

And so it goes on and on: the next instalment of the Thames Water saga

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I wrote last year that the Thames Water saga would go on and on, as the government, the regulator and the company kicked the can down the road.¹ That is unsurprisingly what has happened. Midway through January 2025, the board and the investors are focused on putting together enough sticky plasters to keep the show on the road past the March deadline, when it is claimed that Thames will run out of money.

You really could not make it up, and you don't need to, because it has always been very predictable. The current situation is the result of each of the parties focusing on their own interests. The government is desperate not to expose itself to the overwhelming preference amongst its party and its backbenchers to nationalise Thames Water. OFWAT knows that it has contributed to the failures, not least through its admission that it should have intervened a long time ago on the leveraging and financial engineering that lie behind the current situation. Special Administration would no doubt add to the broader sentiment that the regulatory system itself is in need of some radical surgery. Understandably, the remaining investors all want to get out with as much as they can salvage, and it is very much each to their own, with the A- and B-class bondholders proposing different ways of keeping Thames afloat.

The board of the regulated limited company is caught in all the crossfire, accepting the terms of a £3 billion loan with perhaps a 20% cost (once all the costs have been properly taken into account). Then there are all the people making money out of the process and it being dragged out. Astonishingly, apparently around £250 million has already been spent on advisers, consultants and lawyers by investors, and perhaps some £50 million by the limited regulated company. Pause for a moment – that is over one-quarter of a billion pounds and counting. This can only undermine further public

¹ Helm, D. (2024), "[Contagion and the endgame for Thames Water](#)", December 9th.

and customer confidence in Thames Water, and further erode its social licence to operate. It looks awful, and it is awful.

All this will probably go on and on. Next up is the court action between the bondholders, and then comes the attempt by the victors to sell off the company and/or bring in new equity owners. No doubt, too, there are lots and lots of holders of complex financial contracts who may reach for their lawyers too.

With so much money at stake – including the loan and the advisers’ fees – it is not surprising that there is a lot of spin and misinformation. A focus on the court action has been on continuing to claim that Special Administration is “temporary nationalisation” and that it would be a hideously expensive procedure landing the government with great costs. To this end the press was leaked/briefed on a report by Teneo purporting to reveal what these costs might be.

Teneo was deeply involved in the Bulb Energy debacle (another result of very poor regulation). The first and most important difference is that Bulb did not have a regulated asset base (RAB). Indeed, it had very few assets at all. Thames Water is in a completely different place. As David Black, OFWAT Chief Executive, pointed out at the Environment, Food and Rural Affairs Select Committee hearing back in November, Thames Water’s RAB is around £20 billion and its debts are around £18 billion. Therefore, as and when the equity in the business is sold, there is at least £2 billion to play with. A debt haircut would make the gap between the RAB and the reduced debt even bigger. Even the most egregiously bad Special Administrator would struggle to cost that much. So when the company is sold, there will be more money than the government’s costs. Special Administration should not cost the government anything: it can and should recover its costs from the proceeds of the sale, and with interest too. In the meantime, under Special Administration the money keeps flowing in from the customers, and this should cover the day-to-day spending by the company.

Thames hoped that the regulator might be lenient in the Final Determination of the price cap for the period to 2029 and help it out. Indeed, between the Interim Determination and the Final Determination, the company asked for an even bigger price increase. Though some industry-wide adjustments were made in the Final Determination, including to the cost of capital, it must have been obvious from the start

of the Thames crisis that OFWAT could not – and should not – treat companies differently. David Black correctly stood his ground. Thames got few if any special favours, and no protection from the consequences of past poor management, which almost everyone (including Thames) accepts to have been the case.

Here we are in 2025, with a private “market” resolution as the preferred way out. There is quite a lot to be said for this, not least uncertainty about how efficiently the Special Administrator would carry out its duties and how speedy the resolution would be. That said, there is a fundamental difference between a “market” solution and a Special Administrator one: the Special Administrator works on the basis of **the public interest**, while the existing investors have to look after **their own private interests**. The reason the Special Administrator function exists is to ensure the continuity of essential public goods – and the utilities all provide public goods.

