's future, whoever owns it. Currently, English privatised water company boardrooms appoint themselves, through closed nomination committees,¹⁰⁷ subject to a removal right for shareholders.¹⁰⁸ Welsh Water's mutual structure is equally closed, with its board appointed by a group of 56 members who in turn appoint their own successors.¹⁰⁹ Scottish Water is publicly owned, yet its board is appointed solely by Scottish Ministers.¹¹⁰ Whether private, mutual or public, UK water governance gives no representation to workers, who often have the most expertise, or to bill payers, who see the impacts of operations first-hand and ultimately fund the system. Private company or mutual governance in water is a closed shop with so called “independent” directors, who are, in reality, a self-selecting establishment. Public company governance is top-down ministerial control, following the old Morrisonian model of nationalised industry, that said that workers and consumers should be consulted, but have no real voice because they are not “experts”.¹¹¹ The theory appeared to be that the only way to get expertise was for the minister (i.e. Morrison) to appoint all directors, neglecting the real expertise and intelligence that workers and service-users have.¹¹²

New models of public ownership give voice and a vote to the real stakeholders in enterprise. This means workers, service-users and the capital investors — if a company is publicly owned the capital investors would be central, regional or local government. If markets work and there is competition, then service-users can vote with their feet. Then, workers and capital investors would share power — indeed, in a majority of OECD countries and EU countries require that workers elect directors in large companies, public or private.¹¹³ The standard is one-third. However, if

[107] UK Corporate Governance Code 2024 s 3(17).

[108] Companies Act 2006 s 168.

[109] “Become a member”, [Welsh Water](#), August 2026.

[110] Water Industry (Scotland) Act 2002 s 20 and Sch 3.

[111] Herbert Morrison, *Socialisation and Transport*, 1933, ch 11, pp. 197-203.

[112] E. McGaughey, *Principles of Enterprise Law*, 2022, ch 15(1), p. 520.

[113] Z Adams, B Billa, L Bishop, S Deakin and T Shroff, CBR Labour Regulation Index (Dataset of 117 Countries, 1970-2022), 2023, D.30.

markets fail and consumers or service-users can no longer effectively vote with their feet, they must have an alternative way to make their voices heard. This is why new public governance gives service-users votes in public services, from hospitals, to universities, energy, transport, media, online platforms and water.¹¹⁴

Any of the models in Groningen, Berlin or Paris (Box 1 above) would be better than the UK's current governance structures. Ofwat can change governance under the Water Industry Act 1991 Section 35B, for private, mutual and public companies.

For England, this report recommends the following board composition:

1. Workers should elect at least one-third of directors on all water company boards (whether public or private) or trade unions should appoint a third of the directors, or some combination, to ensure labour voice.¹¹⁵
2. Bill payers should be represented either directly or through regional mayors (or local council leaders till mayors are established), in the water basin with a formula weighted to population — at least one-sixth of the seats on all water company boards (whether private or public).
3. If and when the water company is brought into public hands, there should be a 50:50 worker and mayor election model, like Berlin, but without a two-tier board. Additionally, and adapting the benefits of the Paris model, the mayors' choices should be made in consultation with bill payer and environmental groups.

[114] E. McGaughey, “Is public ownership or privatisation better? Law, economic theories, and how data helps”, in G. Sitaraman, M. Ricks and E. McGaughey (eds), *The Cambridge Handbook on the Law of Networks, Platforms and Utilities*, Cambridge University Press 2026, part 4(3).

[115] A good UK model, agnostic to direct employee or trade union elections is for pension trustees. See Pensions Act 2004 ss 241-243.

7. Two Alternative Proposals and Why Public Ownership Is Better

This report has set out the steps from our failed privatised system of water to modern public ownership and governance. In this Section, two alternatives are assessed: re-privatising or mutualising water companies. It is worth noting that, despite support from some corners, privatisation of water is extremely unpopular, and mutualisation is an uncommon and marginal approach. Just eight per cent of UK voters think water should be privately run,¹¹⁶ and mutualised ownership of water only really operates in Wales — it is, in fact, the rarest ownership model in Europe.

