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Consultation Document

Tackling Bad Debt within the Water Industry in Wales:

The Water and Sewerage Information (Non-owner Occupiers) Regulations

Date of issue: **17 July 2013**

Action required: Responses by **06 November 2013**



Overview

This consultation seeks views on the implementation of the Welsh Government's proposed Regulations, under the provisions in Section 144C of the Water Industry Act 1991, as amended by Section 45 of the Flood and Water Management Act 2010, which will assist the tackling of 'bad debt' within the water industry. The aim of these Regulations is to enable information on non-owner occupiers to be made directly available to water and sewerage companies, to better help reduce the high levels of bad debt that currently exist within the water industry in Wales.

How to respond

Please respond to the consultation by completing the questionnaire provided with this document at Appendix 5.

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

Further information and related documents

Large print, Braille and alternate 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

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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.

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1. Introduction

- 1.1 The Welsh Government is committed to social justice and equality of opportunity. This makes it essential in the current climate that we continue to drive forward tackling poverty by prioritising the needs of the poorest and protecting those most at risk of poverty and exclusion.
- 1.2 In June 2012 we published our Tackling Poverty Action Plan for 2012-2016. The overall aim of the plan is to achieve better outcomes for everyone in Wales. This plan sets out how we are balancing the need to tackle the impacts of poverty now, with the need to tackle the issues which will cause people to be in poverty in the future.
- 1.3 The plan includes water affordability matters and highlights our commitment to reducing debt in the water industry.
- 1.4 'Bad debt' in the water industry often results from unpaid bills that end up written off by a company as a loss either because the debt cannot be collected (all reasonable efforts to collect it having been exhausted) or where the cost of pursuing further action in an attempt to collect the debt exceeds the cost of the debt itself.
- 1.5 The cost of debt from non-payment of water bills is borne by all paying customers and in Wales this currently adds approximately £20 per year to each bill. At present, the occupier of a property is liable for payment of water bills but some people do not pay their bills and many water debtors are tenants. The Welsh Government is committed to assisting the water and sewerage industry to reduce this level of debt in order to help lower bills, in line with our commitment to Tackling Poverty.
- 1.6 This consultation presents details of how the Welsh Government proposes to implement the provisions in Section 144C of the Water Industry Act 1991 which will assist in tackling 'bad debt' within the water industry in Wales. Section 144C of the Water Industry Act 1991 allows for information on non-owner occupiers of households (tenants) to be made directly available to water and sewerage undertakers.

2. The Water and Sewerage Information (Non-owner Occupiers) Regulations

- 2.1 We are consulting on draft Regulations which will place a duty on owners of properties to provide certain details of occupiers to the incumbent water and sewerage undertaker, or face being held liable for water bills at properties they own. These draft Regulations will specify details that must be provided and the timing and procedure for this, for those properties served by water and sewage undertakers based wholly or mainly in Wales.
- 2.2 This consultation is aimed particularly at water and sewerage undertakers operating wholly or mainly in Wales, organisations representing owners, organisations representing tenants, private owners and social housing providers. It is also aimed at Ofwat, Water UK, household and non-household water customers, and organisations that represent these customers (such as the Consumer Council for Water). We would also like to hear from organisations that hold data on occupancy for views on the kinds of data-sharing agreements that we are proposing.
- 2.3 A list of the organisations that we have approached directly for views accompanies this consultation at **Appendix 4** but we welcome all views, from any interested party or individual.

3. Background

- 3.1 Under the Water Industry Act 1991, the occupier of a property is liable for any charges, although the water and sewerage undertaker cannot require an occupier to provide their details in order to bill them. Companies were able to withdraw services from households in the event of non payment of bills. Since the Water Act 1999 came in to effect, the withdrawal of service through disconnection has been prohibited, so this deterrent has been lost. Companies are now only able to take action for non-payment through the court and ensure that arrears are shown on a person's credit score. This action can only be taken against a named individual; water companies have no direct route to obtaining information on who is liable for charges
- 3.2 Over the last decade water companies have seen an increase in the amount of bad debt as a direct result of households not paying their water and sewage bills. The lost revenue from these households costs other households approximately £20 per year.
- 3.3 Water companies have a statutory duty to supply customers but no power to withdraw their service from domestic water users, insist that occupiers or owners provide information on the identity of those liable to be charged, or to require a contract to supply the service to be made between the undertaker and the customer.
- 3.4 Currently a customer has no obligation to contact the water and sewerage undertaker in order to receive a water supply, and does not need to sign a contract with the undertaker or provide any kind of personal information.
- 3.5 Companies take a range of measures to try to obtain information about occupiers, such as calling on properties that appear to be vacant because no information has been provided or buying information from credit reference agencies. The costs of these methods are passed on to all customers.
- 3.6 When customers do not inform water and sewage undertakers of their occupation of a property or respond to attempts by the undertaker to contact "the occupier", the companies rely on seeking to obtain information from the owner of the property. This may first involve buying information relating to the property from the Land Registry. If a property is occupied by someone other than the owner there is no obligation on them or the owner to provide details of the occupier and water companies have no statutory powers to gather this information. Companies are then unable to recover revenue through the courts as action can only be taken against a named occupier.

