

Number: WG-17240



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Welsh Government

Consultation Document

Consultation on draft Social and Environmental Guidance to Ofwat issued under section 2A of the Water Industry Act 1991 (as amended by section 40 of the Water Act 2003)

Date of issue: 22 April 2013

Responses by: 15 July 2013

Overview

This twelve week consultation seeks views on the Welsh Government's draft Social and Environmental Guidance to Ofwat, as to be issued under section 2A of the Water Industry Act 1991 (as inserted by section 40 of the Water Act 2003).

How to respond

Please respond to the consultation by completing the questionnaire provided with this document.

Alternatively, you can e-mail or send any comments to the address further below.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

An on-line version of the consultation document and response form can be found at: <http://wales.gov.uk/consultations/environmentandcountryside/?lang=en>

Contact details

For further information please contact:

Water Branch
Energy, Water and Flood Division
Welsh Government
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Email: water@wales.gsi.gov.uk

Telephone: 029 2080 1199

Data Protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Contents

		Page
1	Introduction	1
2	The Social and Environmental Guidance to Ofwat	1
	Role of Ofwat	1
	Purpose of Social and Environmental Guidance	2
	Welsh Government's Policy Priorities for Ofwat	3
3	Current position and reasons for change	5
4	Welsh Government Policy and Guidance to Ofwat	6
	Water Policy Statement 2011	6
	Programme for Government	6
	Water Strategy for Wales	6
	Sustainable Development	7
	Long Term Outcomes	9
	Corporate Social Responsibility	10
	Company Reporting (Better Regulation) – Reducing administrative burden on water undertakers	10
5	Social Objectives Policy	10
	Tackling Poverty Action Plan	10
	Water Affordability and Charging	11
	Metering	12
	Community Engagement and Consultation	13
	Economic Development and Delivering Results for Customers	14
	Equality Act 2010	15
	Welsh Language	16
6	Environmental Policies	17
	Research and Evidence	17
	Sustaining a Living Wales	17
	Environment Strategy for Wales 2006	18
	Climate Change	19
	Adapting to the impacts of climate change	20
	Emission Reduction	21
	Water Resource Management	22
	Supply Demand Balance	23
	Water Efficiency	23
	Leakage	24
	Floods and Resilience	25
	National Strategy for Flood and Coastal Erosion Risk Management in Wales	25
	Surface Water flooding and Local Strategies	26
	Resilience to natural hazards	27
	Drinking Water Quality	28
	Environmental Water Quality	28
	Water Company Partnership working	29
	Sewerage	30
Annex A	Legal Basis	32
Annex B	Consultee List	34
Annex C	Response Form	36

1. Introduction

1.1 Section 2A of the Water Industry Act 1991 (as inserted by section 40 of the Water Act 2003) provides powers for the Welsh Ministers to give Social and Environmental Guidance to the Water Services Regulation Authority (Ofwat) as to the contribution Ofwat can make to the attainment of social and environmental policies. Ofwat is required to have regard to such guidance in the exercise of its powers and duties as economic regulator of the water and sewerage industry.

1.2 The Welsh Ministers' guidance applies with respect to the appointment areas of water and sewerage undertakers whose areas are wholly or mainly in Wales¹. Guidance relating to the areas of appointment of water and sewerage undertakers wholly or mainly in England is a matter for the Secretary of State.

1.3 In formulating the guidance, the Welsh Ministers have, where practicable, had regard to the costs and benefits which may be expected to result from the guidance.

1.4 Social and Environmental Guidance was previously issued to Ofwat in March 2009, in order to make Ofwat aware of the Welsh Government's policy priorities and to inform Ofwat's 2009 Periodic Review of water charges (PR09).

1.5 This consultation seeks the views of stakeholders on new Social and Environmental Guidance in accordance with section 2A(4) of the Water Industry Act 1991. The guidance reflects current and future Welsh Government policy. It is also intended that this guidance will inform Ofwat's Periodic Review (PR14).

1.6 The Guidance is not intended to provide a comprehensive picture of what Ofwat may wish to do over the next five years or of any other Guidance the Welsh Government may provide. It is in no way intended that the proposed Guidance should act as a 'directive' to Ofwat, but Ofwat should have regard to the Guidance when exercising its powers and duties in accordance with section 2A(3) of the Water Industry Act 1991.

2. Social and Environmental Guidance

The role of Ofwat

2.1 The Water Services Regulation Authority (Ofwat) is the independent financial regulator of the water industry. Every five years it undertakes a "periodic review" of the prices charged by each water company in England and Wales. Ofwat has begun work on its next periodic review (PR14), which will culminate in 2014 when it sets new price limits for each company to take effect from 1 April 2015.

2.2 Ofwat's general duties as a regulator are laid down in section 2 of the Water Industry Act 1991 (WIA91) (<http://www.legislation.gov.uk/ukpga/1991/56/contents>), as amended by the Water Act 2003 (<http://www.legislation.gov.uk/ukpga/2003/37/contents>). Ofwat must:

¹ Section 2A is set out in full at Annex A.

- protect the interests of consumers, wherever appropriate by promoting effective competition in relation to the provision of water and sewerage services;
- secure that the functions of each water and sewerage undertaker are properly carried out and that they are able to finance their functions, in particular by securing reasonable returns on their capital; and
- secure that companies with water supply licences (i.e. those selling water to large business customers, known as licensees) properly carry out their functions.

2.3 Subject to these duties, Ofwat must also:

- promote economy and efficiency by water and sewerage undertakers in their work;
- secure that no undue preference or discrimination is shown by such companies in fixing charges;
- secure that consumers' interests are protected where companies sell land;
- ensure that consumers' interests are protected in relation to any unregulated activities of companies;
- contribute to the achievement of sustainable development.

2.4 In addition, Ofwat must have regard to the principles of best regulatory practice.

2.5 These duties are supplemented by general duties in relation to the environment and recreation (see, for example, sections 3 and 4 of the Water Industry Act 1991).

2.6 The Welsh Government's role is to determine the policy framework that may affect the factors that determine price limits and to bring to Ofwat's attention the Welsh Ministers' priorities for water and sewerage undertakers, wholly or mainly in Wales, which include improvements to their environment and drinking water services. In doing so we will also seek to ensure that we meet our European obligations.

Purpose of the Social and Environmental Guidance

2.7 This draft Social and Environmental Guidance is intended to ensure that Ofwat has due regard to the Welsh Government's social and environmental policies in carrying out its powers and duties. Principal to this is our approach to sustainable development which ensures that active consideration is given to the economic, social, environmental and long term effects of the decisions we take. The aim is to identify solutions that benefit the needs of future generations, so that long-term wellbeing and preventative measures are emphasised.

2.8 This guidance applies to the exercise of Ofwat's powers and duties mentioned in section 2(1) of the Water Industry Act 1991 (subject to section 2(6))². Ofwat is expected to have regard to this guidance whenever it is exercising those powers and duties (and not only during the setting of price limits during PR14).

2.9 Defra has already undertaken a separate consultation on draft Guidance which will be applicable to undertakers wholly or mainly in England.

Welsh Government Policy Priorities for Ofwat

2.10 To help Ofwat to support the achievement of the policies detailed within the body of this guidance, we have identified the following overarching policy priorities for the Welsh Government. It is intended that these should inform Ofwat's decision making, where it may need to manage any tensions or tradeoffs that might arise between the different policies in this guidance, in a manner consistent with its outcomes based approach to regulation. These priorities are presented below, in no particular order.

2.11 **Regulatory proposals:** The Welsh Government expects Ofwat to provide a thorough assessment of the impacts of any proposed changes to its regulatory framework for the water and sewerage sector, on both consumers and investors. Ofwat should seek to avoid regulatory uncertainty wherever possible, taking appropriate account of the views of investors and other stakeholders. Any costs and benefits presented for the citizens of Wales should be evidenced specifically in the Welsh context.

2.12 **Environmental and statutory obligations:** The Welsh Government expects Ofwat to facilitate water and sewerage companies to comply with domestic and European legislation within the timescales set and to regulate to prevent any barriers to these being met. Whilst we are keen to ensure that the wishes of water bill payers should be given a high priority within the price review process, the Welsh Government recognises that some essential actions may not fit with public opinion.