Re-privatise water

The first proposal, from the Sunak government under a plan codenamed “Project Timber”, is to avoid putting water companies into special administration or compulsorily purchasing them, unless this is absolutely necessary. In cases, however, where a water company does go insolvent, like Thames Water, then under this proposal, its debt should be reduced and it should be sold back to the private sector.¹¹⁷ A similar approach was taken by Rachel Reeves, Steve Reed, and a Labour Together report: that re-privatisation of failed water companies would be the default option.¹¹⁸

These plans are inseparable from the astronomical figures for public ownership spread by water companies and calculated to scare governments. In 2018, the Social Market Foundation, a think tank, was paid an undisclosed sum of money by Anglian Water, Severn Trent, South West Water and United Utilities to write a report by undisclosed authors alleging that that nationalisation of English water companies would cost £90 billion.¹¹⁹ This was a baseless assertion, that makes no attempt to justify itself based on the law. It asserted that to calculate compensation, the government should look at asset prices of water companies in 1989, multiply by

[116] “Most Britons think water and energy companies should be nationalised”, [YouGov](#), 27 May 2026.

[117] Anna Isaac, “Thames Water nationalisation plan could move bulk of £15bn debt to state”, [Guardian](#), 18 April 2024.

[118] Dan Mead and John Ensall, “Let Thames Water fail: The case for special administration”, February 2026, Labour Together.

[119] “The cost of nationalising the water industry in England”, Social Market Foundation, 2018, p. 2.

the Retail Price Index measure of inflation (which goes up much faster than wages or even water prices), add capital investment, and subtract depreciation, known as Regulatory Capital Value. (These figures have additionally been used by Ofwat to give water companies an extremely generous allowance for dividends, which does not sit well with its duty to ensure that returns to capital are “reasonable”).¹²⁰ Regulatory Capital Value has no relevance to the law on compensation. Nobody has ever explained publicly why it matters. As we have seen, to compulsorily purchase a company, a government must pay fair value, which is often much less than market value. Regulatory Capital Value gives a figure much more than market value and is therefore completely irrelevant.

Nevertheless, because few people easily grasp terms like “Regulatory Capital Value” and it sounds technical, this method of valuation has been repeated again and again by water company lobbyists as a scare tactic. In court case filings in December 2024, a lobbying and consulting firm named Teneo was paid by Thames Water to submit an “expert” report that claimed that to buy Thames Water would cost between £14.7 and £18.7 billion, also based on RCV, and it claimed that it would cost over £1 billion to take the company through special administration. Not long after, the Treasury under Rachel Reeves told Defra that the cost of special administration could be £4 billion.¹²¹ Then in September 2025, Defra under Steve Reed said that it had “estimated that nationalising the water industry would cost approximately £100 billion”, premised on Ofwat’s Regulatory Capital Value figures and ignoring any law.¹²² In February 2026, Labour Together argued in favour of taking Thames Water into special administration and then selling it back to the private sector, based on Teneo’s invented figures. In August 2026, a think tank called Frontier Economics was paid an undisclosed sum of money by Thames Water to write a report claiming that “taxpayers face an immediate compensation bill of up to £144 billion”, making use of the same method.¹²³ The problem is these claims are false, have no basis in law and are the products of serious conflicts of interest.

[120] Water Industry Act 1991 s 2(2A)(c). It is important to note that other regulators, unlike Ofwat, have no duty to secure any particular returns on capital to shareholders and banks. This duty runs contrary to the public interest and is at the heart of Ofwat’s broken model.

[121] Anna Isaac, “Treasury threatens Defra with £4bn bill if Thames Water nationalised”, [Guardian](#), 3 May 2025. See also A. Phillips, “Reeves given £27,000 donation from lobbying firm linked to Thames Water bidder”, [inews](#), 4 June 2025; E. Gatten, “Environment Secretary took £1,786 football tickets from bosses linked to polluting water company”, [Telegraph](#), 25 September 2024. See Ministerial Code §3.7.

