



Department  
for Environment  
Food & Rural Affairs

# **Government response to the Office for Environmental Protection's review of implementation of the Bathing Water Regulations in England**

February 2025

**Department of Environment, Food & Rural  
Affairs**

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to the Office for  
Environmental  
Protection's review of  
implementation of the  
Bathing Water  
Regulations in England**

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# 1. Introduction

The government welcomes the [Office for Environmental Protection's \(OEP\) review of the implementation of the current Bathing Water Regulations](#) in England (view the [Bathing Water Regulations 2013](#)). The report looked at the effectiveness of the Bathing Water Regulations ('the Regulations') as a legal instrument, their application in practice and their coherence with wider law and policy. In so doing, the OEP assessed whether the Regulations are positioned to achieve their aim of improving bathing water quality to protect human health and to facilitate recreational water use.

The prominent conclusion made by the OEP is that the Department for the Environment, Food and Rural Affairs (Defra) and the Environment Agency are implementing the Regulations effectively in terms of compliance with bathing water monitoring, classification and reporting. We also acknowledge there is scope to update and improve the Regulations to reflect changes to the public's recreational use of water beyond bathing and the public's expectations of bathing water quality. The government welcomes the recommendations made by the OEP in its review.

This government is committed to working collaboratively with stakeholders and experts to improve our waterways. It is committed to taking action to accelerate progress on improving the water environment for the protection of humans who use it and the wildlife which inhabit it. The Secretary of State has made cleaning up the water environment a priority for Defra. To meet the scale of the challenge, and deliver transformational change, the government launched an [Independent Commission into the water sector on 23 October 2024](#) to review its regulatory system. The Commission will report in mid-2025 with recommendations to the government on how to tackle inherited systemic issues in the water sector to restore our rivers, lakes and seas to good health, meet the challenges of the future and drive economic growth.

## 1.1 Summary of the OEP's recommendations

In its review, there are [12 OEP recommendations for Defra and the Environment Agency](#) to consider. The recommendations relate to the current implementation of the Regulations, their design, and coherence with related law and policy.

There is constructive commonality between the OEP's recommendations, and the proposals consulted on in the government's recent [consultation on Reforms to the Bathing Water Regulations 2013](#). The full list of the OEP's recommendations can be found at Annex 1.

Following the publication of this report – the OEP submitted a formal response to the government’s consultation on Reforms to the Regulations, outlined above. We will address the points made in the OEP’s consultation response in our formal government response to the consultation.

## **1.2 Government’s proposed reforms and technical amendments to the Bathing Water Regulations 2013**

Over time, there have been changes in how and where people use bathing waters since the Regulations were introduced. The current Regulations take a general ‘one-size-fits-all’ approach to bathing water designations, water quality monitoring and the de-designation process. On 12 November 2024, Defra, alongside the Welsh Government, consulted for 6 weeks on potential reforms to improve the current Regulations and increase flexibility in their implementation.

The consultation gained views from stakeholders on 3 core reforms that could be taken forward in the short-term, and 2 wider proposals relating to possible, future phases of regulatory reform. Views were also sought on 9 technical amendments designed to improve the use of resources of the Environment Agency and Natural Resources Wales (NRW) and bring the Regulations in line with modern practices. The formal government response to the consultation will be published in due course and will outline next steps on potential reforms to the Regulations. The proposals within the consultation address a number of the OEP’s recommendations and where the consultation does not directly address these, we will look to consider these in future policy development and consult with stakeholders where necessary.

You can view the [full list of proposed reforms to the Bathing Water Regulations 2013 on Citizenspace](#).

## **2. Government’s response to the OEP’s recommendations**

### **2.1 OEP recommendations aligned with the government’s proposed reforms to the Bathing Water Regulations 2013**

We welcome all the recommendations and information provided in the OEP’s report and have considered all points made throughout their review in our response below. Many of the recommendations suggested relating to regulatory reforms have been captured in our recent consultation. This highlights that reforms considered by government are broadly in line with what the OEP recommend is needed to improve the bathing waters system for the public.