2.13 **Sustainable development:** It is among Ofwat's duties to contribute to the achievement of sustainable development and the Welsh Government expects Ofwat to take account of and to contribute to the achievement of its own sustainable development objectives. In the context of economic regulation for which Ofwat is responsible, the Welsh Government considers that Ofwat should also have regard for the interrelated social and environmental needs of Welsh citizens in the present as well as those we anticipate for the future.

2.14 **Affordability:** Ofwat should take account of the affordability issues specific to Wales and ensure that these are reflected in its approach to regulating charges for Welsh customers. Ofwat should therefore give due consideration to innovative charges from undertakers, including social tariffs, in line with (imminent) Welsh Government Guidance, to help address affordability issues. The Welsh Government expects Ofwat to be supportive of companies' proposals for charges which are both fair and protect vulnerable and low income groups.

² See section 2A(3) of the Water Industry Act 1991.

2.15 Efficiency and cost effective solutions: It is among Ofwat's duties to promote economy and efficiency by companies in their work. Ofwat should seek to drive innovation in the water sector, within the boundaries set by the Welsh Government, to ensure improvements in efficiency. This should include continuing to incentivise efficiency alongside ensuring that companies can raise the revenue needed to fund their assets, invest in resilience and make necessary improvements in services. The Welsh Government expects undertakers to provide cost-effective and efficient solutions that link different policies and approaches.

2.16 Resilience and joined up outcome based solutions: Ofwat is expected to set price limits which enable water undertakers to carry out those works that are essential to ensure resilience against natural hazards and to be able to carry out work for security purposes. Ofwat has an important role to play in helping to achieve the Welsh Government's priorities for adapting to the impacts of climate change by incentivising companies to improve resilience of water infrastructure where this relates to the effects of climate change, and by mainstreaming adaptation into their considerations and decision making.

2.17 Research and evidence based decisions and policy making: The Welsh Government is committed to evidence based policy making and sees relevant research as a key element of delivering the right results for customers in Wales. We expect Ofwat to have consideration for appropriate research and associated costs where the need for research is an integral part of delivering agreed outcomes in Water Resource Management Plans.

2.18 Water quality: The Welsh Government regards the continuing supply of safe, clean drinking water as paramount. Ofwat is expected to ensure that investment related to the improvement of assets to ensure compliance with statutory obligations for drinking water quality is maintained and is fully considered when setting price limits. While we recognise it is not central to its role, the Welsh Government encourages Ofwat to continue to play an active part in delivering Water Framework Directive objectives.

2.19 Future resource management: Ofwat should encourage water undertakers to develop new ways of tackling issues on both a short term and a more strategic long term basis. We strongly support action by Ofwat to change company and customer behaviours to value water, to use it wisely and to reduce demand. In line with Ofwat's outcomes based approach, we would expect Ofwat to take account of integrated and comprehensive approaches to forward planning where these are supported by a robust and justified options appraisal. The Welsh Government expects Ofwat to allow for investigations into sustainable abstraction in the setting of future price limits.

2.20 We would expect Ofwat provide feedback on the management of these overarching priorities as part of its annual reporting process.

3. Current position and reasons for change

3.1 The previous Social and Environmental Guidance was issued to Ofwat in March 2009 to coincide with Ofwat's last periodic review of water charges (PR09) and was reflective of the previous Welsh Government's policies and priorities as outlined in *One Wales (Welsh Government, 2009)*. A copy of the previous Guidance issued to Ofwat is available from the Welsh Government website at:

<http://wales.gov.uk/legislation/subordinate/nonsi/epwales/2009/3100611/?lang=en>

3.2 This new Guidance has been drafted to take account of the new priorities of the Welsh Government and to reflect those areas where previous Welsh Government strategies have developed and changed.

3.3 The current Price Review process is under way and Ofwat is consulting on its Methodology which sets out proposals for how price limits will be set for water and sewerage in 2014. A copy of the consultation document is available from the Ofwat website at:

http://www.ofwat.gov.uk/pricereview/pr14/prs_web201301framework

3.4 Since the last price review the Welsh Government has developed a number of key policies such as the *Tackling Poverty Action Plan (Welsh Government, 2012)*, and *A Living Wales Framework (Welsh Government, 2012)*, of which Ofwat will be expected to take account in its future regulation. The Welsh Government is also taking forward a range of work including the Sustainable Development Bill, the Environment Bill and the Natural Resource Management Programme.

3.5 The Welsh Government's overall aim is to streamline and simplify the way we work in Wales and to ensure that we have the legislation, regulation and planning processes that are effective and fit for purpose to manage our natural resources. We want a future where we are able to work in a more integrated, holistic way to ensure that we deliver the best results for the citizens of Wales and that the work of Natural Resources Wales is able to contribute effectively to delivering environmental, economic and social benefits. We see this as very much in harmony with the outcome based approach now being taken forward by Ofwat.

3.6 At the next price review Ofwat will also be expected to take account of the outcomes of the water company Customer Challenge Groups, the PR14 Forum and wider stakeholders involved in the Price Review process, such as Consumer Council for Water, the Drinking Water Inspectorate, the Environment Agency, Natural Resources Wales, the water industry in Wales, Local Authorities and land managers.

4. Welsh Government Policy and Guidance to Ofwat

4.1 In each of the sections that follow, the Welsh Government policy context is provided first. The specific guidance on the areas we expect Ofwat to have regard to follows in the boxed sections, as appropriate.

Water Policy Statement 2011

4.2 In March 2009, the Welsh Government published its first *Strategic Policy Position Statement on Water (Welsh Government, 2009)*. The Statement was produced to give Ofwat, the water companies, regulators and other interested parties a clear steer on the Welsh Government's priorities for water in the context of the water price review. The *Statement* contained both clear statements of policy on key issues and specific actions to be taken forward.

4.3 This *Statement* was reviewed and updated in 2011. This revised Statement updates the position reflecting key developments over the last two years and highlights areas that will be a priority in the future.

4.4 Our core objectives are ensuring access to safe drinking water, maintaining water and sewerage services at an affordable price and compliance with statutory obligations that drive all round water quality.

Programme for Government

4.5 The *Programme for Government (Welsh Government, 2011)* sets out the Welsh Government's commitments for the current term, the key actions it will take and how it will judge whether its actions are on track. Its central organising principle is sustainable development with an emphasis on social, economic and environmental well-being for people and communities, now and in the future, embodying its values of fairness and social justice. It aspires to a healthy people living productive lives in a more prosperous and innovative economy; safer and more cohesive communities, with lower levels of poverty and greater equality and inclusion; and a resilient environment with more sustainable use of Wales' natural resources.

Water Strategy for Wales

4.6 The *Programme for Government* highlighted a commitment for the Welsh Government to publish a *Water Strategy for Wales*, which we intend to publish for consultation in 2013. The Strategy will set out the Welsh Government's position and provide a steer to key stakeholders in the water sector on a range of water policies for Wales.

4.7 The Strategy will be set in the context of wider Welsh Government policy including the Natural Resources Programme, the Tackling Poverty Agenda, the *Environment Strategy for Wales (Welsh Government, 2006)*, the *Climate Change Strategy for Wales (Welsh Government, 2010)* and the *Sustainable Development Scheme for Wales, One Wales: One Planet (Welsh Government, 2009)*.

4.8 The Strategy will respond to relevant recommendations which the Welsh Government intends to take forward from Martin Cave's *Independent Review of Competition and Innovation in Water Markets*, Anna Walker's *Independent Review of Charging for Household Water and Sewerage Services* and David Gray's *Review of Ofwat and Consumer Representation in the Water Sector*.

4.9 The Strategy will set out how the Welsh Government will take an ecosystem centred approach to water management. This will ensure that the future water needs of Wales are met, taking account of climate change, population growth and patterns of demand. The Strategy will also set clear guidelines to ensure regulation remains consistent with Welsh Government Policy.

- Ofwat is expected to have consideration of all relevant Welsh Government policy. This will also include the *Water Strategy for Wales* when published.
- It is essential that Ofwat acknowledges differences in policies between the UK and Welsh Government and regulates accordingly.