It is this distinction that makes Special Administration so unattractive to the existing investors. The Special Administrator does not sit at the desk working out how, for example, to maximise the benefits to A- or B-class bondholders. The Special Administrator administers the business and passes it on to new owners. The existing investors get to fight over what is left **after the sale**, and they do not determine the sale itself. All those millions on advisers’ fees, all the court struggles between A- and B-class bondholders are of no concern to the future of the company under Special Administration.

Under Special Administration, lots of very interesting and important questions would have to be addressed. They include questions about structure, function and organisation. For example: what structure for the Thames catchment is best for the long-term provision of the sewerage and water services? Should the company be broken up? If so, how? What new licences would be required? What would an acceptable financial structure look like? Answering these questions would of course take time – and so it should.

During Special Administration the board of the company would have to focus on its day job – actually running the business efficiently, undistracted with negotiating with the existing investors. However good the team is (and it has to be better than the previous one), it cannot get fully on with the day job of a turnaround. Furthermore, any

turnaround needs space: things will probably get worse before they get better, and trying to do this out of the firing line of the investors would probably be helpful.

Once the company is in Special Administration, the prime function will be the delivery of the services, and not the overarching priority of paying all the interest on the existing debt, which was financially engineered to reach £18 billion.

Special Administration would also give the opportunity for the successor companies to be re-based with new licences and RABs so that they can pay out dividends and control the management, rather than have an OFWAT-appointed entity overseeing the board, and OFWAT determining when and whether dividends can be paid and the bonuses of the executive directors. All of this matters, because the successor companies will need to attract the very best managers for what will be one of the greatest challenges for any board in the UK.

What comes next?

The can is already quite a long way down the road. It has gathered lots of dust – big fees, big distortions, an incredibly expensive loan, and so far little by way of tangible improvements in the company's performance.

There is a lot more dust to gather. The Final Determination is not what the company asked for. It now has to think through whether to appeal to the Competition and Markets Authority (CMA). Either its business plan was overinflated or there is not enough money to do what needs to be done in the Thames catchment. If the former, then perhaps the management should possibly consider its position, since its credibility is further undermined. If the latter, Thames should appeal.

But now think, as the can rolls down the road, what is in the interest of the A- and B-class bondholders, to whom control of the company has effectively passed. Do they care about the exact quantum of money provided through customers' bills? Do they want to take the risks of a CMA appeal? Again, they will rightly work out what is in their narrow private interests. That is what a "market resolution" means; but is this in the public interest? Whatever the right answer to the periodic review, it is unlikely to be the one OFWAT came up with – for multiple reasons.

What Thames Water needs now is a major investment programme, and a major capital maintenance programme. We are where we are. To turn around this huge company is going to cost a lot and take time. To meet the economic growth demands of the catchment requires a well-funded company capable of delivering a secure and resilient water supply, not only to the current but also to many new customers coming into the area. Think of the water demand for data centres as just one example. Thames has a need for a huge sewerage upgrade programme. Thames Tideway helps to push the sewage down river to Beckton, but the subsequent costs don't go away, and of course none of the upriver costs vanish.

There are good reasons for thinking Thames Water is too big, that London should be separated out from the rest, and that water should be separated from sewerage. The convenient argument of those who don't want Special Administration is that this will all take time. It will, but the alternative is to imagine that all this can be achieved within the current structures. Why would anyone believe this, since there is now 35 years of evidence to the contrary?

The can will roll on. Thames is unlikely to get much better quickly, even if the management finds the space to address the fundamental management issues. For the government, kicking the can down the road to 2030 has the inconvenient consequence that Thames has to get through the period between now and then, and it has to face the 2029 periodic review – inconveniently close to a possible election date. There is also a chance that the company will not make it to 2030.

It is never too late to change tack. What is in place is unsustainable, and what is unsustainable will not be sustained. Better even now to realise this, and go for Special Administration. Thames has obviously breached its licence conditions. Better late than be forced to do so even further down the road.