[122] “Nationalising the water sector: how we assessed the cost” Defra, [gov.uk](#), 16 September 2025.

[123] S.P. Chan, “Burnham’s water nationalisation ‘risks costing taxpayers £140bn’”, [Telegraph](#), 7 August 2026.

There have also been proposals, floated with Project Timber, that Thames Water should be broken up geographically, supposedly to make it more manageable.¹²⁴ Economist Dieter Helm has argued that sewerage and drinking water should be separated.¹²⁵ Perhaps, goes the logic, this would make water companies work better. Unlike water lobbyists, Helm stated that the Social Market Foundation report had “virtually no intellectual substance and the [£90bn] figure was wrong”.¹²⁶ The downside of breaking up Thames Water, though, whether geographically or functionally, is that it would logistically complicate the essential work of upgrading sewage treatment and leaking pipes. All investment needs to go into that.

More widely, there is no credible evidence that regulation can counteract the inherent rent-seeking behaviour and gaming of the system that arise from privatisation. As John Stuart Mill put it, a natural or “practical monopoly, with all the power it confers of taxing the community, cannot be prevented from existing” with “water companies”.¹²⁷ Water providers, are, as Adam Smith put it, “necessary for facilitating Commerce in general”.¹²⁸ When a natural monopoly exists, it is better to put the enterprise in public ownership, like most countries do.¹²⁹

To sum up, arguments for re-privatisation are based on invented figures:

1. Water company funded lobbyists, consultants and think tanks constructed a fantasy narrative that public ownership of water would cost £90 billion in 2018, £100 billion in 2025 and £144 billion in 2026.
2. The accurate figures to bring water into public ownership — from sources that do not have conflicts of interest — are closer to the £14.5 billion assessed by Moody's in 2019, or around £12 billion in 2026, with something closer to £0 for failed companies, as argued in this report and based on a true and fair value of corporate equity and the law.

[124] Anna Isaac, “Thames Water nationalisation plan could move bulk of £15bn debt to state”, [Guardian](#), 18 April 2024.

[125] Dieter Helm, “Putting Thames Water into special administration and breaking it up”, [dieterhelm.co.uk](#), 7 March 2024.

[126] Gill Plimmer, “Water renationalisation to cost as little as £14.5bn”, [FT](#), 26 April 2019.

[127] See e.g. J.S. Mill, *Principles of Political Economy*, 1848, Book V, ch XI, §11, p. 584.

[128] Adam Smith, *The Wealth of Nations*, 1776, Book V, Ch 1, “Of the Expences of the Sovereign or Commonwealth”, part III.

[129] E. McGaughey, “Is Public Ownership or Privatisation Better? Law, Economic Theories, and How Data Helps”, in G. Sitaraman, M. Ricks and E. McGaughey (eds), *The Cambridge Handbook on Networks, Platforms and Utilities*, Cambridge University Press, Ch 2, p. 31, Table 2.2 (or part 3, Figure 3 on SSRN).

Mutualise Thames Water and other companies

The second proposal to address the water sector crisis is to mutualise water companies. Sometimes this is made in a way that appeals to the language of cooperatives. Under this plan, put forward by the Good Growth Foundation, companies could “voluntarily” mutualise or be required to mutualise under the special administration procedure. Most companies would fail a loose performance test (argued to be meeting 50 per cent of Ofwat’s performance standards or missing pollution targets three years in a row) and, under their proposals, company dividends would be banned.¹³⁰

This so-called “mutual” option is not new: in 2001, the privatised Welsh Water went insolvent and was transferred for £1 to a company limited by guarantee, set up by Lord Burns, Chris Jones and Nigel Annett, intending it to run not-for-profit. However, Welsh Water’s borrowing costs are very high, meaning they cannot upgrade sewage treatment and fix leaks at the best price for bill payers. Similar proposals to “mutualise” Yorkshire Water (as a non-profit but under control of banks) were shelved in 2000 as they could have “unfairly saddled customers with huge debt for no benefit”.¹³¹ This matters because although mutuals may not be sending profits to shareholders, they will generally have higher borrowing costs and will be under greater influence of banks. Furthermore, Welsh Water’s governance structure is notoriously closed. Its board is appointed by the 56 members of Blue Wales Holdings Ltd (Glas Cymru Holdings Cyfyngedig) who appoint their own successors,¹³² without any representation for the workforce, billpayers or the Welsh public. In truth, there is almost nothing “mutual” about Welsh Water.¹³³