Sustainable Development

4.10 Sustainable development has a statutory footing as the Government of Wales Act 2006, which requires the Welsh Ministers to make a sustainable development scheme. Section 79 of the Government of Wales Act 2006 states that:

"Welsh Ministers must make a scheme ("the sustainable development scheme") setting out how they propose to promote sustainable development."

Welsh Ministers must also:

- report each year on how the proposals set out in the scheme have been implemented; and
- report, after every National Assembly for Wales election, how effective they have been (through the scheme) in promoting sustainable development.

4.11 The current scheme, *One Wales: One Planet* sets out the vision of a sustainable future for all of Wales where actions and decisions taken by the Welsh Government, working with others, lead to the best possible long-term economic social and environmental wellbeing of Wales. Further detail of the Scheme is available here:

<http://wales.gov.uk/topics/sustainabledevelopment/publications/onewalesoneplanet/?lang=en>

4.12 The Welsh Ministers have committed through the Scheme to making sustainable development the central organising principle of the Welsh Government and is proposing to bring forward legislation to mandate this approach both for the

Welsh Government and for the wider devolved public sector in Wales. The Welsh Government also aims to create a new sustainable development body to safeguard this approach and to help achieve its aspirations for a sustainable future.

4.13 Sustainable development in Wales means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which:

- promote social justice and equality of opportunity; and
- enhance the natural and cultural environment and respect its limits – using only our fair share of the earth’s resources and sustaining our cultural legacy.

4.14 Ofwat is under a statutory duty to contribute to the achievement of sustainable development.

- Ofwat is expected to draw on a wide range of expertise in its decision making and to work in partnership with all stakeholders – including Natural Resources Wales, the Drinking Water Inspectorate, water undertakers and the Consumer Council for Water in Wales.
- The Welsh Government measures its progress towards sustainable development through its confirmed suite of Sustainable Development Indicators. These provide the high level framework to set the context for the provision by water undertakers of information to measure their own Sustainable Development performance³. Ofwat should seek to avoid any regulation that may lead to the water undertakers’ ability to measure this performance being compromised.
- The Welsh Government intends to publish a consultation on its current suite of Sustainable Development Indicators to reflect the priorities that will emerge through its plans to legislate on sustainable development. The views of the water industry will be welcomed.

4.15 The implementation of sustainable development practices requires a major change in culture and working practices for many organisations. Translating the Welsh Government’s vision into action will mean that sustainable development underpins and drives everything the water industry does and advocates others to do.

- Ofwat’s decision-making should be firmly underpinned by sustainable development principles, taking account, where possible, of the long and short term effects on the economy, society and environment and the costs and benefits of action and inaction.
- In presenting its advice and views Ofwat should seek to demonstrate that it has arrived at these in the manner described above, and to explicitly describe these within the context of sustainable development and Ofwat’s

³ Sustainable Development indicators used to measure progress:
<http://new.wales.gov.uk/topics/statistics/theme/sustain-develop/?lang=en>

knowledge of the interactions between social, economic and environmental factors.

- As part of its sustainable development duty, Ofwat should seek to visibly and demonstrably encourage and highlight examples of good practice in relation to sustainable development.
- Early intervention is key to taking a sustainable development approach. The Welsh Government considers that wherever practicable pollution issues should be addressed at source. Ofwat should seek and use scientific knowledge to aid decision making and to take account of the full range of costs and benefits when making plans and decisions, including those costs and benefits which cannot easily be valued in monetary terms, and including cost/benefit analyses of the social as well as the environmental impacts of their decisions. Ofwat should also encourage undertakers to identify solutions to issues which deliver multiple benefits.

Long Term Outcomes

4.16 The Welsh Government expects undertakers to provide cost-effective and efficient solutions that link different policies and approaches. This includes the integration of the operation, maintenance and renewal of assets with new provisions to meet new requirements. It also requires a water cycle approach taking account of water resources, drinking water quality and environmental considerations.

- We support and further encourage Ofwat's approach to longer term planning horizons and to require that Water company programmes are designed in an integrated way.
- In line with Ofwat's outcomes based approach, we would expect Ofwat to take account of integrated and comprehensive approaches to forward planning where these are supported by a robust and justified options appraisal.
- In so far as statutory timetables allow, in some cases it may be that the most long-term effective solution involves the deferral or the acceleration of action or the combining of two measures that might otherwise be taken at different dates. Nevertheless, the Welsh Government acknowledges that may be sound arguments for an incremental approach, on grounds of cost-effectiveness or of uncertainty.
- In all cases we expect Ofwat to monitor emerging information and to take account of new evidence.

Corporate Social Responsibility

4.17 As set out in *Securing the Future (Department for Environment, Food and Rural Affairs, 2005)*, sustainable organisations can be powerful drivers for more sustainable patterns of consumption and production. The Welsh Government's vision for Corporate Social Responsibility is 'to see UK businesses taking account of their economic, social and environmental impacts, and acting to address the key sustainable development challenges based on their core competences wherever they operate'.

- Ofwat should encourage the water undertakers covered by this guidance to adopt corporate social responsibility, as described above, with the objective of securing a full commitment to environmental and social responsibility and also to achieving high standards of corporate governance.
- As part of its approach to sustainable development, Ofwat should encourage undertakers to look at their own operations and performance. Ofwat is expected to encourage outcomes by undertakers which help to achieve the Welsh Government's vision.

Company Reporting (Better Regulation) - Reducing administrative burden on water undertakers

4.18 The Welsh Government is not formally party to the cross-Whitehall policy on reducing administrative burdens, but it is supportive of it. We are keen that all regulators work in a more effective way to reduce unnecessary burdens, without compromising regulatory outcomes.

- In consultation with others, Ofwat should continue to consider ways to reduce or streamline its information requirements of the industry while justifying any new burdens on compelling cost-benefit grounds.

5. Social Objectives Policy

Tackling Poverty Action Plan

5.1 The *Tackling Poverty Action Plan* sets out the Welsh Government's key objectives to prevent poverty in the long term, to help people out of poverty and mitigate the impact of poverty. The Action Plan recognises that there is a need to become more joined up with our partners to achieve better outcomes for everyone in Wales. We are committed to improving the lives of those living in poverty and keeping water bills at an affordable level will help reduce debt and protect vulnerable groups.

5.2 Furthermore, the *Tackling Poverty Action Plan* will be taken forward in ways which link with the Equality Objectives within the *Strategic Equality Plan (Welsh Government, 2012)*.

Water Affordability and Charging

5.3 The Welsh Government's ambition is a Wales where everyone achieves their full potential and everyone can live a life free from poverty and inequality. We are particularly concerned about the impact of water charges and the impact of rises in water bills on those customers who are least able to pay. This is especially important when considered alongside other utility and household bill increases.

5.4 More generally the Welsh Government is concerned about affordability for all customers and the comparatively high level of water bills in large parts of Wales, even though the gap in prices between England and Wales has narrowed over recent years.

- It is among Ofwat's duties to promote economy and efficiency by companies in their work and also to contribute to the achievement of sustainable development. The Welsh Government would therefore expect Ofwat to regulate to minimise the potential financial burden on water customers in Wales while maintaining services and enabling the water industry in Wales to meet its national and European statutory obligations. This should include continuing to incentivise efficiency alongside ensuring that companies can raise the revenue needed to fund their assets, invest in resilience and make necessary improvements in services.
- Ofwat should take account of the affordability issues specific to Wales and ensure that these are reflected in Ofwat's approach to regulating charges. Ofwat should give due consideration to innovative charges from undertakers, including social tariffs, in line with Welsh Government Guidance, to help address affordability issues. Where appropriate Ofwat should seek to involve officials from the Welsh Government and the Consumer Council for Water Wales in this work.
- When it publishes its decisions on future price limits, Ofwat should explain how it has taken account of any representations from stakeholders in Wales.

5.5 The Welsh Government published its Social Tariff Guidance on 1 March 2013. This sets the framework within which an undertaker can bring forward a social tariff if it chooses to do so. It will also set the framework which Ofwat should consider when exercising its power to regulate charges schemes.

5.6 The level of Bad Debt in Wales is equivalent to £20 per household per year. The Welsh Government is currently drafting regulations that will ensure it is easier for water companies to find who is living in a rented property and allow them to seek payment. A consultation on these regulations will be published in 2013.