OEP Recommendation 1 (see Annex 1: expand the meaning of ‘bathers’) corresponds with government’s Wider Reform 1.

In the consultation, we sought views on whether a wider range of water users should be considered beyond just swimmers. We explored what categories of other users should be included and how their needs can be balanced against current users. This intends to make the Regulations better reflect contemporary usage of our waters by considering activities such as rowing, surfing, kayaking and paddleboarding amongst others. It also reflects the rising trend in popularity of public use of our waters in recent years

OEP Recommendation 2 to remove dates of the fixed bathing water season (May to September) corresponds with government’s Core Reform 3.

Defra’s consultation sought views on removing the fixed dates of the monitored bathing season from the Regulations (regulation 4) and instead including them in non-statutory Defra (and Welsh Government) guidance on bathing waters. Should the Regulations be amended, guidance would be published and made available to the public on GOV.UK and GOV.WALES.

OEP Recommendation 5 (include a pre-identification step in designating new bathing waters) is in line with government’s Core Reform 2.

In the consultation, we sought views on the proposed reform to the Regulations so that the feasibility of being able to improve a site to at least ‘sufficient’ standard (on cost and deliverability grounds) would become a criterion. Where necessary, this will be considered before a decision is made whether to designate the site as a new bathing water.

OEP Recommendations 7a (take a more flexible approach to determining the most representative sampling locations) and 7b (introduce multiple testing points on long stretches of bathing water sites), corresponds with government’s Wider Reform 2.

We consulted on whether additional monitoring points to capture water quality variation across sites would be beneficial. Multiple monitoring points at each bathing water site could provide greater spatial information that will help water-users assess their individual risk. This could also provide a clearer picture of the water quality at sites and inform the relevant authority of which area of a bathing water the public may wish to use. In relation to Recommendation 7a, whilst we did not explicitly consult on this, it is already possible to categorise different areas of a bathing water if there are distinct populations of bathers and an expectation that the water quality is different.

OEP Recommendation 11 (revisit the approach to automatic declassification of bathing water sites) corresponds with government’s proposed Core Reform 1.

The proposed reform that Defra is consulting on would remove the automatic de-designation provision from the Regulations (regulation 13(2)(a)). Instead, government would look to implement a new provision requiring the Environment Agency (or NRW) to

assess whether it is feasible and proportionate (on cost and deliverability grounds) for the water quality at a designated site to improve to 'sufficient' standard following 5 consecutive poor classifications. This will determine if a site will continue to be a designated bathing site, or whether the site should be de-designated.

## **2.2 OEP recommendations that are existing government practice**

The below recommendations made by the OEP are already considered in government's management of the bathing water system and implementation of the Regulations.

OEP Recommendation 4(b) suggests where applications are rejected, Defra should provide a statement of the reasons for the rejection as a matter of routine in the interests of transparency and good governance.

Defra practices these processes and reasons for successful or unsuccessful applications are provided to applicants. There was a period in 2023 when the guidance for applying to designate bathing waters was changed. At that time, we were unable to provide information which led to applications being unsuccessful, however we will endeavour to provide this information to any future applicants.

OEP Recommendation 7, within the 'our view' section, highlights the need for further research into new and emerging techniques to assess faecal indicator organisms (FIOs) with nearer real-time applications.

The Environment Agency and Defra are currently undertaking a study to develop a standard operating procedure to use quantitative polymerase chain reaction (qPCR) techniques to identify sources of faecal pollution in water bodies. Although this is not near-real time, the purpose of the work is to improve our evidence-base and understanding of how qPCR could be used for targeted improvements in water quality monitoring, with a broad split between human, agricultural and bird pollution at freshwater sites.

OEP Recommendation 7c suggested that government develops proposals for the consistent monitoring of and response to, cyanobacterial blooms at bathing water sites.