4. The need for change

- 4.1 Research by Ofwat showed that 80% of those reporting themselves as being in water debt were customers living in rented properties. Analysis by UK Water Industry Research has also shown that on average, tenants have more significant water debt, they are higher risk, have higher total debt and higher average debts. Tenant debt is split between tenants who are known to water companies but are not paying their bills, and those tenants that water companies do not hold the details for. The proportion of tenant debt held by these groups is not known.
- 4.2 In some cases bad debt arises because the occupier has genuine difficulty in affording their bills. However, in other cases it may simply arise from a failure of communication because the water company does not know who to bill. This is a particular problem for rented properties, where the average occupancy periods are lower. Whilst water companies try to recover the revenue by sending letters to the occupier of a property they have found this approach does not always yield results.
- 4.3 Once an occupier has moved out of a property it is considerably harder to recover the outstanding costs. This means that water companies are losing revenue and have increased costs which need to be passed on to other customers.
- 4.4 Having the details of non-owner occupiers would enable water companies to correctly bill and if necessary pursue the named individuals who are not paying their bills. Owners and managing agents of rented properties are aware of who is occupying their properties. Information on who is liable for changes in rented properties could be passed on to the water companies by the owner or managing agent. There is currently no reason or incentive to provide this information and owners are not necessarily asked to do so.
- 4.5 The final report of the Independent Review for Household Water and Sewerage Charges by Anna Walker 2009 recommended that “As a priority, the Water Industry Act 1991 should be amended to provide for a named customer and clarify who is responsible for paying the water bill”.
- 4.6 Section 144C of the Water Industry Act 1991 made provision to make owners jointly liable for water and sewerage bills on failure to provide specified details within a timeframe to their undertaker. The details of how this would work needs to be set out in secondary legislation.

5. Regulatory Impact Assessment: Cost and Benefits

- 5.1 This is a new and as yet untested policy so the impact it will have is not fully known, but if the Welsh Government did not choose to regulate it is anticipated that the level of bad debt in the water industry would continue to grow.
- 5.2 We have therefore carried out a Regulatory Impact Assessment of the likely and anticipated costs and benefits of the draft Regulations, the details of which are at **Appendix 2**.
- 5.3 In summary, the Regulatory Impact Assessment found in favour of implementing the Regulations as it identified substantial benefits to customers and water companies being likely to arise from the potential reductions in the cost of servicing outstanding revenue. The total benefit to customers is anticipated to far outweigh the additional costs to owners and water companies of having to implement the Regulations.
- 5.4 It is anticipated that implementation of the Regulations will reduce bad debt and the associated chase and financing costs currently passed on to other customers, reducing all water bills and resulting in a net benefit to society.
- 5.5 For a full explanation and analysis of the anticipated costs and benefits please refer to the Impact Assessment at **Appendix 2**.

Question 1: Do you agree with the estimated costs/benefits arising from the implementation of these Regulations or otherwise wish to comment upon any area of the Regulatory Impact Assessment?

6. Details of the proposed Water and Sewerage Information (Non-owner Occupiers) Regulations

6.1 The Water and Sewerage Information (Non-owner Occupiers) Regulations have been developed in seven sections. The full details of the draft Regulations themselves are at **Appendix 1**, but a summary of their contents is provided below alongside the related questions we are asking you to consider.

6.2 Regulation 1 - Title, application and commencement

Regulation 1 provides an introduction to the regulations, setting out their title, where they will apply and when they will come into force.

6.3 Regulation 2 - Interpretation

Regulation 2 sets out an explanation of key terms used in the Regulations and includes when the duty to provide information arises.

6.4 Regulation 3 – Information to be provided about non-owner occupiers

Regulation 3 is the ‘core’ of the Regulations, as it sets out the details owners will be required to provide. We recognise that owners are likely to hold only a basic level of detail about occupiers. Collecting additional information is likely to require an additional communication between the owner and occupier, incurring time and costs to both groups. In order to minimise the burden on owners we are therefore proposing to collect only the most basic level of detail required to effectively bill (and, if necessary, pursue) a customer. This requirement consists of the following:

- full name of the occupier;
- the occupier’s date of birth;
- the date the occupier began to occupy the premises;
- the owner’s name and address (unless already provided to the water company).