5.7 Debt can often be linked to a householders' ability to pay. There should be support provided from water companies to ensure that vulnerable householders are able to pay for their water bill whilst at the same time actively pursuing those householders who choose not to pay their bills. By offering support, water companies will be able to reduce the current level of Bad Debt. The Welsh Government would expect Ofwat to encourage water companies to meet the needs of their customers and offer appropriately targeted tariffs and payment plans to help minimise the number of householders who are falling in to debt.

- The Welsh Government expects Ofwat to be supportive of companies' proposals for charges which are both fair and protect vulnerable and low income groups. The Welsh Government is keen to see suggestions for innovative tariffs and structures that could help address affordability issues and debt collection.
- The Welsh Government supports the maintenance of the existing ban on household water and sewerage disconnection. Ofwat should continue to provide incentives to water undertakers to minimise any additional costs being borne by those customers who pay their bills on time.
- The Welsh Government will expect Ofwat to consider its Social Tariff Guidance when regulating any future charges proposed by water undertakers in Wales.

Metering

5.8 The Welsh Government is aware that there is a growing body of evidence to support metering as a fair means of charging for water and for encouraging customers to reduce their demand for water.

5.9 The Environment Agency is currently consulting on the classification of water stressed areas which also takes in to account the Habitats Directive. Based on the current definitions and apart from in a few isolated areas, Wales' water resources are not currently at serious risk and there are no areas of serious water stress in Wales. However, we are mindful of the need to consider the implications of climate change, which will place greater pressure on our water resources.

5.10 The Welsh Government also fully recognises the environmental benefits that result from more efficient and sustainable use of water and the associated benefits this may bring in terms of a reduced carbon footprint, as a result of having to treat and pump less water as well as reducing both the amount of water used and energy required to heat it. Reduced demand leads to reduced wastewater, which in turn results in reduced infrastructure requirements and energy costs and increased resilience to climate change.

5.11 However, the Welsh Government is mindful of the costs associated with a full extension of metering, and the impact this will have on households, particularly for poorer households.

5.12 The Welsh Government commissioned, jointly with Defra, an independent review of charging for water and sewerage services in England and Wales, which amongst other things considered the effectiveness and fairness of methods of charging and the role of metering. A copy of the final report can be found at: <http://www.defra.gov.uk/publications/2011/03/26/walker-water-review-pb13336/>

5.13 The *Walker Independent Review of Charging for Household Water and Sewerage Services* recommended that the UK Government and Welsh Government issue clear policy decisions on metering, setting out what is required and when. The review suggested systematic area wide metering where a wider cost benefit analysis indicates that it would be beneficial. Other recommendations include the metering of households on change of occupant; meters where possible placed in the property boundary; and customers billed quarterly, based on actual meter readings. The review also recommended an assessed charge to be brought in where it is not feasible to install a meter. The Welsh Government will undertake further research into metering options for our forthcoming Water Strategy.

- Alongside any natural expansion of metering in their areas (that is, where customers opt for meters or meters are installed in new properties), Ofwat should encourage undertakers to introduce water efficiency measures to help reduce water use.
- We are aware that technology is moving forward and would welcome further exploration of opportunities to make metering affordable and to develop tariffs which encourage a sustainable use of water.
- When considering the expansion of metering, Ofwat should require that companies examine the potential impact on customer affordability and that companies take mitigating actions to assist vulnerable customers who may experience bill increases as a result.

Community Engagement and Consultation

5.14 When developing any price determinations the Welsh Government expects that Ofwat will take account of the views of customers through Customer Challenge Groups. These views need to be balanced with the ongoing need to protect current and future water customers.

5.15 The Welsh Government will hold a PR14 Forum for Wales that will engage stakeholders across the industry in Wales. The Welsh Government will host this forum and act as a facilitator for any concerns that stakeholders may have.

- Ofwat should encourage undertakers' decisions to reflect the needs and priorities of local communities and the Welsh economy, which may go beyond provision of essential services, through for example engagement in local flood forums.
- In carrying out its functions, Ofwat should consider the desirability of consulting, even when not required to do so, on proposals relating to the exercise of its powers. When consulting, Ofwat's proposals should reflect

the specific circumstances of Wales and should analyse responses to consultations separately for Wales and, where appropriate and justifiable, should draw separate conclusions applicable to Wales and make recommendations to government accordingly. For this purpose, Ofwat should prepare a timetable for direct consultations with the stakeholders.

- Whilst recognising that some essential actions may not fit with public opinion, the Welsh Government is keen to ensure that the wishes of water bill payers should be given a high priority within the price review process. Ofwat should continue its efforts to find out customers' views and priorities and consider how best any customer research should be planned to secure the views of those customers of undertakers wholly or mainly in Wales and how findings could be acted upon.
- Ofwat, in exercising its duties or powers, is expected to engage positively and purposefully with the Consumer Council for Water Wales and others. It should have regard to such information collected by them on issues such as adequacy and affordability of the services provided by water undertakers and relating to water needs of the vulnerable groups of consumers.
- Ofwat should ensure that there are effective procedures and resources in place to enable them to deal with any customer disputes for which they are responsible in an efficient, timely manner. Ofwat should also specify customer issues and disputes that it wishes the Consumer Council for Water to deal with.
- Decisions must take account of costs as well as benefits, but those costs and benefits should consider the wider social and environmental costs and benefits.
- The Welsh Government expects Ofwat to take account of views from the PR14 Forum for Wales and to be transparent in the decisions it makes in response to the representations from the PR14 Forum and the Customer Challenge Groups.

Economic Development and Delivering Results for Customers

5.16 Jobs and economic growth are among the Welsh Government's over-riding priorities and a sustainable, resilient, affordable water supply is essential to help support these. Alongside our setting out a clear and realistic role for the Welsh Government in the economy, the water industry also has a central role in meeting the future needs of businesses and industry and of a growing population in the years ahead.

5.17 The principles of investing in infrastructure, skills, innovation and improving the business environment will guide the Welsh Government approach. This includes further integrating economic, education, skills, procurement and planning policies to deliver greater benefits to the Welsh economy; encouraging greater levels of private sector investment and employment; increasing the links between academia and businesses; and positioning Wales as a low carbon, green economy.

5.18 One of Ofwat's objectives is to protect the interests of consumers of regulated water and sewerage services through promoting effective competition, wherever appropriate. As part of this, Ofwat is proposing to set separate price caps for retail and wholesale activities.

5.19 The forthcoming *Water Strategy for Wales* will shape the priorities for water and water services in Wales, including priorities for infrastructure investment. It will also set out options for how the Welsh Government will deliver effective results for business customers in Wales. This will include a package of measures to encourage innovation in the water sector and to drive improvements in efficiency and levels of customers' service.

- The Welsh Government would expect any changes to the regulatory framework that could affect investor confidence are fully evidenced, with a thorough assessment of the impacts, highlighting both costs and benefits, specific to Welsh stakeholders.
- The Welsh Government expects Ofwat to take account of the different respective policy positions of the Welsh and UK Governments such that any divergence in policy between the UK and Welsh Governments is fully reflected in regulatory reform and practice, and Welsh consumers are not detrimentally affected.
- Ofwat should seek to demonstrate to the Welsh Government the long-term benefits of its decisions relating to the promotion of competition and innovation for customers.
- Ofwat is in a position to support economic growth in Wales by allowing infrastructure investments that are attractive, sustainable and financeable, as is consistent with Ofwat's duty towards driving companies to work efficiently.
- Ofwat should also consider developing incentives to promote partnership working between the water companies and developers where it can lead to the development of truly sustainable communities, e.g. such as in the delivery of sustainable urban drainage systems.

Equality Act 2010

5.20 The Welsh Government is committed to putting people, and their quality of life now and in the future, at the centre of its concern. Equality is enshrined in the Welsh Government's founding legislation and is reflected within its guiding principles, and together with sustainability and wellbeing, make up the foundation stones underpinning all that it does.

5.21 The Equality Act 2010 brought together the legal requirements on equality. The Act seeks to integrate consideration of equality and good relations into the day-to-day business of public authorities.