This is currently practiced during each site visit made by the Environment Agency and water samplers check for the presence of blooms. If these are observed, then the local authority is notified and will take action to prevent bathers' exposure if they consider this to be necessary.

OEP Recommendation 7d suggests that Defra and the Environment Agency provide increased transparency and explanation of monitoring decisions so that people understand what is being done, when, how and why.

This refers to providing information to the public in relation to OEP Recommendations 7a, b and c. In section 2.1, we outline that 7a and 7b are reflected in government's Wider Reform 2 and have been consulted on. Also, OEP Recommendation 7c (consistent

monitoring of and response to, cyanobacterial blooms) is routinely practiced by the Environment Agency's water sampling teams and local authorities are informed of the exposure risk to water users. To ensure bathers are protected, information regarding any changes to monitoring practices is then disseminated to the public through usual channels

OEP Recommendation 9 suggests that Defra and the Environment Agency consider options to increase people's ability to access real time information on bathing water quality.

Bathing water quality data from sampling designated sites in England is assessed by the Environment Agency. From May to September, daily pollution risk forecasts (PRFs) are issued on the [Environment Agency's web platform \(Swimfo\)](#) where the public can look up details of a designated bathing water by name or location. The Environment Agency is currently considering upgrades to Swimfo to make it more user-friendly for the public.

### **2.3 OEP recommendations outside the scope of government's proposed reforms to the Bathing Water Regulations 2013 or are not currently existing practice.**

The remainder of the recommendations made by the OEP's report are outside of the scope of the current consultation on proposed reforms to the Regulations or are not currently existing practices. We respond to each of these below and highlight where we may consider these in future.

OEP Recommendation 3 proposes that Defra should review the current criteria for identifying bathing waters and base it on an assessment of current use and necessary protection of human health rather than a fixed number of bathers. It also proposes to reconsider the current exclusion of bathers during organised events.

A fixed number of bathers demonstrates the site is being used and therefore requires monitoring or improvements. Having a fixed number of bathers makes the application process easier for applicants as they know the threshold they are required to meet. This is set out in [our guidance on how to apply to designate a bathing water](#). We plan to review our guidance in future, in line with any necessary changes following the outcome of the regulatory reform consultation. We will look to consider this recommendation when reviewing guidance.

OEP Recommendation 4(a) suggests that a public consultation should be undertaken before proposals for changes to the identification criteria and process for bathing waters are made.

Although consultation is standard procedure when changes to regulations are made, a formal consultation to change guidance is not required. Government's most recent consultation on the Regulations sought stakeholder views and information on a range of potential reform measures to improve the current Regulations and increase flexibility.



Although a formal consultation is not required to change guidance, government aims to work closely with stakeholders when making any changes.

OEP Recommendation 6 has 3 parts. OEP Recommendation 6a suggests consideration be given to the potential benefits of using 95 percentile evaluation for all classifications as suggested by the World Health Organization (WHO). OEP Recommendation 6b suggests, for the purposes of transparency, that government considers the approach to disregarding samples, to ensure stakeholders understand what is being done and why and to make use of the data collected.

Current practices were set out in the Bathing Water Directive 2006, which the Bathing Water Regulations 2013 transposed. However, we welcome recommendations 6a and 6b and will look to consider these in any future updates to guidance or Regulations.

OEP Recommendation 6c advises Defra and the Environment Agency to consider the justification for different water quality standards for inland and coastal bathing waters.

The current Regulations transposed the 2006 EU Bathing Water Directive, including the different water quality standards. The same standards do not currently apply to both inland and coastal bathing waters due to both having different, separate pressures. However, this is something we could explore in possible future phases of reforms.

OEP Recommendation 8 is 2 technical proposals. Recommendation 8a suggests Defra and the Environment Agency pursue the further development of short-term pollution risk forecasting systems so health risks can be better understood and communicated to the public with greater speed, including for inland sites.

