



Ilkley Clean River - Response to Ofwat's Price Review 2024 Consultation

1. Background and who we are

Ilkley Clean River Group is a group of community activists with no funding from water companies, government or regulators and with no political affiliation.

Six years ago, we used citizen science at Ilkley to expose the persistent level of sewage pollution in our river, which was being denied by the Environment Agency, and viewed as compliant with legal requirements by Yorkshire Water. This pattern was then shown to be duplicated in every river in England.

Our citizen science testing showed that there are scandalously high levels of pollution from sewage, that are a danger to public health and to wildlife. We secured the first designated Bathing Status for a river, which meant the poor water quality was made public by the Environment Agency. We exposed how Yorkshire Water was not complying with water industry legislation, how the regulators were complicit with and ignoring the problem, and how pollution had become profitable and was an entrenched part of water company operations.

Yorkshire Water eventually responded, putting in a new £15M, 835meter, sewer underneath Ilkley to reduce the frequency (by 40%) and volume (50%) of raw sewage discharges into the river Wharfe at the main CSOs in the bathing stretch. It has started work at the sewage works on a new storm tank. Both the new pipe and tank create storage, rather than dumping the sewage into the river when it rains. The next phase proposed in the price review plans are additional storage upstream, some de-combining, and nature-based solutions to treat all this sewage. The bill is priced at circa £60M.

We believe that this was the right thing to do, but that it should have been done already as part of ongoing investment. Ilkley's bill-payers have already paid for their sewage to be treated and Yorkshire Water stated in its reporting and price setting process with Ofwat that it had the necessary capacity to do this. As you know by declaring this position, and self-certifying Yorkshire Water was allowed by Ofwat to take out eye watering loans from its stakeholders (19% of our current bills are to service these loans) and to pay bonuses and dividends. Yorkshire Water has profited from making statements about compliance that were clearly not true. There have been no penalties for this historic behaviour which has led to the shocking state of our river. It should not have taken community activism to force a water company to provide the basic and legal level of service in regard to sewage treatment.

2. Our Overall Position on the Draft Determination

1. We support this investment by a Yorkshire Water to provide basic treatment of our sewage in Ilkley and at the same time creating the example for how all sewage works across the country should operate.

2. However, it should have been implemented as part of the company's ongoing maintenance and improvement programme. All the proposal does is to ensure that there is a better degree of compliance with the law at Ilkley. We do not think customers should pay for the scandalous behaviour of water companies in the past, self-certifying compliance and the quality of infrastructure, which we now find to be woefully inadequate and a smokescreen for profiteering. Water companies have created scandalous pollution that is damaging our environment, and they should pay to clean it up.
3. We do not agree with the proposal that water companies should improve infrastructure (e.g. number of sewer collapses, burst pipes) rather than ensuring infrastructure does not fail in the first place.
4. We are concerned that the regulators are not joined up in their regulation against the law, with confusion between regulators on
 - a. the legal limit of storm overflows and the quality of treated effluent.
 - b. their support for solutions (Ofwat and Defra supporting nature-based solutions, the Environment Agency blocking the NB solutions for Ilkley because they don't know how to permit it).
5. We do not think the customer should be paying up front when Ofwat does not have the capacity to claw back underspend. Ofwat is not currently able to monitor spend on investments to assess whether projects in progress or completed are within or lower than predicted spend and is finding multiple examples of projects not meeting deadlines for completion.
6. We do not agree that the plans are ambitious, and the regulation is tough enough. We do not agree with the tolerance of illegal pollution embedded in the Determination, with compliance to increase by 44% only, when our rivers lakes and seas are being so damaged by pollution. Enforcement cases against several water companies are ongoing and yet Ofwat proposes to reward these companies by allowing bills to increase. No water company that has deteriorating performance, that is operating illegally should be permitted to increase bills. No water company should be paying bonuses to any director whilst it is not operating to contractual performance and is acting illegally. Yorkshire Water has been downgraded to Level 2 whilst the CEO takes a bonus, 'improvements' are unambitious compared to water companies in other countries, and bills are set to rise by £107pa before inflation. This is not tough regulation.

3. The Customer Pays Again

David Black, The Chief Executive of Ofwat wrote to Ilkley Clean River Group a year ago stating:

"We are firm in our commitment to ensuring that the customer should not pay twice for a company's shortfall."

And:

"We are determined to use all the regulatory powers as fully as possible to improve the performance of water companies for customers and the environment."

Ofwat rightly expects water companies to invest in their systems and acknowledges that they have not been doing so adequately to date. PR24 requires companies to triple their investments and **almost all of this spending - 90% of it - will be needed simply to meet their legal requirements¹.**

¹ Ofwat 20204. Our draft determinations for the 2024 price review. Sector Summary

This considerable increase is a direct result of decades of under-investment that should not have been allowed. Customers have been paying their bills in the belief that the money was being invested to maintain and improve assets.

