



Environment Agency

and

Southern Water

**Sentencing Remarks of Mr Justice Johnson
Crown Court at Canterbury, 17 July 2026¹**

Introduction

- 1.1 The defendant is a private water utility company. It is responsible for treating sewage and recycling fresh clean water back into the environment. It has an extensive criminal record over many years as a result of failing to comply with its legal duties. That is because it has discharged raw untreated and sometimes unscreened sewage into coastal waters to the detriment of the environment, water amenity and animal and human health. In July 2021, I imposed a fine of £90,000,000 for 51 offences of that nature across 17 sites in Kent.
- 1.2 The defendant has now pleaded guilty to yet further offences. They are 13 offences arising from unpermitted discharges of untreated sewage effluent and breaches of environmental permit conditions. The offences were committed at two linked sites: the Wastewater Pumping Stations at Margate and Broadstairs. The pleas were entered at the Medway Magistrates' Court on 22 April 2025. The case was committed to the Crown Court for sentence by District Judge (Magistrates' Court) Stephen Leake. Although the Magistrates' Court has power to impose an unlimited fine, Judge Leake considered it appropriate for the case to be committed because of previous promises that had been made by the defendant to the Crown Court and the local interest in the case. That seems to me to have been entirely reasonable.
- 1.3 The defendant has entered a written basis of plea which is accepted by the Environment Agency. I sentence in accordance with that written basis of plea. Where it is necessary to make residual findings, I apply the criminal standard of proof.
- 1.4 The offending falls into three broad groups. First, counts 1 to 7 concern five specific pollution incidents between July 2019 and October 2021. Secondly, counts 8 and 9 cover multiple incidents of unlawful discharges of sewage at Margate and Broadstairs respectively over the period before 2019 and 2021. Thirdly, counts 10 to 13 concern breaches of permit conditions, including failures to notify the Environment Agency and the relevant local food authority

¹ A summary of the calculation of the fine is attached to these sentencing remarks.

within the required period, and a failure to provide and maintain at least one standby pump at Margate.

2. The offending

- 2.1 The defendant is required to operate its wastewater pumping stations in compliance with permits issued by the Environment Agency. The permits impose detailed requirements which are designed to protect the environment. They regulate the circumstances in which the defendant is permitted to discharge from a pumping station into the environment. They require the maintenance of standby plant, the taking of reasonable remedial measures to return a pumping station to normal operation as soon as practicable after failure or breakdown, and notification to the Environment Agency and the relevant local food authority as soon as practicable and within 24 hours of receipt of telemetry warning of an emergency overflow. A breach of the conditions of a permit is a criminal offence which can carry an unlimited fine.
- 2.2 The wastewater pumping stations at Broadstairs and Margate provide an important part of the wastewater infrastructure on the north Kent coast. Broadstairs pumps incoming wastewater on to Margate. Margate is a terminal pumping station at Foreness Point. It receives wastewater flow from the Margate, Westgate, Birchington and Broadstairs catchment areas. It then pumps those flows to Weatherlees Wastewater Treatment Works for treatment. The treated effluent is then returned to Margate from where it is discharged to the sea through the Margate long sea outfall, which is 1.9km out to sea. When that reaches capacity the short sea outfall is used, which is 600 metres out to sea. When that reaches capacity, an emergency outfall discharges onto the beach. Each outfall may only be used in accordance with the conditions prescribed in a permit.
- 2.3 Counts 1 - 9 are all offences of discharging untreated sewage effluent contrary to regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2016 read with regulation 38(1)(a). Counts 1 - 7 are single instance counts; counts 8 and 9 are multiple instance counts. Counts 10 - 13 are offences of failing to comply with an environmental permit condition contrary to regulation 38(2) of the Environmental Permitting ((England and Wales) Regulations 2010. Counts 10 - 12 relate to failures properly to report the incidents that form the basis for counts 1 - 3.

3. Counts 1 and 10

- 3.1 In the early hours of 20 July 2019, heavy rainfall caused a rapid increase in wastewater flow into Margate and on to Weatherlees. The level at Weatherlees rose to a point which triggered the automatic closure of the inlet penstock. That inhibited the transfer pumps at Margate, thereby reducing flow from Margate to Weatherlees.
- 3.2 The system should have generated a telemetry alarm to the defendant's control centre, but the alarm system failed. There was also a fault with a switch at Margate. The result was that flow was not leaving Margate, but Broadstairs continued to pump flows to Margate.