There are four significant problems with the Good Growth Foundation proposals:

1. On the performance standards they suggest (meeting 50 per cent of Ofwat’s standards or missing pollution targets three years in a row) their main example of a mutual — Welsh Water — would fail and have to be put into special administration. This is a fact not recognised in the report but is a

[130] “A Watertight Solution for Public Control”, Good Growth Foundation, August 2026.

[131] “Watchdog blocks Kelda plans for Yorkshire Water”, [Guardian](#), 25 July 2000.

[132] “Become a member”, [Welsh Water](#), August 2026, referring to your ability to be an “applicant” but not have any vote.

[133] In a real mutual firm — such as consumer cooperative, bill payers would elect the board. Or, in a real worker cooperative, workers would elect the board. In Welsh Water, there is no voice for either.

clear indictment of the mutual model. They do not explain any other models of mutuals that work anywhere else.

2. Welsh Water's governance structure is unaccountable. The Good Growth Foundation's answer to this is that the board of newly mutualised water companies should include directors elected by bill payers, chosen by mayors and unions. This is an excellent suggestion, but it can be achieved already, by Ofwat for Welsh Water and all private English water companies, with the new power in the Water Industry Act 1991 Section 35B. This means that mutualisation is not a necessary step for better governance.
3. A mutualised company is still a private company. It will be unable to borrow to invest at the cheapest rate, which is available only to publicly owned corporations. Lower borrowing rates for infrastructure investment is a clear advantage of public ownership. By contrast, the Good Growth Foundation's report fails to say how much creditor debt should be repaid and in what circumstances, advocating more rulemaking, without saying why.
4. To mutualise companies, the same processes — special administration or compulsory purchase — have to be followed, with the same costs as public ownership. The report quotes a "Woman, Labour-Reform Switcher" saying that "[p]rivatisation was a massive mistake, but nationalisation costs too much". The reality is the reverse: it costs the same to get from privatised water to mutualised water or public ownership. Public ownership requires no extra taxpayer money, or state aid, and mutualisation will cost more because borrowing rates will be higher and private banks will exercise more control over water.

In addition, the Good Growth Foundation received an undisclosed amount of funding from the Thames Water consultant, Teneo,¹³⁴ and did not disclose this as a potential conflict of interest in their report.

The proposal to mutualise water companies seems to be in large part an attempt to thread the needle of the feared and misunderstood fiscal rules. According to the Good Growth Foundation:

- “ Mutualisation offers an alternative for genuine public control, with the company remaining responsible for its own assets and debts. It is this distinction that keeps it off the government's books. The line between a public body and a private entity is defined by the independent Office for National Statistics and based on internationally comparable norms.

[134] "One Year of the Good Growth Foundation", [Good Growth Foundation](#), 29 January 2026.

This is mistaken. The difference between a public body and a private entity is defined by international standards and law, and the ONS should follow this. As the next section explains in full, internationally comparable norms keep public corporations off the government books, unlike the Treasury’s Charter of Budget Responsibility, whose measures of debt the ONS calculates. This situation is peculiar to the UK and should change, because it artificially disincentivises much needed public investment.

To sum up, mutualisation is not a preferable or viable solution to the water sector crisis:

1. Even by the Good Growth Foundation’s own principles for revocation of a water company’s licence, their main example of a mutual water company, Welsh Water, would fail.
2. Non-profit companies can have better or worse governance, but good governance — with worker and service user directors — can be required now by Ofwat in a private, mutual or publicly owned company. This is not, therefore, a plausible reason to prefer mutualisation.
3. The only reason to prefer mutuals to public ownership is to not have water company debt added to national debt. However, debt will be wiped out in special administration of a failed company: there is no debt.
4. Instead of rejecting public ownership, it is better to change the Treasury’s backwards accounting practice and to discount public company debt from national debt, as is the international norm.