Recommendation 8b proposes Defra and the Environment Agency consider how best to align implementation of the Bathing Water Regulations with that of the Urban Waste Water Treatment Regulations, as well as relevant provisions of the Environment Act 2021, so event duration monitoring data can be fed into pollution risk forecasting systems.

Whilst we are not currently considering these recommendations, in the future, Defra could consider working with the Environment Agency to explore options for consolidating data into one, single source of reliable information for users, including short-term pollution risk forecasting systems and data from Event Duration Monitors. If we consider taking forward these proposals in future, we will look to work closely with stakeholders.

OEP Recommendation 10 has 3 parts which identified the need for a more ambitious and purposeful approach to setting and pursuing environmental objectives for bathing waters under the [Water Framework Directive Regulations 2017 \(WFD\)](#).

Recommendation 10a suggests that Defra and the Environment Agency ensure that the objectives set for bathing waters in River Basin Management Plans (RBMPs) are sufficiently ambitious and recognise the duty in Regulation 5(1)(b) of the Bathing Water Regulations to aim for 'good' or 'excellent' where appropriate. RBMPs set the legally

binding locally specific environmental objectives that underpin water regulation (such as permitting) and planning activities. They provide a stable planning base for economic development.

Recommendation 10b proposes that these objectives are backed up by clear, specific and time-bound measures to achieve them at the level of individual water bodies.

Recommendation 10c states that the identification of those measures considers all relevant pressures, including from agriculture and other sources as well as the water industry, and the impacts for the water environment as a whole.

There is a [government response to a separate OEP report on the implementation of the WFD](#). As was outlined in our response to that report, we will consider these recommendations and any possible future proposals in light of the outcomes of the [Independent Commission on the Water Sector Regulatory System](#).

OEP Recommendation 12 proposes that Defra clarifies the relationship between provisions under the Bathing Water Regulations for identifying and monitoring bathing waters, and giving advice against bathing, with rights and restrictions in common law and byelaws and this should cover other recreational water users not just bathers.

The current Regulations do not stipulate access rights as a criterion for bathing water designation. Should an application be submitted with evidence that at least 100 bathers regularly use a site and local authorities, and any relevant landowners, support the application, under the current application criteria Defra considers it suitable for designation pending a public consultation.

### **3. Next Steps**

We welcome the recommendations made by the OEP throughout this report and have outlined where these may be considered in future. Our response to the consultation on proposed reforms to the Bathing Water Regulations 2013 will be published in due course and will set out next steps on potential reforms to the bathing water system.

# **Annex 1. The OEP's recommendations to government**

## **Recommendation 1 (section 2.1 of response)**

We recommend that, in applying its duty to review the Bathing Water Regulations, and in considering what is meant by waters 'at which the Secretary of State expects a large number of people to bathe', Defra should consider whether wider categories of water users need now to be taken into account, given the purpose of protecting human health. To this end, we recommend that Defra consider not just those people whose express intention is to swim, but also those who would normally or frequently expect to be immersed (such as surfers) as well as other recreational users who may be exposed to polluted water from 'bathing' from time to time.

## **Recommendation 2 (section 2.1 of response)**

In any review of the regime, we recommend that Defra consider options to expand the bathing water season to better match the actual usage of bathing waters by significant numbers of people. This could include considering the possible use of different season lengths at different locations.

## **Recommendation 3 (section 2.3 of response)**

We recommend that Defra revise the current bathing water identification criteria to better reflect the provisions of the Regulations and the protection intended to be provided where large numbers of people are expected to bathe. To this end, we recommend that Defra base its identification of bathing waters on a properly representative assessment of current use and necessary protection of human health rather than fixed numbers of bathers or infrastructure. We also recommend reconsidering the current exclusion of higher levels of use of waters during organised events.

## **Recommendation 4a (section 2.3 of response)**

We recommend that all material proposals for changes to the bathing water identification criteria and process should be subject to public consultation before they are finalised.

## **Recommendation 4b (section 2.2 of response)**

Where applications are rejected, Defra should provide a statement of the reasons for the rejection as a matter of routine in the interests of transparency and good governance.