- 3.3 There were then discharges of untreated but screened effluent from the Margate short sea outfall, lasting a total of almost 5 hours, with an estimated volume of 1,500 cubic metres. There were further discharges from the long sea outfall, lasting just over 13 hours, with an estimated volume of 10,000 cubic metres.
- 3.4 The defendant reported the incident to the Environment Agency about eight hours after the control centre became aware of the incident. A further notification was made later that day, and further information was provided thereafter. It appears that there were no staff on duty at the site at the time of the incident and that there was no roster to identify people who were on call and could attend in an emergency. When they attended there was a failure by the operator to open the penstock. Those who attended the site were not sufficiently trained or knowledgeable about the site, and did not have key information to hand, to enable them to take the necessary remedial action in a timely way. That is notwithstanding assurances that the defendant had given to the court in 2016 about 24/7 staff presence. This forms count 1.
- 3.5 There was a delay in reporting this incident, which meant it was difficult to assess the environmental impact of this offence. By the time an effective notification was made it was 32 hours later and after there had been two tidal cycles. That delay forms the basis of count 10. Retrospective pollution monitoring indicates that a plume would have impacted the coast but that it would have been at low concentrations. This carries a considerable margin of uncertainty because of the timing when it was carried out and the limited sites at which monitoring was conducted.

4. Counts 2, 3, 11 and 12

- 4.1 On 28 August 2020, only one of three pumps at Margate was working. That was because one pump was out of action and another pump failed. That was insufficient to clear the screens that screen out solid waste. That resulted in discharges from both Margate and Broadstairs.
- 4.2 At Margate there was a discharge from the long sea outfall for almost 14 hours, amounting to 14,000 cubic metres, and at the short sea outfall over 4 hours with an estimated volume of between 2,000 and 12,000 cubic metres. At Broadstairs there was a discharge from the short sea outfall of about 2½ hours with an estimated volume of around 2,400 cubic metres.
- 4.3 An alarm was triggered but this was not escalated to the control room duty manager as it should have been. It later became apparent that the controller had not appreciated that the site failure had caused the screws to become inhibited and that a global reset was required.
- 4.4 The incident was reported to Thanet Council by 2.25pm on 29 August 2020, and an initial notification was sent to the Environment Agency three minutes later, shortly after the incident ended. Southern Water also arranged beach walks, set up a Red Incident Team, held incident management calls and shared modelling predictions.

- 4.5 The Environment Agency classified the discharges under its Common Incident Classification Scheme as category 3, but that was based on incomplete information. If it had known the full position then it says it may have been categorised as category 2. The Margate classification was in part because the discharge was screened and occurred mainly from the long sea outfall. The Broadstairs discharge was unscreened, but the defendant says it occurred over half a kilometre out to sea and was diluted by rainfall.
- 4.6 Counts 11 and 12 are notification failures in respect of the incidents that form the subject matter of counts 2 and 3. Count 11 concerns a notification failure in respect of the incident at Margate on 28 – 29 August 2020. Count 12 concerns a notification failure in respect of the incident at Broadstairs on 28 August 2020. The employee who was responsible for failing to notify the Environment Agency was subsequently dismissed.

5. Count 4

- 5.1 On 16 February 2021, a central processing unit at Broadstairs failed. That resulted in a loss of automatic control and the inlet and transfer pumps stopped running. A back-up control also failed. There was a discharge from the short sea outfall lasting almost 5 hours. The defendant deployed contractors to clean the beaches. Warning signs were put in place at five sites for 48 hours, including 4 bathing sites, and the incident was self-reported.
- 5.2 The Environment Agency categorised the incident as category 2 on the basis that the sewage was unscreened and was not diluted by rainfall. Photographs show the disgusting state of the beaches as a result of these discharges, including extensive sewage related debris.