The fiscal rules fall below international standards

The fiscal rules influence government choices on public ownership. These are not rules of law in primary or secondary legislation, but a statement of intent by the Chancellor of the Exchequer to have balanced or surplus budgets each year and to get debt down by the end of Parliament.¹³⁵ These pledges are believed to raise market confidence. There are various measures used to calculate the national debt. Most often countries report a debt-to-GDP-ratio using General Gross Government Debt

[135] “Charter of Budget Responsibility”, HM Treasury, Autumn 2025, paras 3.6 and 3.7, while para 3.9 adds that the target for the welfare bill should decrease. The Budget Responsibility and National Audit Act 2011 s 1 requires the Treasury produces a document “relating to the formulation and implementation of fiscal policy and policy for the management of the National Debt” and s 3 creates the OBR.

(GGGD). Of G7 countries, the UK’s GGGD-to-GDP ratio was 102 per cent in 2025, while Germany was 62.9 per cent, Canada 113.5 per cent, France 116 per cent, the USA 123.9 per cent, Italy 137.1 per cent and Japan 206.5 per cent. This international measure of national debt does not include the debt of public corporations that are market actors — those that borrow money, charge prices to service users and are largely economically independent, like state-owned energy, transport or water companies.¹³⁶

In the UK, however, since 1992 — under the Treasury of Norman Lamont — the practice of including publicly owned company debt in the figures for national debt has been used. This is called Public Sector Net Debt, and the government has recently created a new variant called Public Sector Non-Financial Liabilities. This approach includes public corporation debt in national debt, diverging from the rules of every other European country (since the Maastricht Treaty). The Office for National Statistics measures GGGD,¹³⁷ and then calculates the UK’s special measures of debt, (PSND and PSNFL). It has calculated both since 1992.¹³⁸ This approach allows for it to be claimed that the national debt goes up when publicly owned corporations borrow more money to invest or when there are more publicly owned corporations (that have borrowed money). This claim of increased debt is portrayed as a technical issue — there is more debt — when it is political and highly contentious. Most countries, in line with UN and European Systems of Accounts, exclude publicly owned corporations that are market actors from national debt.

[136] Eurostat, *European System of Accounts*, 2010, paras 1.34, “The distinction between market and non-market activity is an important one. An entity controlled by government, which is shown to be a market corporation, is classified in the corporation sector, outside the general government sector. Thus, the deficit and debt levels of the corporation will not be part of the general government deficit and debt.” See paras 2.38 and 20.18 on control. See also UN, *System of National Accounts*, 2008, para 4.80.

[137] Statistics and Registration Act 2007 ss 1-5, creates a Statistics Board with an officer called the National Statistician appointed by Her Majesty (i.e. the Prime Minister) who under ss 30-32 has an executive office that they appoint: this is quasi-dependent Office for National Statistics. The National Statistician ultimately controls the ONS but should follow international accounting and statistical standards.

[138] See e.g., “Wider measures of public sector net debt”, [ONS](#), December 2017, part 4, 7, noting the difference between EU accounting and UK (including public corporations), without giving any real explanation.

Box 3: Investment-led growth and public corporations, in European and international accounting standards

- “ 1.34 The distinction between market and non-market activity is an important one. An entity controlled by government, which is shown to be a market corporation, is classified in the corporation sector, outside the general government sector. Thus, the deficit and *debt levels of the corporation will not be part of the general government deficit and debt.*

-Eurostat, *European System of Accounts* (2010) 7, para 1.34
[Emphasis added.]

- “ 4.127 The general government sector consists of the following groups of resident institutional units:

- a. All units of central, state or local government (as described immediately below);
- b. All non-market NPIs [Non-Profit Institutions] that are controlled by government units.