### **Recommendation 5 (section 2.1 of response)**

We recommend that any review of the Bathing Water Regulations by Defra should include further consideration of whether a structured and transparent pre-identification process, such as that operating in Germany, might be beneficial.

### **Recommendation 6a and b (section 2.3 of response)**

We recommend that, in any review of the Regulations, Defra consider: a) the potential benefits of using 95 percentile evaluation for all classifications as suggested by the WHO; and b) the approach to disregarding samples, to ensure stakeholders understand what is being done and why and to make best use of the data collected.

### **Recommendation 6c (section 2.3 of response)**

We also recommend that, in any such review, Defra, with input from Department of Health and Social Care (DHSC) and the UK Health Security Agency (UKHSA) as appropriate, consider further the justification behind the different standards for inland and coastal bathing waters.

### **Recommendation 7 (section 5,2,3 'Our View', section 2.2 of response)**

Our assessment also highlights the need for further research into new and emerging techniques to assess FIOs with nearer real-time applications.

### **Recommendation 7a and b (section 2.1 of response)**

In any review of the Bathing Water Regulations, we recommend that Defra and the Environment Agency consider the scope and options to update the monitoring and sampling regime. We recommend that this should include considering the potential to: a) take a more flexible approach to determining the most representative sampling locations; and b) increase the number of sample points on long stretches of identified areas.

### **Recommendation 7c and d (section 2.2 of response)**

We recommend that this should include considering the potential to: c) develop proposals for the consistent monitoring of and response to cyanobacteria blooms; and d) provide increased transparency and explanation of monitoring decisions so that people understand what is being done, when, how and why.

### **Recommendation 8a and b (section 2.3 of response)**

We recommend that Defra and the Environment Agency pursue the further development of short-term pollution risk forecasting systems so health risks can be better understood

and communicated to the public with greater speed, including for inland sites. While establishing accurate levels of Escherichia coli (E. coli) and Intestinal Enterococci (IE) may for the time being only be possible via laboratory analysis, event duration monitoring data provides a near real-time indication of risk to harm at affected bathing sites. We therefore also recommend that Defra and the Environment Agency consider how best to align implementation of the Bathing Water Regulations with that of the Urban Waste Water Treatment Regulations, as well as relevant provisions of the Environment Act 2021, so event duration monitoring data can be fed into pollution risk forecasting systems.

### **Recommendation 9 (section 2.2 of response)**

We recommend that any review of the regime include consideration of options to improve the quality, clarity, and accessibility of bathing water information. We suggest this could include online resources and improved use of social media and Quick Response (QR) codes as well as physical signs at bathing sites.

### **Recommendation 10a, b and c (section 2.3 of response)**

In their ongoing implementation of the WFD Regulations, including addressing our earlier recommendations on this regime, we recommend that Defra and the Environment Agency ensure that: a) the objectives set for bathing waters in RBMPs are sufficiently ambitious and recognise the duty in Regulation 5(1)(b) of the Bathing Water Regulations to aim for 'good' or 'excellent' where appropriate; b) those objectives are backed up by clear, specific and time-bound measures to achieve them at the level of individual water bodies; and c) the identification of those measures considers all relevant pressures, including from agriculture and other sources as well as the water industry, and the impacts for the water environment as a whole.

### **Recommendation 11 (section 2.1 of response)**

In any review of the Bathing Water Regulations, we recommend that Defra revisit the current approach to the declassification of bathing waters, which can result in successive 'poor' results leading to automatic declassification and loss of bathing water status even where improvements are in progress.

### **Recommendation 12 (section 2.3 of response)**

In any review of the regime, we recommend that Defra clarify the relationship between provisions under the Bathing Water Regulations for identifying and monitoring bathing waters, and giving advice against bathing, with rights and restrictions in common law and byelaws. This should consider not just the current practical interpretation of 'bathing' to cover swimmers but also the possible application of the Regulations to cover other recreational water users.

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