6. Counts 5 and 6

- 6.1 This offending relates to discharges on 16 and 17 June 2021 from both Margate and Broadstairs. The causes of the discharges were independent of each other, save that the need to respond to the problems at Margate impeded the defendant's ability to deal sufficiently quickly with the problems at Broadstairs.
- 6.2 So far as Margate is concerned, the failure of an uninterruptible power supply at 11.07pm on 16 June 2021, caused loss of power and hence loss of automatic control of the Margate pumps. The back-up control also lost power. The failure of the uninterruptible power supply was caused by inadequate maintenance. There was a warning light on the supply and a replacement had been ordered and obtained, but it had not been installed. It is likely that mains power was available, but the uninterruptible power supply was wired in such a way that when it failed the mains power was not delivered. This was addressed relatively quickly, and mains power was restored at 12.03am.
- 6.3 However, because the pumps had not operated for a period of time there was a build up of sewage within the site. A piece of equipment then switched from mains power to generator power. The standby generator was not capable of providing sufficient power to operate the pumps. The generators ultimately completely failed so that there was no power.

- 6.4 There were discharges from both Margate and Broadstairs over a half-day period. The total discharge period at Margate was 8 hours 31 minutes from the long sea outfall, 1 hour 57 minutes from the short sea outfall and 3 hours 48 minutes from the emergency outfall, so a total of over 14 hours. At Broadstairs, the short sea outfall discharge lasted 4 hours, of which almost 1 hour was unscreened, and the long sea outfall discharge lasted 22 minutes.
- 6.5 Eleven bathing sites were closed by Thanet District Council between 17 and 23 June 2021. The Environment Agency categorised the impact at Margate as category 1 and the impact at Broadstairs as category 3.

7. Count 7

- 7.1 On 5 October 2021 an air circuit breaker tripped at Broadstairs, causing the pumps to stop operating. There had been a failure adequately to maintain the air circuit breaker which was a critical point of failure. There had been no maintenance and despite being a critical piece of equipment it was unregistered throughout 2020 and 2021. There was a discharge of unscreened sewage for almost 2 hours.
- 7.2 Thanet Council was informed almost immediately. Advice against bathing was issued for four sites and then extended to six further sites. Daily beach inspections were carried out and sanitary items found on the beach were removed. The notices remained in place until 14 October.

8. Counts 8 and 9

- 8.1 Counts 8 and 9 relate to additional non-compliant discharges from Margate and Broadstairs between October 2019 and December 2021. Count 8 relates to Margate and involves 11 discharge events over a period of about 26½ months, totalling 46½ hours of discharge. Six of the incidents were classified as category 3. Count 9 relates to Broadstairs and involves 12 discharge events over about 26½ months, totalling just over 10 hours. Four of the incidents were classified as category 3 and two as category 4.

9. Count 13

- 9.1 Count 13 concerns a failure to provide and maintain at least one standby pump at Margate over the period 27 July 2019 to 4 October 2020. The effect would have been that, if one of the three duty transfer pumps had failed during storm conditions, the site would have been incapable of meeting the permitted pass-forward rate. There is no evidence that such a failure occurred during the period, or that there was any incident as a consequence.

10. Compensation and confiscation

- 10.1 I do not make any compensation order or any confiscation order. No such order is sought. If any individual or business has suffered loss, it would not be practicable on the material before me to identify and quantify losses attributable to particular offences within the criminal sentencing exercise. That does not affect any civil remedy that might otherwise be available.

11. Culpability

- 11.1 In order to assess both culpability and harm, it is convenient to treat some of the counts together where they relate to the same or associated underlying events. Thus, count 1 can be treated with count 10. Counts 2, 3 and 11 and 12 can be treated together. Counts 5 and 6 can be treated together. And counts 8 and 9 can be treated together. That will go some way towards addressing the principle of totality.
- 11.2 The guideline divides culpability into deliberate, reckless, negligent and low or no culpability. Where there has been a failure to put in place and to enforce systems that could be expected to avoid the offence, the level of culpability depends on whether that failure was deliberate, reckless, or negligent. It is not suggested that any of these offences involve low or no culpability.
- 11.3 The defendant says that in all cases the failings were negligent. The Environment Agency submits that the court could apply a blanket finding of culpability across all charges and that the culpability was at least reckless. As to the individual counts, it says that the culpability attached to counts 1, 5, 6 and 10 were deliberate and that count 7 was reckless.
- 11.4 It is appropriate separately to assess the culpability of the defendant, and the harm caused, in respect of each count or groups of count. The five primary events that are covered by counts 1 - 7 arose in materially different circumstances. So did the events covered by the multiple incident counts. Some involved sudden equipment failures. Some involved inadequate response by the control room. Some involved inadequate maintenance. Counts 10 - 13 concern failures to report and failure to maintain equipment. In the case of count 13 there was no associated discharge.
- 11.5 That said, there were serious failures. The defendant knew the importance of maintaining resilient systems and equipment at these sites, and it knew what the consequences would be if the system or equipment or individual components failed. It was well aware of the potential for equipment to fail and for the essential need for robust maintenance and testing procedures. That is because of the dozens of previous occasions on which that has happened.
- 11.6 The defendant had particular reason to know that Margate was a sensitive and important site, given its history and, given previous convictions for offences at that site. In August 2013 and again in December 2016, HHJ Adele Williams, the then Resident Judge of this court, sentenced the defendant for offences committed at that site. She said that problems with the site had been identified as long ago as 2010, but the defendant had only done the bare minimum to ensure there was no discharge, and it had failed to get to grip with the situation. It was slow to respond to an incident in 2011 and displayed unacceptable complacency. It had only put in place a 24/7 staffing presence as a result of the incidents that had given rise to that prosecution. Judge Williams said that that should have been put in place in 2011. Despite all that, the defendant then subsequently decided to withdraw the 24/7 staff cover in 2018. It says this was because there had been a major investment programme and there was increased reliability and resilience. It denies it was a cost saving measure.

- 11.7 The fact is, however, that the events show that whatever investments had been made in 2017, there had been a substantial failure to maintain the site and ensure sufficient resilience and that critical components remained in good and efficient working order. There is no documented decision to show that sufficient measures were in place to justify the withdrawal of 24/7 cover or that an appropriate risk assessment was conducted. This amounted to a deliberate failure to put in place and enforce such systems as could reasonably be expected in all the circumstances to avoid the commission of the offence.
- 11.8 Accordingly, the culpability in respect of counts 1, 5 and 10 is properly assessed as deliberate. I would not make the same assessment in respect of count 6 stood alone, but by treating count 5 and count 6 together, no additional penalty will be imposed because of the offending in respect of count 6.
- 11.9 Count 7 relates to the failure of a single component that had not been adequately maintained. There is no evidence of a history of this particular component failing before. There were staff on site at the time of the failure and they immediately attempted to fix the problem. It was timeously reported. This offence involved negligence on the part of the defendant but not more than that.
- 11.10 There is agreement between the Environment Agency and the defendant that the culpability bracket for the remaining counts is appropriately categorised as “negligent”. The defendant says that count 4 is at the low-end of the negligence bracket. I do not consider it appropriate to make any adjustment to the starting point on the grounds of the degree of negligence. There was a failure of two separate components against a general background of a failure to ensure proper maintenance of critical infrastructure. If that is harsh to the defendant then it is more than offset by not applying an upwards adjustment in respect of counts 2, 3, 11 and 12 where the degree of culpability is at a higher end of the negligence bracket.

12. Harm

- 12.1 The Broadstairs and Margate facilities serve the population of the Isle of Thanet and discharge into the sea off the Thanet coast. There are 13 designated water bathing sites around that area of the coast, which is renowned for its bays and beaches. Parts of the coast are designated as special areas of conservation and sites of special scientific interest and marine conservation zones and Ramsar sites. When sentencing the defendant in 2016, HHJ Williams said:

“The beaches are a great amenity and have been for a very considerable period of time. The local authority has promoted tourism through the Tidy Britain Blue Flag Scheme and achieved nine blue flags in 2012 – 17% of the blue flags awarded throughout the whole of the United Kingdom. Tourism contributes 75 of the local economy and the local authority invests heavily in the sector to support the sustainability and growth of businesses. £17 million has been invested in Margate to help diversify the resort through arts and cultural schemes. Tourism in Thanet is worth approximately £230 million and supports about 5,500 jobs. Other revenue will also be generated by those who move to the area due to the improved quality of life.”

- 12.2 The evidence before me, including a statement from Michael Hunter, the Director of Environment at Thanet District Council, and a Model Economic Impact of Tourism report, shows that by 2019 the visitor economy was valued at £352 million and that there were 8,664 tourism jobs, accounting for 20% of Thanet's total employment.
- 12.3 The offending resulted in substantial harm to both the environment and the local community over an extended period. The offences involved repeated discharges of untreated or inadequately treated sewage into sensitive coastal waters around Thanet, including waters adjoining popular bathing beaches and areas that are subject to special environmental protection because of the importance and sensitivity of the ecology. The discharges introduced large quantities of faecal bacteria, sewage solids and other pollutants into the marine environment, degrading water quality, contaminating beaches and creating risks to protected habitats and species. Sewage debris and visible pollution were deposited on the shoreline. Microbiological contamination affected bathing waters that would ordinarily be expected to meet high environmental standards causing a substantial amenity impact as well as a potential risk to human health.
- 12.4 The pollution thus threatened not only water quality and, in that sense, amenity value, but also the conservation interests associated with those sites.
- 12.5 The offending also risked causing significant harm to the local community. Thanet's economy is heavily dependent upon its coastline, beaches and tourist industry. Pollution incidents led to warnings against bathing and, on some occasions, the closure of beaches for a substantial period of time. The resulting publicity was capable of damaging public confidence in the cleanliness and safety of the local coastline, and of generating concern amongst residents and visitors.
- 12.6 Beyond the immediate environmental and economic effects, the offending undermined public confidence in the management of wastewater infrastructure and in the protection of the local environment. The harm was not confined to a single event but arose from a pattern of repeated incidents over several years. Taken together, the offending caused serious degradation of environmental quality, significant interference with public amenity, potential risks to public health, damage to the reputation of an important coastal community.
- 12.7 The guidelines identify 4 categories of harm. Category 1 includes cases where there is a major adverse effect or damage to water quality or amenity value. Category 2 includes cases where there is a significant adverse effect. Category 3 includes cases of minor adverse effect.
- 12.8 Where harm of a particular level was risked but not caused, then the harm is taken as being the next level down. So, Category 3 includes cases where there was a risk of category 2 harm.
- 12.9 It is necessary to assess harm by reference to the actual and risked harm caused by the offences, and to do so by reference to the individual events in the same way as for the culpability assessment.

- 12.10 Counts 1 and 10 involved substantial discharges from Margate, including from the short sea outfall. It was, however, within a single day. The sewage was screened but not treated. There is no direct evidence of sewage reaching the beach. The lack of direct evidence may, in part, be due to the failure to report. Nevertheless, the evidence does not support, to the criminal standard of proof, a finding that the harm caused was more than a minor, localised adverse effect to water quality and amenity value. That being the case, I accept the submission on behalf of the defendant that these counts most appropriately fall within harm category 3.
- 12.11 Counts 2, 3, 11 and 12 involved discharges at Margate and Broadstairs, including an unscreened Broadstairs discharge. The overall discharge was significantly more (perhaps by a factor of around 2) than the discharge covered by count 1. It was also over a slightly longer period of time. The discharges occurred at two different sites on different sides of the Thanet peninsula. The harm associated with these counts, taken together, cannot merely be regarded as a minor and localised adverse effect on water quality and amenity value. It amounts to a significant adverse effect. This amounts to category 2.
- 12.12 It is common ground that the harm associated with count 4 is category 2.
- 12.13 It is also common ground that the harm associated with count 5 is category 1. Eleven bathing waters were closed between 17 and 23 June 2021. The Environment Agency categorised Margate as category 1 and Broadstairs as category 3. That amounts to a major adverse effect on water quality and amenity value. Count 6 in isolation would not reach harm category 1, but if they are treated together then that reinforces the conclusion that the harm caused over those days in June 2021 was comfortably within category 1. Mr Humber says that he was directly contacted by local concessionaires who were very concerned about the effect of the incident on their livelihoods.
- 12.14 I also consider that the offence that underpins count 7 involved category 1 harm: 10 sites were closed for 10 days, and there is clear evidence of sewage on the beaches. Even though this was after the summer season, this amounts to a major adverse effect on water quality and amenity value.
- 12.15 Counts 8 and 9, taken together, involve many unlawful discharges of untreated sewage over more than 2 years. A number of the individual incidents were categorised by the Environment Agency (using a scale which is different from the Sentencing Council guidelines) as category 3. When the totality of these discharges is considered, they involved category 2 harm. They were not localised to a single site, and it is inevitable that they caused a significant adverse effect to water quality and amenity value.
- 12.16 For count 13, there is no evidence of any discharge of untreated waste as a result of the absence of the standby pump. There was, however, a substantial risk of harm reaching category 2. That is demonstrated by the other counts where the failure of equipment did result in this type of harm. The fact that the harm did not materialise means that this is a category 3 case.