- As it exercises its functions and duties Ofwat, under the 'general equality duty' within the Equality Act 2010, must consider how it can eliminate discrimination, advance equality of opportunity and foster good relations between those sharing or not sharing protected characteristics .

Welsh Language

5.23 The Welsh Government is committed to promoting the use of the Welsh Language. The Welsh Language (Wales) Measure 2011 was given Royal Assent in February 2011; it includes provision about the status of the Welsh language and establishes the post of the Welsh Language Commissioner. It also provides that the Commissioner's principal aim in exercising his or her functions is to promote and facilitate the use of the Welsh language. The Measure also establishes the principle that, in Wales, the Welsh language should not be treated less favourably than the English language.

5.24 The Measure establishes a framework to impose duties on public bodies (and some private companies and third sector organisations) to comply with standards relating to the Welsh language. The Standards will be specified by the Welsh Ministers by order.

5.25 Ofwat are potentially liable to comply with such standards under the Measure and may therefore have to comply with standards in the future, if standards are made specifically applicable to them, and if served with a compliance notice.

5.26 Welsh language schemes under the Welsh Language Act 1993 will remain in force until Standards under the Measure are introduced. As a result, until such time as Ofwat is under a duty to comply with Standards, the Welsh Government expects Ofwat to comply with its own Welsh language scheme which was approved by the Welsh Language Board (the Welsh Language Commissioner now has responsibility for approving and monitoring schemes, following abolition of the Welsh Language Board in March 2012).

- We expect Ofwat to comply with its own Welsh language scheme which was approved by the Welsh language Board (now the Commissioner).

6. Environmental Policies

Research and Evidence

6.1 Good research and evidence is required to underpin our policy direction. We place particular importance on gathering robust information and evidence in developing our policy. With this knowledge we can develop better ways of tackling matters of importance in Wales, now and in the future.

6.2 In order to ensure evidence based policy, appropriate environmental regulation and properly targeted investment for future maintenance and improvements, a monitoring programme is essential. This should help to ensure that problems are tackled earlier, when it is more cost-effective to do so, instead of them going unnoticed until a severe issue occurs resulting in remedial action at a higher cost.

- We see relevant research as a key element of delivering the right results for customers in Wales. We expect Ofwat to have consideration for appropriate research and associated costs where the need for research is an integral part of delivering agreed outcomes in water companies business plans.
- We expect Ofwat to help us to ensure that water companies factor monitoring processes into their business plans.

Sustaining a Living Wales

6.3 The *Sustaining a Living Wales* consultation paper (issued in early 2012) set out the Government's proposals for a fresh approach to the management of our natural resources. A copy of the consultation can be found on the following webpage:

<http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/?lang=en>

6.4 The Welsh Government is keen to take a long-term, 25 years plus approach to natural resource planning and our long term aspiration is for natural resource management at each level to demonstrate our focus on sustainable development. By enhancing and managing our natural environment more holistically, we will not only secure our environmental wellbeing but also maximise the economic and social benefits for the long term.

6.5 *Sustaining a Living Wales* will sit directly under the Sustainable Development Scheme, *One Wales: One Planet*, and it will help to ensure that sustainable development is at the heart of how Welsh Government operates.

6.6 The Welsh Government recognises that our environment has an intrinsic value of its own, is our life support system, is a finite source of vital resources and is central to our quality of life, sense of place, health and wellbeing and underpins our economic development

6.7 The emphasis in *Sustaining a Living Wales* is on the long-term economic, social and environmental benefits of healthy ecosystems. Healthy ecosystems support healthy populations of species which inspire and delight both the people of Wales and visitors. It is also important to recognise the wider economic benefits of healthy ecosystems, such as food and timber production, clean air and water, flood prevention, economic success and health and well being.

6.8 This will be delivered through embedding the ecosystem approach into decision making processes. This means looking wider at the opportunities that the natural environment provides – the ecosystem services – to ensure long-term, resilient solutions that have multiple benefits for people, for business and for the environment. We are taking this approach across Government and are committed to ensuring that this is reflected in everything we do that guides and impacts natural resource management.

6.9 Natural Resources Wales will be required to adopt the ecosystem approach across its activities. Work to test and embed this has started and will continue to develop with the new organisation from April 2013. We expect further policy and legislation to emerge over the period to 2016, which will firm up this approach.

6.10 The Welsh Government is keen to prevent pollution where possible, and to make the polluter pay for the damage done by pollution, i.e. to ensure that costs are met by those whose actions incur them.

- Ofwat should incentivise water undertakers to respect environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged.
- In some circumstances it will be justifiable to support measures to prevent possibly serious environmental damage where there is scientific uncertainty about the risks and solutions. In such cases the Welsh Government supports further investigation by undertakers and the implementation of innovative solutions.
- Ofwat should proactively engage with Natural Resources Wales, the Environment Agency and undertakers, to ensure that long-term, resilient solutions that have multiple benefits for people, for business and for the environment are put in place.

Environment Strategy for Wales 2006

6.11 The Welsh Government's commitments for water are outlined in the *Environment Strategy for Wales (Welsh Government, 2006)*. It highlights our aims for achieving sustainable water management, maintaining good water quality and reducing water pollution whilst meeting the needs of society and considering the issues of affordability. These include outcomes for the sustainable management of water resources; more efficient use of water across all sectors; goals for drinking water and water quality; climate change; flood risk management and for the condition of sites of international, Welsh and local importance.

6.12 The *Environment Strategy* also includes objectives to enhance the quality of our coastal waters, and to ensure our seas are clean and support healthy ecosystems. In addition, the biological and chemical standards of our rivers should be protected and enhanced and sites of international, Welsh and local importance should be in a favourable condition and capable of supporting the species and habitats for which they have been identified.

- Ofwat is expected to have regard to the Welsh Government's priorities set out in the *Environment Strategy for Wales* and the approach set out in *Sustaining a Living Wales*. It should incentivise water undertakers to develop long-term, innovative solutions where appropriate, based on whole catchment approaches, and recognising the role and function of natural processes.
- Ofwat should have regard to the fact that customers may support water undertakers carrying out activities within their competence that provide wider environmental benefits, such as the promotion or protection of biodiversity, energy generation, landscape benefits, regulation of flood risks or the provision of environmental information and education to promote behaviour change around water use or appropriate use of the drainage system.

Climate change

6.13 The water industry is already vulnerable to current weather and climate. The impacts of climate change will put further pressure on the water industry due to changing rainfall patterns and increased temperatures.

6.14 The *Climate Change Strategy for Wales* was launched in October 2010 and sets out how the Welsh Government intends to reduce greenhouse gas emissions, invoke meaningful behaviour change and adapt to the impacts of climate change. Everyone in Wales has a contribution to make in tackling it – individuals, households, businesses, public services and community groups. A copy of the Strategy can be found at the following webpage:

<http://wales.gov.uk/topics/environmentcountryside/climatechange/publications/strategy/?lang=en>

6.15 The Strategy outlines the actions to be taken to realise the *Programme for Government* objective of 3% annual reductions in carbon equivalent emissions in areas of devolved competence from 2011.

6.16 The Strategy has set specific sectoral targets in relation to transport, residential, business, agriculture and land use, public sector and waste. It is not the Welsh Government's intention, at this time, to set sector targets for the water sector but as a significant energy user the water sector is a significant contributor to greenhouse gas emissions and has a role to play in reducing these.

6.17 As well as the drive to reduce emissions, the impacts of climate change will also have a profound effect on the industry. In the future, Wales is expected to

experience rising temperatures, wetter winters, drier summers, more intense rainfall events and greater climate variability.

6.18 Without action, based on the UK Climate Projections 2009, it is likely that there will be discrepancies between peak water demand and availability, more widespread water stress for humans and ecosystems, more ecological water quality problems and increased flood events from rivers and urban drainage systems.

Adapting to the impacts of climate change

6.19 The Welsh Government expects water undertakers to take steps to adapt to future climate change. Adaptation is an evolving policy area and building capacity within organisations to understand and plan for climate change will enable the water industry to identify the adaptation action needed to build resilience for the future.

6.20 Working within this context, the Welsh Government needs to ensure that the best evidence available on climate change is fully integrated into its water policies.

