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Emma Hardy, MP
Parliamentary Under Secretary of State for
Environment, Food and Rural Affairs
Department for Environment, Food and Rural Affairs
Seacole Building
2 Marsham Street
London, SW1P 4DF

By email only

9 December 2024

Dear Minister Hardy

I am pleased to see that Defra has launched a consultation on reform of the Bathing Water Regulations. I agree these regulations are in need of updating, and I set out the OEP's response in the attached annex.

Our previous reports relevant to bathing water

As you will know, the OEP has recently produced a report on implementation of the Bathing Water Regulations. We published that report and laid it before Parliament on 14 November 2024. The Secretary of State is due to respond by 14 February 2025.

In summary, we found that the requirements to identify, monitor and classify bathing waters are being implemented broadly as required, but the requirements are outdated. We have suggested the regulations should be updated to reflect changes to recreational water use since their introduction, in order to better protect the public.

We also identify room to improve some areas of implementation. In particular, we highlight the need to increase the number of 'good' or 'excellent' bathing waters. I note that you have also recently commented on this matter when you described the 2024 bathing water quality results (where 8% fell below the 'sufficient' standard) as unacceptable. I agree with that assessment.

In our view, addressing this issue requires a more integrated and purposeful implementation of the Bathing Water Regulations and the wider Water Framework Directive (WFD) Regulations. We reported separately on the WFD Regulations in May 2024. That report called for urgent additional action to pursue statutory objectives for 2027 which, as things stand, appear likely to be missed by a considerable margin. The Government's response in September accepted our main findings and stated that our recommendations will be considered further in your review of the water sector.

Our consultation response

Although we published our report shortly before the consultation, we completed it before we had seen Defra's proposals. As a result, our report does not address all the issues in

the consultation. We therefore take the opportunity to offer this additional information to provide a more complete response to the consultation.

Overall, the OEP welcomes and support Defra's consultation on revision of the Bathing Water Regulations. It may help to know that the consultation proposals and our report recommendations are broadly aligned in the areas listed below:

- a. Remove the 'automatic de-designation' provision from the regulations
- b. Include assessment of the feasibility of improving a site's water quality to 'sufficient' as a criterion for final designation
- c. Remove the fixed dates of the 'bathing season' from the regulations
- d. Clarify and expand the definition of 'bathers' to include other water users
- e. Provide for use of multiple monitoring points at bathing sites where useful to classify water quality.

While broadly welcoming the consultation, we do have concerns in some areas. In short:

- a. The consultation does not acknowledge or link back to the WFD Regulations. As noted above and in our separate reports, these regulations provide the wider system within which action to improve water bodies should be pursued.
- b. We disagree with the proposal to remove retrospectively the 2015 deadline for bathing waters to be 'sufficient'. This would not accurately reflect that this target has been missed in some cases and, what is more, it would remove the need for remedial action.
- c. Aspects of the proposed changes could be improved in respect of governance and transparency. For example, some significant decisions under the current proposals could be determined without clear justification, through non-statutory rather than statutory guidance, or without reasonable appeal routes.

We also note that our report includes attention to some issues that the consultation does not cover. For example, we consider how the regulations interact with bye-laws, the classification standards associated with different outcomes and bathing environments, and the need to improve public information. We consider that these are all important issues to address in seeking to strengthen the regime.

I trust that you and your officials will find this response, alongside our previous reports, helpful as you consider how to proceed. Please let me know if you would like any further information or to discuss any of these matters with me or my team.

Yours sincerely



Dame Glenys Stacey
Chair of the Office for Environmental Protection