13. Category brackets for individual counts

13.1 It follows that the 13 counts fall within the following categories:

- (1) Counts 1 and 10: Deliberate culpability, category 3 harm.
- (2) Counts 2 and 3, 11 and 12: Negligent culpability, category 2 harm.
- (3) Count 4: Negligent culpability, category 2 harm.
- (4) Counts 5-6: Deliberate culpability, category 1 harm.
- (5) Count 7: Negligent culpability, category 1 harm.
- (6) Counts 8-9: Negligent culpability, category 2 harm.
- (7) Count 13: Negligent culpability, category 3 harm, based on a risk of category 2 harm.

14. Guideline bracket for a large company

14.1 The Sentencing Council publishes separate guideline brackets for different sizes of organisations, up to and including large organisations. A large organisation, in this context, is one that has a turnover or equivalent of at least £50 million. The guidelines state that where an offending organisation's turnover or equivalent very greatly exceeds that figure, then it may be necessary to move outside the guideline ranges.

14.2 The defendant is a very large organisation. Its annual revenue over the last 3 years has been between around £800m and £1bn. It has net assets of around £950m. Its size by reference to turnover is almost 20 times that of what the guidelines treat as a large company. Applying the guideline figures for a large company would not result in a sentence that is just and proportionate in the light of the size of the defendant. It is necessary to move outside the guideline range. I do so by increasing the guideline figures by a factor of 2.5. That is the same approach as I took when I sentenced the defendant in 2021. Its size is not substantially different now compared to then. On that basis the guideline figures are adjusted as follows:

Harm Category	Starting Point	Range	Third quartile
Culpability: Deliberate			
Category 1	£2,500,000	£1,112,500 – £7,500,000	£5,906,250
Category 3	£450,000	£250,000 – £1,125,000	£906,250
Culpability: Negligent			
Category 1	£750,000	£350,000 – £1,875,000	£1,493,750
Category 2	£350,000	£150,000 – £875,000	£693,750
Category 3	£150,000	£87,500 – £375,000	£303,125

15. Factors increasing seriousness

- 15.1 The defendant's previous convictions are a statutory aggravating factor. It has 174 previous convictions. It was convicted every year from 1999 to 2016. It has been convicted as recently as April this year. In August 2013 it was fined £200,000 for discharges from Margate. That fine was the subject of an unsuccessful appeal to the Court of Appeal (Criminal Division). The Lord Chief Justice, Lord Thomas, said that the court hoped that would be the last time that a case came before the court where water companies had not taken the criminality of this type of offending much more seriously. Thereafter, the defendant was convicted on 13 further occasions, excluding this case. In December 2016, it was fined £2,000,000 for discharges from Margate. In July 2021 it was fined £90,000,000 for discharges from 17 sites across Kent, albeit not including Margate or Broadstairs.
- 15.2 The defendant's record of convictions shows a protracted history of non-compliance with its legal obligations and a repeated pattern of inadequate staff training, insufficient investment in the infrastructure, and a failure properly to maintain equipment. It also shows a failure to respond to warnings from the courts, including the Resident Judge of this court and the Lord Chief Justice.
- 15.3 This record of criminality to the great detriment of the environment and the community in Kent is an exceptionally serious aggravating factor which requires a very substantial uplift to the sentence, whilst always ensuring that the sentence remains proportionate to the offences that are being sentenced.
- 15.4 I do not treat the location of the offences as an aggravating feature because I took that into account when identifying the correct harm categories.
- 15.5 In order to reflect the statutory aggravating factor that I have identified, I adjust the starting point for each count or group of counts to the top of the adjusted category range. In 2021, I made a similar adjustment where there were other significant aggravating features beyond the previous convictions. Here, those additional aggravating features are not present, but the defendant has acquired further convictions, including those that were sentenced in 2021. Its serious and extensive previous convictions in themselves now justify an uplift to the top of the category range.

16. Factors reducing seriousness

- 16.1 In marked distinction to the position when I sentenced this defendant in July 2021, this time the defendant fully cooperated with the Environment Agency's investigation. It made a representative available for interview.
- 16.2 The Chief Executive Officer of Southern Water, Lawrence Gosden, has sincerely apologised to the Court and the Environment Agency. More importantly, he has apologised for the offences to its customers and the communities of Thanet. I accept that as genuine and as indicative of remorse. Mr Gosden recognises that these discharges were unacceptable. He also explains, in detail, why he says that the defendant is now a completely different company than at the time of these offences, that there has been a fundamental