6.21 Water undertakers should take a risk based approach to adaptation measures, informed by the best evidence available, including climate change projections such as those provided through UK Climate Projections' UKCP09 and the UK Climate Change Risk Assessment.

6.22 Water undertakers need to recognise their role as identified Reporting Authorities under the Climate Change Act and mainstream adaptation into their decision making processes as set out in the Climate Change Act guidance – 'Preparing for A Changing Climate'.

6.23 Reduction in water availability is a major potential impact of climate change, which would be exacerbated if there is an increase in the magnitude and frequency of droughts. If adaptation measures are not taken this could have severe consequences for homes, businesses, agriculture and other water users.

6.24 According to the UK Climate Change Risk Assessment report for Wales, low river flows are projected to become lower by the order of 10% to 20% by the 2020s, and 30% to 40% by the 2080s (as compared with the 1961-90 baseline).

6.25 The availability of water in Wales is projected to reduce in the future. It is provisionally estimated that about 40% of the population of Wales might be affected by a shortage of water by the 2020s, rising to over 90% by the 2080s.

6.26 The number of river sites in Wales that meet Water Framework Directive Environmental Flow Indicators is projected to reduce, by the order of 40% by the 2020s rising to 90% by the 2080s compared with the 1961-90 baseline.

6.27 Flooding from Combined Sewer Overflows is projected to increase, causing additional flooding and pollution. Projections for Cardiff suggest an increase of over 50% in overflow frequency by the 2080s.

- Ofwat is expected to reflect the Welsh Government’s priorities on adapting to the impacts of climate change by incentivising companies to improve resilience of water infrastructure, where this relates to the effects of climate change, and by mainstreaming adaptation into their considerations and decision making.
- The Welsh Government understands that it is not Ofwat’s role to deliver adaptation on the ground and that it is for water undertakers themselves to understand the risks of climate change and to plan to deal with those risks to service in a sustainable way. Rather, we expect Ofwat to provide the right regulatory incentives to enable the companies to adapt to climate change, and to take action if they fail to meet their obligations.
- In line with the actions identified in Ofwat’s Climate Change Adaptation Report the Welsh Government expects that Ofwat will:
 - enable adaptive action by setting the right regulatory incentives to bring about effective, efficient and equitable adaptation;
 - build adaptive capacity by improving its own understanding and the evidence base available to the companies; and
 - monitor and evaluate by measuring outcomes in the sectors and the companies’ performance to inform its regulatory actions.

Emission reduction

6.28 The Welsh Government expects water undertakers to continue to reduce their energy usage and to find new ways of minimising demand in the future.

6.29 The Welsh Government would like to see continued reductions in the industry’s carbon footprint. This could include maximising efficient energy production from the industry’s own processes and resources, including anaerobic digestion and the capture of greenhouse gases, and through sourcing alternative renewable energy supplies.

6.30 A key regulatory tool for reducing carbon emissions within the water industry is the Carbon Reduction Commitment Energy Efficiency Scheme which commenced in 2010.

- We encourage Ofwat to incentivise attempts by water undertakers to reduce their energy demand, to increase their uptake of renewable energy sources, and to reduce non-CO2 greenhouse gas emissions.
- We encourage Ofwat to incentivise companies to explore the potential of using renewable energy solutions and minimise energy consistent with our policies and statutory obligations.

- The Welsh Government expects undertakers to meet fully their obligations under the Carbon Reduction Commitment. Ofwat should regulate to avoid any barriers to achieving the scheme's objectives and requirements.

Water Resource Management

6.31 Water companies have a statutory obligation under section 37A of the Water Industry Act 1991 to produce Water Resource Management Plans which set out their projected water resource needs over the next 25 years to support the public supply, whilst taking into account environmental needs, climate change projections and population growth predictions.

6.32 The Welsh Government recognises the value of water as a natural asset in Wales and will be exploring how to improve management of water resources in the context of the Natural Resources Programme.

6.33 The Environment Agency have been undertaking the Restoring Sustainable Abstraction programme across England and Wales since the 1990s in order to find a balance between abstraction from rivers, reservoirs and groundwater sources, and the needs of the environment.

6.34 The Welsh Government believes that the environmental impact of water company abstractions should be reduced, where these impact upon sites within the scope of the Restoring Sustainable Abstraction programme (in particular on designated national and international nature conservation sites) and where there is a need to reduce flows to meet the environmental objectives of the Water Framework Directive.

6.35 A number of licence changes have been identified as being needed across Wales.

- When considering proposals for demand management options, Ofwat should take account of the need to restore sustainable abstraction to reduce the risk of environmental damage.
- The Welsh Government believes that water undertakers should undertake investigations into the impacts of their abstractions, to inform the need for changes to abstraction licences. It therefore expects Ofwat to allow for such investigations in price limits.
- As part of the price review process Ofwat is expected to take into consideration the costs that will be borne by water companies in order to make the licence changes needed under the Restoring Sustainable Abstraction programme, in order to comply with the Habitats Directive.

Supply-demand balance

6.36 Water undertakers have a statutory duty, under section 3(2)(a) of the Water Industry Act 1991 (as amended) to further water conservation in exercise of its functions. Ofwat also has a statutory duty, as a public authority under section 83 of the Water Act 2003, in the exercise of its functions, to take into account the desirability of conserving water supplied or to be supplied to premises.

6.37 When considering the need for new resources, water undertakers would be expected to explore demand side solutions and provide sufficient analysis and evidence of the appraisal before considering new supply measures. This approach will help to offset the need for increasing supplies and associated social and environmental costs.

- The Welsh Government expects Ofwat to reflect these duties when consulted on Water Resource Management Plans and when considering company proposals for demand management measures within the measures to balance supply and demand in the price review. Meeting the balance between supply and demand will contribute towards the environmental objectives of the Water Framework Directive.
- As far as possible, Ofwat should seek to ensure that Water Resource Management Plans submitted by the water companies reflect the Welsh Government's projections of population and housing growth, as well as risks to supply resulting from climate change. The Welsh Government seeks the cooperation of Ofwat in encouraging a greater focus on demand management measures by water companies.
- As part of this, Ofwat should consider water company proposals for achieving a supply-demand balance on the basis of an innovative and long term approach to water resources management.

Water Efficiency

6.38 The *Environment Strategy* places considerable emphasis on water resource management, including sustainable management of water resources, meeting the needs of society without causing damage to the environment and seeking to ensure that water is used more efficiently across all sectors. Improving water efficiency across all sectors, in both new and existing homes, is an important way of reducing future demands on water supply.

6.39 There are currently no areas in Wales suffering from prolonged periods of water stress; therefore we do not anticipate company Water Resource Management Plans with programmes of universal metering in the near future. However there are areas of potential water deficit, where forecast future demand exceeds available supply. In these deficit areas and where there is potential for environmental damage due to over abstraction, action to reduce demand is particularly important. In addition, we recognise the need to prepare for changes in supply and demand due to changing rainfall patterns and increased temperatures as a result of a changing climate and the need to manage demand effectively and promote efficiency.

- We strongly support action by Ofwat to help change company and customer behaviours to better value water, to use it wisely and to reduce demand.
- When examining the Key Performance Indicators proposed by companies in relation to their Water Resource Management Plans, the Welsh Government would encourage Ofwat to consider whether wider social and environmental benefits (including environmental externalities such as abstraction and greenhouse gas emissions) have been considered.
- Where possible Ofwat should seek to facilitate partnership working and the sharing of best practice between companies, in order to drive forward improvements in water efficiency.

Leakage

6.40 Water leaking from water company pipes is wasteful of water and energy if the benefits of reducing it outweigh the costs. This is a high priority issue for customers that can damage the reputation of the industry

6.41 The industry has shown that it can become more effective in detecting and fixing leaks. Leakage has fallen by 36% since 1994-95 and is expected to fall by a further 3% by 2015.

6.42 Water companies must fully consider managing water leakage as an efficient way to balance supply and demand. Leakage of water from a company distribution network is a significant component of demand for water.

6.43 As part of its demand forecast, a water company must estimate its baseline leakage over a 25 year planning period and demonstrate how this is forecast, alongside setting out its current policy with regard to leakage detection and control.