In fact, as we all now know, the water companies were taking our money and also borrowing huge sums against the assets entrusted to them. Most of the money borrowed was not being spent to improve the systems entrusted to them by the taxpayer, but to divert reward to their shareholders and give investors ample returns. Meanwhile they were utterly failing to maintain and improve these assets, with disastrous consequences for the environment, human health and the economy. We saw the effects of this cynical behaviour, which was allowed to proceed unchecked, in our own river.

We do not believe that customers should bear the brunt of company greed, mismanagement and regulatory failure on the part of Ofwat and the Environment Agency.

We believe that we as customers have already paid for investment in water companies' assets and systems - and we have been failed. We are not prepared to pay twice for a company's shortfall, as per Ofwat's own statement. Yet now Ofwat is renegeing on its own promise.

Where Yorkshire Water is making improvements to its service in terms of raw sewage discharges, you cannot require customers:

- (a) to pay for improvements that you would expect in any company's ongoing performance. If Tesco failed to make improvements without increasing prices customers would walk. Every company and organisation makes improvements as part of its ongoing service from the NHS to Amazon. Only real innovation outside of ongoing improvement should be an investment. Ofwat's interpretation seems to be that any improvement over the current EA license qualifies for investment paid for by the customer. Given the licenses are not compliant with the law this cannot be right.
- (b) to pay for improvements BEFORE the improvements are actually made. We do not expect to pay up front in the hope that raw sewage discharges will reduce at some point in the future. Ofwat has not demonstrated that it can monitor Yorkshire Water's spending on projects, or compliance, and we are therefore concerned that any increase in bills may well not actually lead to changes. You say that Ofwat will claw back any underspend but in previous conversations we have had your team have told us they have no way of effectively checking spend. Ofwat does not know where our money goes, or whether it is spent effectively. It does not have the regulatory capacity to do this
- (c) To pay for underinvestment in the past. This money is being extracted from us, the customers, simply to service debt - when the money borrowed originally was clearly not invested in the system. If it had been, no bill rises would now be necessary.
- (d) to pay for loan debt - water companies should not be allowed to take out even more loans for customers to service, in addition to the current huge level of debt. No household would see this as good basic fiscal management. In effect, paying our bills lines the pockets of shareholders masquerading as investors.

4. Tolerance of Illegal Pollution

These discharges should not be occurring anyway in anything other than exceptional weather conditions. For Example: Sewage spill of 38 minutes occurred in July from the Ilkley STW storm Overflow, during the height of the summer, after a short shower of rain. The Environment Agency permit allows these spills to pollute our rivers and are simply a means of legalising pollution. When we asked for a Permit review, to ensure Yorkshire Water was complaint with the legislation, the EA took 2 years to do the review and permitted against current activity not

against the 1994 act. This means that Yorkshire Water is permitted to pollute hundreds of times a year. We welcome the recognition of the sewage works as part of the Bathing Status stretch, which means that the plans have to deliver the BS requirement of 1 'spill' in bathing season and 10 overall a year. This is in direct contradiction to the permit.

The level of improvements needed as set out in the business plan show how much water companies, including Yorkshire Water, have neglected their legal duty to treat all sewage except under exceptional circumstances. Even now the proposals only secure a reduction in raw sewage discharge of 44% across the country.

5. What is Legal – it's not clear

The Office for Environmental Protection (OEP) says the EA must regulate in accordance with the law. The OEP's investigation into regulation of the industry reported in 2024 stating "the OEP has identified a number of areas where the Government and the EA may not have complied with the requirements of the regulations." The determination, whilst making progress towards legal compliance, is still allowing water companies to pollute for profit. This further undermines the credibility of Ofwat as a regulator. It is unclear from the draft determination what Ofwat thinks is legal, and how this is congruent with other agencies and the Law. Overall, our reading of the determination shows a tolerance of illegal behaviour and non-compliance whilst water companies including Yorkshire Water continue to flagrantly take bonuses (CEO salary 2023) whilst their performance gets worse (2023-24 Annual Performance Report) leading to

6. Our Conclusion

We have already paid for water companies to do their job. It is not our fault as customers that they cynically exploited company assets to borrow money to reward their shareholders and investors, and let their systems deteriorate. They used us, the bill payers, to service the resultant debt, instead of investing in their systems. We are not going to pay twice. This would simply reward their financial exploitation. We are appalled that Ofwat is prepared to do this and condone their mismanagement.

The water companies now need to be forced to invest properly or to admit that their mismanagement has left them without the capacity to do so.

PR24 is an opportunity for Ofwat to demonstrate that it is capable of strong and competent regulation of the privatised water industry. The proposals currently set out do not inspire confidence in Ofwat's capacity to do so, because they reward failure and condone mismanagement and financial exploitation.

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