change of ethos, and that it is making huge investments to avoid committing similar offences in the future. In July 2021, I described the risk that this type of apology and evidence from a senior corporate representative might be “all warm words”. There is, however, some, albeit slight, objective support for what Mr Gosden has said. There does not appear to be quite the same pattern of offending since 2021 as there was before. The financial figures show that the defendant has made a loss and has not paid dividends for a number of years. Mr Gosden’s statement appears to show that a number of the proposals for improvement that the defendant made in 2021 have been, and are being, implemented. I take account of the remedial works and improved systems identified in the witness evidence from Mr Gosden, addressing company-wide improvements to operations, culture and environmental performance since 2021, and evidence from John Penicud addressing improvement works specifically at Margate and Broadstairs. There have also been some compensatory payments to the local authority to fund community and environmental projects as partial remediation for the offences.

- 16.3 I take account of the change in staffing model after the October 2021 incident and the subsequent change in senior management. The basis of plea records that the staffing model was reviewed and reverted to a 24/7 model involving trained contractors at Broadstairs and Margate, later replaced from June 2022 by a dedicated trained internal team which remains in place.
- 16.4 I also take account of the defendant’s self-reporting of some incidents, its deployment of contractors, beach walks, Red Incident Teams, incident management calls, modelling, and communications with the Environment Agency and Thanet Council to help to mitigate the effect of its offending.
- 16.5 In order to take account of the mitigating factors I move from the top of the bracket in each case to the third quartile of the adjusted category range.
- 16.6 That results in a fine of almost £6m for a deliberate category 1 offence, and a fine of almost £700,000 for a negligent category 2 offence.

17. Proportionality of fine to the company’s means

- 17.1 The fine must be substantial. It must mark the seriousness of the offending, punish the defendant, deter future offending, and bring home to management and shareholders the importance of compliance. But the fine must also be proportionate to the offending, which was not as extensive or egregious as the offending that was subject to the sentence in July 2021. It would not be right to approach the present case by scaling down mechanically from the £90 million fine imposed in 2021, because each case must be sentenced on its own facts. But the comparison with that fine, and those imposed in other cases, is a useful cross check.
- 17.2 The present case includes two category 1 events, three category 2 events, and two category 3 events. It also includes the serious aggravating feature of the previous offending. It also includes substantial mitigation, including guilty pleas, the agreed basis of plea, remedial measures, and differences in scale and character from the offending that was sentenced in 2021.

17.3 I am satisfied that the figures I have reached result in a fine that is proportionate to the defendant's means. Following a trial, I would have imposed a total fine of £10,690,625 for the offending as a whole. That reflects:

- (1) £906,250 in respect of counts 1 and 10.
- (2) £693,750 in respect of counts 2, 3, 11 and 12.
- (3) £693,750 in respect of count 4;
- (4) £5,906,250 in respect of counts 5 and 6;
- (5) £1,493,750 in respect of count 7;
- (6) £693,750 in respect of counts 8 and 9.
- (7) £303,125 in respect of count 13.

18. Consideration of other factors

18.1 I take account of the wider regulatory context. The defence submissions rely on operational, cultural and environmental improvements since 2021. I have taken this into account when considering the mitigating factors.

18.2 I have also considered financial evidence from Stuart Ledger as to the company's current financial circumstances. I do not reduce the fine merely because the company is required to invest heavily in its infrastructure. Investment in infrastructure is part of the company's core obligation as a regulated utility. Nor do I reduce the fine merely because a substantial penalty may be unwelcome to shareholders or creditors. The law and the protection of the environment, requires the courts to enforce the regulatory requirements. The sentence must make that clear.

18.3 I do, however, recognise that on the evidence any fine is likely to come out of monies that would otherwise be allocated to important investment. The amount spent on capital investment last year was £1.16bn. A £10.7m fine is less than 1% of that. It is not insignificant, but it is not at the level where it would have consequences for the defendant that would be disproportionate to the offending. If time to pay is required, that can be addressed separately.

18.4 For those reasons, I have not made any further reduction in the fine for these factors.

19. Reduction for plea

19.1 The defendant pleaded guilty at the Magistrates' Court on 22 April 2025. I give full credit for the pleas. The means that I reduce the fine imposed on each count by one third.