The sector also includes social security funds, either as separate institutional units or as part of any or all of central, state or local government. *The sector does not include public corporations, even when all the equity of such corporations is owned by government units.*

22.27 To be classified as a *public corporation*, a corporation must not only be controlled by another public unit, but it also *must be a market producer*. ... To be considered as a *market producer*, a unit *must provide all or most of its output to others at prices that are economically significant.*

-United Nations, *Systems National Accounts* (2008) paras 4.127 and 22.27-22.28. [Emphasis added.]

UK practice can rise to international and European accounting standards by the Chancellor of the Exchequer excluding publicly owned corporate borrowing from Public Sector Net Financial Liabilities in the Charter for Budget Responsibility. This would put the Treasury and ONS more in line with their statutory duties (namely to promote the “public interest” and “promote and safeguard” good statistical practice)¹³⁹ and would not affect the core of the fiscal rules (namely to balance the books and get debt down by 2029). Economically, it would enable investment for good growth in every postcode.

It has often been argued that changing the fiscal rules in any way risks scaring the bond markets, raising UK borrowing costs and leaving less money for public services — or trigger a Truss-Kwarteng style economic meltdown.¹⁴⁰ Yet bond market investors with £2 trillion in assets under management publicly urged the Treasury in February 2026 to take self-funding public corporations out of the measure of national debt,¹⁴¹ and align with European and international standards.

The reality is that counting public corporation debt as national debt deters governments from bringing failed privatised industries, like water, into the public sector. It also deters public investment to drive up economic growth.¹⁴² The UK has among the lowest stocks of infrastructure assets compared to GDP partly for this reason.¹⁴³ Privatisation has meant decades of starved public investment and starved public assets, letting foreign banks, asset managers and governments extract billions each year from British bill payers and taxpayers, shipping capital overseas. It means less public investment or British ownership of our own housing, clean energy, rail, buses and water. The better choice is for more.

[139] Statistics and Registration Act 2007 s 7, the Board must “promote and safeguard” what is “good practice in relation to official statistics” and this shapes the duty in s 9 to “develop and maintain definitions, methodologies, classifications and standards for official statistics”. The explanatory notes to 9 in para 56 explicitly say these should be “in line with European Union (EU) and international guidance as appropriate” including the “European System of Accounts”.

[140] Richard Partington and Kiran Stacey, “How Rachel Reeves could release billions more for investment in the budget”, [Guardian](#), 27 September 2024.

[141] S. Fleming, E Dunkley and M. McDougall, “Ease borrowing curbs for development schemes, gilt investors urge Reeves”, [Financial Times](#), 8 February 2026.

[142] On the concept of real economic growth, see E. McGaughey, “Economic growth and labour rights”, *Industrial Law Journal*, 2026.

[143] Thomas Aubrey, “Lessons from the Victorians for funding big projects”, [Financial Times](#), 14 June 2025.

8. Conclusion

This report has outlined how to quickly and cheaply repair our broken water system, using existing legal powers and legislation. It has shown how the government can use special administration and take failed water companies into public ownership for close to £0 and then pass an Act of Parliament to bring other water companies into public ownership through fair value compulsory purchase. It estimates that this will create a return of up to £0.58 billion in three years before public financing costs, with an initial investment of £12 billion which can be spread over a number of years. This cost is significantly less than upper bound of the £22.047 billion cost of privatisation over five years (in Ofwat's price review period of 2025-2030), which means up to an extra £176 for every household. Publicly owned water will mean a third more of people's bills go into upgrading sewage treatment and preventing water leaks than under the present system. It will enable higher wages for water workers, lower and stable bills for bill payers and give an opportunity to build a democratically accountable water system. As the climate crisis worsens, the extra investment that public ownership will bring means our water system can be made resilient, able to withstand the pressures of droughts and floods, and ensure that taps and hosepipes keep running. As critical infrastructure, water cannot be left to foreign shareholders, banks and vulture funds. It is a public service that needs to be publicly owned.