6.44 As a minimum the Welsh Government does not expect baseline leakage forecasts within Water Resource Management Plans to drive the need for new supply or demand options i.e. total leakage should not be causing a supply shortfall.

6.45 The Welsh Government also expects companies to include leakage detection and reduction management as a fully explored feasible option to achieve a secure public water supply where deficits have been identified.

6.46 We expect water companies to continue to innovate and develop expertise in preventing, identifying and repairing leakage more effectively during the Water Resources Management Plan period. Should investigations reveal the need for supply side solutions, including the development of new major infrastructure in Wales, any decisions would be a matter for the Welsh Government.

- The Welsh Government expects Ofwat to continue to drive improvements in respect of leakage, building on improvements already achieved since targets were introduced.
- To help maintain this trend, Ofwat is expected to take a long term and strategic view of Water Resource Management Plans for leakage management including proposals for the proactive replacement and maintenance of clean water distribution systems in a phased manner to mitigate disproportionately burdening future customers with costs.
- Ofwat is expected to keep leakage under review. This should be informed by the review of the Sustainable Economic Level of Leakage and consideration of any wider social and environmental externalities. As new technology and management techniques develop, and as the value of water as an essential natural resource increases, the Welsh Government expects the level of leakage to reduce accordingly.

Floods and resilience

6.47 Flooding and coastal erosion are already a significant risk for communities across Wales. As the climate changes we can expect those risks to increase, with more frequent and severe floods, rising sea levels and faster rates of erosion of the coast. We can also expect more communities to be affected by flooding and coastal erosion, including many that are not currently considered to be at risk.

6.48 The response to all flooding incidents is handled by responders at the local level. This could range from minor impacts affecting a few houses to major emergencies affecting hundreds of properties where a full multi agency response would be coordinated by Local Resilience Forum organisations through a Strategic Coordination Group.

6.49 The Civil Contingencies Act 2004 requires responding organisations to maintain plans for preventing emergencies; reducing, controlling or mitigating the effects of emergencies; and taking other action in the event of emergencies. Effective and well-rehearsed emergency plans at organisational and multi agency level will help enable a consistent and coherent response to flooding incidents.

National Strategy for Flood and Coastal Erosion Risk Management in Wales

6.50 In November 2011 the Welsh Government published their first *National Strategy for Flood and Coastal Erosion Risk Management (Welsh Government, 2011)* in Wales. A copy can be found on the following webpage:

<http://wales.gov.uk/topics/environmentcountryside/epq/flooding/nationalstrategy/strategy/?lang=en>

6.51 The National Strategy sets out four overarching objectives for managing flood and coastal erosion risk and establishes a delivery framework that meets the needs of Wales now and in the future:

- reducing the consequences for individuals, communities, businesses and the environment from flooding and coastal erosion;
- raising awareness of and engaging people on flood and coastal erosion risk;
- providing an effective and sustained response to flood and coastal erosion events; and
- prioritising investment in the most at risk communities

6.52 Implementing these objectives is the responsibility of everyone involved in or affected by flooding or coastal erosion, including: the Welsh Government; the Welsh Risk Management Authorities; and the people of Wales.

6.53 Water companies are Risk Management Authorities as defined by the Flood and Water Management Act 2010⁴. Risk management authorities must exercise their flood and coastal erosion risk management functions in line with the National Strategy.

6.54 Water companies lead on a number of flood management activities, not least those in relation to sewerage flooding, and are now included in partnership arrangements where appropriate. The Welsh Government recognises that water companies hold valuable information on flood risk which could greatly aid the understanding of flood risks faced by communities across Wales. As Risk Management Authorities, water companies are under a statutory duty to co-operate with other operating authorities in the exercise of their flood and coastal erosion risk management functions and to share information for that purpose.

Surface Water flooding and Local Strategies

6.55 Local Authorities are principally responsible for managing surface water flood risks. The Environment Agency has modelled and mapped areas susceptible to surface water flooding. This information has been combined with historic surface water flooding records to provide local authorities and other responders with an improved understanding of the flood risk within their areas.

6.56 Each Local Authority in Wales is required to complete a local flood risk management strategy for their area which must be consistent with the National Strategy. Water companies should develop investment plans in a way that will contribute to the objectives and measures of the National Flood and Coastal Erosion Risk Management Strategy by:

- when exercising a flood or coastal erosion risk management function having regard to the Local flood risk management strategies and any associated guidance; and

⁴ “Water company” means a company which holds an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991, or a licence under Chapter 1A of Part 2 of that Act (section 6(11) Flood and Water Management Act 2010).

- when exercising any other function in a manner that may affect a flood or coastal erosion risk having regard to both the National and Local strategies and any associated guidance.

- Climate change, housing and other development are likely to place greater pressure on drainage networks, increasing the risk of surface water and sewer flooding. Ofwat should play a significant role by incentivising more sustainable management of surface water.
- Central to this is the development of plans to manage surface water and Ofwat should encourage water companies to engage proactively with local authorities and other stakeholders in the effective planning for surface water management making use of the Sustainable Drainage Systems (SuDS) approach. This should include considering the potential benefits that surface water management planning could bring to drainage investment planning – for example, making it more risk-based and informed by wider surface water considerations. This would include the application of an integrated approach across the business to deliver water quality, biodiversity, flood risk and water efficiency benefits together with wider benefits for the local communities that can be achieved by installing green infrastructure.
- The Welsh Government expects Ofwat to support its aim for water companies in Wales to undertake a sustainable approach to reducing the impact of sewer flooding in Wales as quickly as is possible.

Resilience to natural hazards

6.57 Regulatory requirements are placed on water undertakers by the Security and Emergency Measures Direction (SEMD) 1998 and SEMG6. This, amongst other things, requires undertakers to carry out security work on vital installations, and protect other installations and facilities according to guidance issued by the Welsh Government and Defra to water undertakers.

6.58 In consultation with other stakeholders, Ofwat produced nine principles for resilience planning which they published in 2012 (link below). Water companies should undertake an appropriate assessment of all natural hazards including the risk of flooding and coastal erosion to their assets and infrastructure. Resilience planning should be integrated throughout business planning, and measures put in place to protect the environment as well as supply to customers.

http://www.ofwat.gov.uk/sustainability/climatechange/adapt/prs_web120503resilience

6.59 Resilience measures should be adaptive and take account of climate change.

- Ofwat is expected to set price limits which enable water undertakers to carry out these essential works to ensure resilience against natural hazards as defined in the Government's National Risk Assessment. The assessment for identifying hazards that impact infrastructure will increasingly include the predicted effects of climate change.
- Ofwat is expected to ensure that the price limits set ensure that water undertakers are able to carry out work for security purposes which is identified under the Security and Emergency Measures Direction 1998.

Drinking Water Quality

6.60 The Drinking Water Inspectorate's report for Wales for 2011 confirms that water undertakers' overall compliance of drinking water supplies in Wales with relevant quality standards was 99.95%.

6.61 The continuing supply of safe, clean drinking water is paramount. The *Programme for Government* identified the importance of maintaining high standards of drinking water quality. Consumers have high expectations of drinking water quality and public confidence in water supplies must be sustained. The Welsh Government supports the risk based approach to managing water supplies, based on water safety planning which is widely recognised as good practice. It also recognises the benefits of a long-term approach to the stewardship of assets and the need for a proactive, preventative strategy to deliver the primary duty of public health protection.

6.62 Nevertheless, enhancements may also be required to secure the safety of drinking water quality and to meet statutory obligations, including the water industry's contribution to deliver the more challenging requirements of the Water Framework Directive.

- Ofwat is expected to ensure that investment related to the improvement of assets to ensure compliance with statutory obligations for drinking water quality is maintained and is fully considered when setting price limits.

Environmental Water Quality

6.63 Monitoring by the Environment Agency has shown that the quality of rivers and coastal waters in Wales is generally high. It is important to the Welsh Government that these high standards of environmental water quality are maintained and enhanced. This includes compliance with the 'no deterioration' requirements of the Water Framework Directive and consistency with the *Environment Strategy's* objectives of maintaining the quality of our coastal waters and the biological and chemical standards of our rivers in Wales.