20. Totality

- 20.1 I then consider totality. It would have been disproportionate to impose wholly cumulative fines on each count without adjustment. I have structured the sentence so that only one fine will be imposed for each event even where that event involves two or more offences. In those cases I have not uplifted the fine to reflect that fact it involves two or more offences. The result is a fine that is just and proportionate to the offending in this case, taking account of the aggravating and mitigating features. No further adjustment for totality is required. I therefore structure the fines so that they reflect the gravity of the events and breaches, while avoiding double counting.

21. Sentence

- 21.1 I impose the following sentences:

Count 1: A fine of £604,197.

Count 2: A fine of £462,500.

Count 4: A fine of £462,500.

Count 5: A fine of £3,937,500.

Count 7: A fine of £995,833.

Count 8: A fine of £462,500.

Count 13: A fine of £202,083.

- 21.2 I impose no separate penalty on the remaining counts, namely counts 3, 6 and 9 – 12.

- 21.3 The total fine is therefore £7,127,083.

- 21.4 I impose the statutory surcharge in the sum of £181 or such other sum as is required by law.

- 21.5 I order that the defendant pay the prosecution's costs in the sum of £149,000.

22. Time to pay

- 22.1 The costs and the statutory surcharge are to be paid by 4pm on 14 August 2026.

- 22.2 One half of the fine (so £3,563,541) must be paid by 4pm on 15 January 2027.

- 22.3 The balance of the fine (so £3,563,542) must be paid by 4pm on 16 July 2027.

Environment Agency v Southern Water

Sentencing Guidelines				VERY LARGE COMPANY SO MULTIPLY BY FACTOR OF: 2.5			Aggravating factors	Mitigating factors	Plea
DELIBERATE	Starting Point	Bottom of Range	Top of Range	Starting Point	Bottom of Range	Top of Range	Move to top of range	Move to 75% quartile	Reduce by one third
Category 1	£1,000,000	£450,000	£3,000,000	£2,500,000	£1,125,000	£7,500,000	£7,500,000	£5,906,250	£3,937,500
Category 2	£500,000	£180,000	£1,250,000	£1,250,000	£450,000	£3,125,000	£3,125,000	£2,456,250	£1,637,500
Category 3	£180,000	£100,000	£450,000	£450,000	£250,000	£1,125,000	£1,125,000	£906,250	£604,167
Category 4	£100,000	£55,000	£250,000	£250,000	£137,500	£625,000	£625,000	£503,125	£335,417
RECKLESS									
Category 1	£550,000	£250,000	£1,500,000	£1,375,000	£625,000	£3,750,000	£3,750,000	£2,968,750	£1,979,167
Category 2	£250,000	£100,000	£650,000	£625,000	£250,000	£1,625,000	£1,625,000	£1,281,250	£854,167
Category 3	£100,000	£60,000	£250,000	£250,000	£150,000	£625,000	£625,000	£506,250	£337,500
Category 4	£60,000	£35,000	£160,000	£150,000	£87,500	£400,000	£400,000	£321,875	£214,583
NEGLIGENT									
Category 1	£300,000	£140,000	£750,000	£750,000	£350,000	£1,875,000	£1,875,000	£1,493,750	£995,833
Category 2	£140,000	£60,000	£350,000	£350,000	£150,000	£875,000	£875,000	£693,750	£462,500
Category 3	£60,000	£35,000	£150,000	£150,000	£87,500	£375,000	£375,000	£303,125	£202,083
Category 4	£35,000	£22,000	£100,000	£87,500	£55,000	£250,000	£250,000	£201,250	£134,167

EVENT	COUNTS	EA Case		Defendant's case		Court's finding		
		Culpability	Harm	Culpability	Harm	Culpability	Harm	Fine
Event 1	Counts 1 and 10	Deliberate	Category 2	Negligent	Category 3	Deliberate	Category 3	£604,167
Event 2	Counts 2, 3, 11 and 12	Negligent	Category 2	Negligent	Category 3	Negligent	Category 2	£462,500
Event 3	Count 4	Negligent	Category 2	negligent	Category 2	Negligent	Category 2	£462,500
Event 4	Counts 5 and 6	Deliberate	Category 1	Negligent	Category 1	Deliberate	Category 1	£3,937,500
Event 5	Count 7	Reckless	Category 1	Negligent	Category 3	Negligent	Category 1	£995,833
	Counts 8 and 9	Negligent	Category 2	Negligent	Category 3	Negligent	Category 2	£462,500
	Count 13	Negligent		Negligent		Negligent	Category 3	£202,083
						Total:		£7,127,083