This report has also dispelled the myths and scare tactics of proposals for reprivatisation and mutualisation of water companies. The uncomfortable fact is that water companies have astroturfed dishonest research, weaponising think tanks, lawyers and consultants to spread misinformation about the costs of public ownership — and this has been very effective at reaching MPs and Ministers.

Politicians now face a choice — to believe the people who are paid to lobby for polluters or to save our public services. British voters have already made their minds up — only eight per cent of voters still support privatised water. Mutualisation is a distant second best to public ownership, primarily because governance risks being poor and non-profits face the same elevated cost of borrowing to invest in repairs as privatised companies, compared to lower public investment rates. The concern that public ownership of failed water companies would add to national debt is misplaced — the shareholders and creditors of failed companies are owed close to £0.

True public control in the case of water means public ownership — public control is not possible without public ownership. To release the handbrake on investing in better public services, the Treasury and ONS should update their

accounting practices to be in line with international and European standards and exclude public corporation borrowing for investment from national debt figures.

The obstacles to a better water system dissolve away into very little once we look closely. The solutions, like clean water, are crystal clear.

Acknowledgements

Having taught water regulation for nearly a decade and insolvency and corporate governance for nearly two, in 2024, I went to an Ofwat meeting for stakeholders, to try and better understand the current issues in the news. Ash Smith (a retired detective) was on the call and he with Peter Hammond (a retired computing professor) were the two lead campaigners at Windrush Against Sewage Pollution, later immortalised in the docudrama, “Dirty Business” (Channel 4, 2026). I soon met Ash in real life to talk more on a hot day in Hyde Park, with my one-year-old running about. I also went to meet the former CEO of Ofwat, David Black, in Canary Wharf to try and get a grip on their perspective of what was going so wrong. I offered both the campaigners and the regulators any help I could, based on my understanding of the legal issues and their powers.

After the election, with new plans afoot, I also met Matt Staniek from Save Windermere, Giles Bristow from Surfers Against Sewage, Becky Malby from Ilkley Clean River Campaign, Jo Robb and Laura Reineke from Henley Mermaids, Feargal Sharkey and James Wallace from River Action and many more brilliant campaigners who wanted change. They were all from different backgrounds and parts of the country, but they had one thing in common: their local river, lake or beach was polluted, they knew it was wrong and they wanted change. I am incredibly grateful to them all for what I have learned.

I also had many meetings with civil servants, special advisers, Members of Parliament, Ministers, think tanks, charities, solicitors, barristers and economists who have been drawn into this crisis. Trying to make myself useful (and my own teaching or writing more informed) I was prepared to give help wherever I could through what I understood of the law — especially the poorly drafted, convoluted rules on special administration, insolvency procedures, the law on compensation for compulsory purchase, and accounting and reporting practices. It was immediately clear to me — and I was not surprised — that there was a huge ecosystem of lobbying and lies from water companies, backed by very rich banks, who were trying to profit whatever the social cost.

What did surprise me is how deeply their narratives penetrated into (two ex-) government ministers, (a few) civil servants, and (a few) advisers, who often seemed as compromised as the industry they were meant to regulate. I was less surprised, but still shocked, at the ability of (a few) politicians to diagnose the problems but decline to set out the clear steps towards solutions or contemplate using the powers

that Parliament has given them. I have also been incredibly impressed by (the many more) politicians who do understand the problems and the solutions — like in the rest of the world — and work tirelessly for their constituents. I've seen this in all parties (to different degrees). In 2025, I was proud to take part in a People's Commission on the Water Sector, organised Becky Malby, with Frances Cleaver and Kate Bayliss, on the broader issues and data on water reform.

I am also incredibly grateful for the intellectual and organising work done by David Hall, Stanley Root, Gill Plimmer, Cat Hobbs, Johnbosco Nwogbo, Matthew Topham, Sophie Conquest, Mat Lawrence, Amelia Horgan, Chris Hayes, Sophie Monk, Lena Swedlow, Thomas Aubrey, along with many others in the civil service, law and government whom I do not name publicly, but who are working tirelessly within the system to fix it.



Crystal Clear: The Solution for Clean, Running Water

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