6.64 Achieving these high standards will require constant attention to sewage treatment to ensure environmental permit levels are complied with. It also requires good operational procedures to anticipate problems such as sewer blockages and to ensure appropriate and timely response when things do go wrong.

6.65 In order to achieve these objectives for water quality, undertakers must understand the condition of their assets and maintain and replace them as appropriate to safeguard the continuity of service to customers. Without adequate maintenance and replacement, the substantial progress made in the last decades in delivering quality improvements will be compromised.

6.66 There is still much to be done to achieve the good ecological standards as required by the WFD across Wales. Land management will be key to making further improvement in some catchments and in others it may be more beneficial to change land management practices instead of putting in place further expensive and carbon intensive treatment in waste water treatment works. In these catchments we want to encourage water undertakers to work with local land owners and communities to find suitable solutions at a catchment level. We will be looking to the new Natural Resources Wales to take forward this approach and identify where catchment level solution would provide most benefit.

6.67 The measures which water undertakers will need to take to meet Water Framework Directive objectives will be determined through the river basin planning process, and so the links need to be made between the river basin planning process and the periodic review of water prices.

- While we recognise it is not central to its role, the Welsh Government encourages Ofwat to continue to play an active part in delivering Water Framework Directive objectives, in particular by contributing to the debate on the proportionality of the responsibilities given to the water industry for their delivery.
- Ofwat should work with water undertakers to identify a level of investment that protects assets against deterioration or enhances their performance in the most cost effective way.
- Ofwat should encourage water companies to explore catchment level solutions and to work with others to find suitable solutions.

Water company partnership working

6.68 The *Environment Strategy* and *Sustaining a Living Wales* approach recognises how land use can impact on water quality. It identifies the need to better understand diffuse pollution and for appropriate actions to reduce and manage the problem.

6.69 Water Undertakers are well placed to contribute to and develop innovative, integrated ecosystem based solutions to achieve multiple benefits, including environmental outcomes at river basin and catchment scale. In particular, the Welsh Government favours a partnership approach to addressing diffuse water pollution.

There is a growing body of evidence and knowledge about the range and effectiveness of these approaches and how they can complement other Government policy instruments such as agri-environment schemes in generating environmental benefits for society as a whole.

6.70 The Welsh Government expects water undertakers to play their part in this river basin planning process, contributing to the work of Natural Resources Wales (and where applicable Environment Agency) led river basin district liaison panels and working in partnership with a range of public and private organisations.

- The Welsh Government expects Ofwat to incentivise water undertakers to adopt innovative approaches to improving water quality, including working with land managers to control diffuse water pollution at source, where this is to benefit of water customers.
- Ofwat should support actions by the undertakers to comply with their primary duty to supply wholesome water, together with the maintenance of levels of service to maintain public confidence in water supplies, and the meeting of consumer expectations of drinking water quality, by facilitating a risk based approach to water supply based on water safety planning from source to tap.

Sewerage

6.71 Sewerage services are an essential and often overlooked part of Water and Sewerage Companies operations.

6.72 Following the private sewer transfer on 1 October 2011 the public sewer network in Wales has almost doubled. The newly adopted network is in a very poor condition in some areas and will need significant investment to ensure that the sewerage network is resilient and fit for purpose, reducing the number of sewer collapses and the potential for pollution incidents.

6.73 The Welsh Government expects undertakers to take a long term and strategic view to how they manage and maintain their waste water network to ensure that the infrastructure is appropriate and can cope with the future challenges we face, including climate change and population growth, without disproportionately burdening future customers with the costs of adapting.

6.74 The Welsh Government will be investigating where improvements are needed in relation to the management of highways drainage to ensure that our infrastructure is properly managed for future generations.

6.75 The Welsh Government would encourage undertakers to investigate and implement sustainable solutions for the disposal of waste water where it is cost effective to do so, and wherever possible look for opportunities to harness energy from effluent where cost effective.

6.76 The Welsh Government encourages water companies to further investigate and implement sustainable solutions for the diversion of surface water from sewerage systems as an alternative to increasing capacity.

- It is expected that Ofwat will take into account the increase in the size of the below ground waste water network following the transfer of private sewers and lateral drains and set price limits accordingly.
- Ofwat are expected to facilitate a long term approach to the maintenance and repair of assets, ensuring that associated costs are borne and phased over an appropriate length of time to ensure that our waste water networks will be fit for purpose and able to deal with future challenges.
- Ofwat should encourage the use of long term sustainable solutions for the treatment and disposal of waste water where it is cost effective to do so and will provide wider social, environmental and economic benefits.

Annex A – Legal Authority

Section 2A of the Water Industry Act 1991(as inserted by section 40 of the Water Act 2003)

Guidance on social and environmental matters

- (1) Guidance may be issued from time to time—
 - (a) by the Assembly⁵, with respect to appointment areas which are wholly or mainly in Wales; and
 - (b) by the Secretary of State, with respect to other appointment areas, about the making by the Authority of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.
- (2) In formulating guidance, the Secretary of State and the Assembly shall, where practicable, have regard to the costs and benefits which may be expected to result from the guidance.
- (3) The Authority shall, in exercising and performing the powers and duties mentioned in section 2(1) above (subject to section 2(6) above), have regard to any guidance issued under this section.
- (4) Before issuing guidance under this section the Secretary of State and the Assembly shall consult—
 - (a) the Authority;
 - (b) the Council;
 - (c) in the case of the Secretary of State, the Assembly and *vice versa*;
 - (d) relevant undertakers;
 - (e) licensed water suppliers; and
 - (f) such other persons as the Secretary of State or the Assembly considers it appropriate to consult in relation to the guidance.
- (5) A draft of any guidance proposed to be issued by the Secretary of State under this section shall be laid before each House of Parliament.
- (6) Guidance shall not be issued by the Secretary of State under this section until after the period of forty days beginning with—
 - (a) the day on which the draft is laid before each House of Parliament; or
 - (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.
- (7) If, before the end of that period, either House resolves that the guidance should not be issued, the Secretary of State must not issue it.

⁵ The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(8) In reckoning any period of forty days for the purposes of subsection (6) or (7) above, no account shall be taken of any time during which—

- (a) Parliament is dissolved or prorogued; or
- (b) both Houses are adjourned for more than four days.

(9) The Secretary of State and the Assembly shall arrange for any guidance issued by him or it under this section to be published in such manner as he or it considers appropriate.

(10) In this section, an “appointment area” is an area for which an appointment is held under Chapter 1 of Part 2 of this Act

Annex B – Consultee List

- Age Concern
- Albion Water
- Black Environment Network (UK)
- Black Voluntary Sector Network in Wales
- British Medical Association
- Cardiff University
- Chartered Institute of Environmental Health
- Chartered Institution of Water and Environmental Management
- Citizens Advice
- Civic Trust for Wales
- Community Housing Cymru
- Confederation of British Industry Wales
- Consumer Council for Water
- Constructing Excellence Wales
- Countryside Council for Wales
- Dee Valley Water
- Defra
- Drinking Water Inspectorate
- Dŵr Cymru Welsh Water
- Energy Saving Trust Wales
- Environment Agency Wales
- Environment Agency
- Equality and Human Rights Commission
- Farmers Union of Wales
- Federation of Small Businesses (FSB)
- Federation of Small Builders
- Friends of the Earth
- Health and Safety Executive (HSE)
- Home Builders Federation
- Home Builders Association
- Institute of Directors Wales
- Institute of Welsh Affairs
- Institution of Civil Engineers
- Keep Wales Tidy
- Minority Ethnic Women's Network (MEWN) Cymru
- National Public Health Service
- North Wales Economic Forum
- Older People's Commission for Wales
- One Voice Wales
- Ofwat
- Public Health Wales
- RICS Wales
- Royal Pharmaceutical Society
- RSPB Cymru
- Society of British Water and Waste Water Industries
- SSE Water
- Stonewall Cymru
- Severn Trent Water

- The Association of British Pharmaceutical Industry Wales
- The National Trust Wales
- Wales Social Partners Unit Ltd
- Water UK
- Welsh Local Government Association (WLGA)
- WWF Cymru

Annex C – Consultation response form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Question: We welcome your views and comments on any aspect of the Social and Environmental Guidance, including (but not limited to) anything you feel we may not have addressed.

Please enter here:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: