



5 March 2026

**Professor Carolyn Roberts and others v. Severn Trent Water Limited & Severn Trent
PLC and others**

Neutral Citation Number: [2026] EWCA Civ 222

JUDGMENT SUMMARY

**Important note for media and public: this summary forms no part of the court’s decision. It is provided so as to assist the media and the public to understand what the court decided. The full judgment of the Court of Appeal is the only authoritative document. Judgments are public documents and are available at:
www.judiciary.uk, <https://caselaw.nationalarchives.gov.uk>**

Introduction

1. This appeal concerned opt-out collective claims sought to be brought in the Competition Appeal Tribunal (the Tribunal) against six water and sewerage undertakings (the water companies) on behalf of the many consumers served by those statutory monopoly suppliers. The proposed class representative, Professor Roberts, claims that each of the six water companies abused their dominant positions by misleadingly understating the number of incidents of water pollution in their areas, leading the regulator (Ofwat) to allow them to charge consumers more than would otherwise have been the case.
2. The Tribunal refused to make a Collective Proceedings Order under section 47B(4) of the Competition Act 1998, so preventing the claims from proceeding. It did so on the

basis that the claims were excluded by section 18(8) of the Water Industry Act 1991 (the WIA).

3. In outline, section 18(8) (set out at in the judgment at [4]) may operate to prevent a claim being brought where the act complained of contravenes a condition of a water company's appointment under the WIA (its licence conditions) and the claim also depends on that act having constituted such a contravention. This is because the closing words of section 18(8) limit remedies to "those that are available in respect of [an act] otherwise than by virtue of its constituting ... a contravention". In the context of claims in nuisance, the Supreme Court has interpreted these words as precluding remedies where the contravention is an "essential ingredient" of the claim (*United Utilities Water Ltd v Manchester Ship Canal Co Ltd (No 2)* [2024] UKSC 22, [2024] 3 WLR 356).
4. It was common ground that the provision of misleading information about pollution incidents would have contravened the conditions under which the water companies were appointed. This was because information about pollution incidents had been sought by Ofwat under a condition of appointment that empowered it to require information to be provided for the purposes of price reviews. The issue was whether, as Professor Roberts maintained, the claims for abuse of dominance were available otherwise than by virtue of the provision of misleading information constituting a contravention. The Tribunal decided that they were not.
5. Professor Roberts appealed to the Court of Appeal (Sir Geoffrey Vos, Master of the Rolls, Lady Justice Falk and Lord Justice Zacaroli). The issue on the appeal was whether the Tribunal was correct to conclude that section 18(8) precluded the claims.

The Court of Appeal's decision in outline

6. The majority (Sir Geoffrey Vos, Master of the Rolls and Lady Justice Falk) concluded that the Tribunal had reached the correct conclusion, although they did not adopt the same reasoning. Lord Justice Zacaroli delivered a dissenting judgment. The result is that Professor Roberts's appeal is dismissed.
7. The majority gave three main reasons for its decision. First, Ofwat could only have been misled because it assumed that the information supplied to it was accurate. The basis of that assumption was the existence of the requirement in the water companies' conditions of appointment to provide information for the purposes of price control reviews. It was the failure to comply with the obligation to report that led Ofwat to be misled into assuming that the information was accurate (judgment at [15] and [62]-[72]).
8. Secondly, the legislation must in any event be applied realistically. Approaching the matter realistically, the remedy sought did ultimately depend on a contravention of a condition of appointment. The breach was fundamental to the complaint of abuse. In essence, the complaint was that the regime had been misused to abuse a dominant position. The nature of the alleged misuse was that there was a contravention of the conditions of appointment (judgment at [16] and [73]-[79]).
9. Thirdly, the claims needed to be understood in the context of the regulatory regime, under which the water companies enjoy statutory monopolies on conditions which are designed to protect customers from the excessive pricing that such monopolies would otherwise permit. Absent the conditions to which they were subject, the water companies would have had no need or requirement to report pollution incidents to Ofwat at all. In a real sense, therefore, the claims depended on the existence and breach of the

conditions of appointment. Other elements of the regime relied on by Professor Roberts did not affect this conclusion (judgment at [17]-[18] and [80]-[88]).

10. Lord Justice Zacaroli disagreed with these reasons, concluding that the essential ingredients of Professor Roberts's claims did not include the contravention of the conditions of appointment. The fact, assuming it was correct, that Ofwat relied on the existence of the licence conditions in operating the price control regime did not render the fact of their contravention an essential ingredient of the claim (judgment at [125]-[127]). The analysis of the majority also risked conflating manipulation of the price control regime with breach of a licence condition (judgment at [129]-[134]). Further, he did not agree that the fact that the claims could not be divorced from the operation of the regulatory regime meant that they depended in a real sense on the breach of the licence conditions. Section 18(8) had a narrower effect than excluding claims because they cannot be divorced from the operation of the regulatory regime (judgment at [135]-[143]).