This section also sets out: when an occupier might be exempted from having their details disclosed; the number of occupiers whose details are required; and occasions when date of occupancy might not be required. The Welsh Government will work with the water companies operating wholly or mainly in Wales in order to consider the drafting and issuing of guidance about this data provision.

Question 2: Do you have any comments upon any of the provisions in Regulation 3 concerning the personal details being requested about occupiers?

Regulation 3 also sets out the requirements for informing an occupier that this personal information has been provided to an undertaker and explains how an owner should inform an undertaker where they have any doubts as to whether the information they are providing is accurate or complete (the reasons for which are addressed in Regulation 5).

Question 3: Do you have any comments upon the provisions in Regulation 3 about communicating with occupiers or the provision of an owner's address?

6.5 Regulation 4 – Timing and procedure

Regulation 4 sets out when and how the duty takes effect. It sets out a period of 21 days 'grace' following an owner's notification, before the duty begins to take effect. There then follows a period of 21 days within which the owner must provide the information required under the duty if they are not to become liable, along with the occupiers, for charges at the property, from the date that the duty took effect. However, this would only occur by default of the undertaker having received no details about potentially liable occupiers, in order to address the charges to the occupier(s) only.

This Regulation also includes a 'reward' for owners, whereby any charges for which they would also have become considered liable after the compliance date are instead charged to the occupiers only, provided that they have supplied the required information within the 21 days after which the duty first applies (that is within the 42 days after which notification was given to the owner).

Question 4: Do you have any comments upon any of the provisions in Regulation 4 concerning the timing of when the duty takes effect or the period when compliance is required?

6.6 Regulation 5 – Exemption from liability

Regulation 5 sets out three occasions when an owner would not become liable for charges at the property.

The first of these refers to the requirement under Regulation 3 for an owner to inform an undertaker if they have any doubts as to whether the information they are providing about an occupier is accurate or complete. This is intended to protect the owner from any additional burden (not otherwise required by different legislation) for ensuring the quality of the information they are provided by an occupier and as an assurance that they will not be held responsible for false or incomplete information where they have made reasonable efforts to obtain the

details required.

Question 5: Do you have any comments about the requirement for an owner to inform an undertaker of any doubts concerning the information they are providing about occupiers?

The second occasion is an exemption from any liability for charges accrued after the compliance date, provided that they have made reasonable efforts to supply the required information within the 21 days after which the duty first applies.

Question 6: Do you have any comments upon the exemption from liability for charges accrued after the compliance date, where information has been supplied within 21 days of the date when the duty first applies?

The third occasion is an exemption from liability for any charges incurred after the date on which the owner has provided the undertaker with the information required, where this takes place after the 21 days when the duty first applied.

Question 7: Do you have any comments upon the exemption from liability, where the owner has provided the undertaker with the information required after the 21 day period when the duty first applied?

6.7 Regulation 6 – Service

Regulation 6 details the methods and specifics of how an owner should provide occupiers' details to the undertaker.

Question 8: Do you have any comments upon any of the provisions in Regulation 6 concerning how an owner should provide occupiers' details to the undertaker?

6.8 Regulation 7 – Change of owner

Regulation 7 sets out where an owner's liability for any charges, in those circumstances where any exists, ends upon their ceasing to be the owner at an occupied property: this is to say that they are no longer liable for charges incurred *after* the date of disposal but that they do remain responsible for those charges incurred, under their ownership, *prior* to that date.

This section also explains the details of how a new owner is affected by the duty.

Question 9: Do you have any comments upon any of the provisions in Regulation 7 concerning change of ownership at an occupied property?

Question 10: We welcome your views and comments on any aspect of the Regulations or the Regulatory Impact Assessment, including anything you feel we may not have addressed.

7. Implementation of the proposed Regulations

- 7.1 We would welcome comments on this consultation document. The consultation period will end on 6 November 2013. All the responses received by this deadline will be analysed and a summary of response and Government response will be placed on the Welsh Government website by the end of December 2013.

- 7.2 Subject to the outcome of the consultation responses, we will aim for the Regulations to be finalised, translated and laid by the Welsh Government before the National Assembly for Wales in December 2013, following the negative resolution procedure. It is intended to bring the Regulations into force in March 2014.

Appendix 1 - The Water and Sewerage Information (Non-owner Occupiers) Regulations 2014

DRAFT WELSH STATUTORY INSTRUMENTS

2014 No. (W.)

WATER INDUSTRY, ENGLAND AND WALES

The Water and Sewerage Information (Non-owner Occupiers) Regulations 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to services provided by an undertaker whose area is wholly or mainly in Wales. They specify the information to be given pursuant to the duty in section 144C(2) of the Water Industry Act 1991 (“the duty”). An owner of residential premises who does not live in those premises must arrange for the water or sewerage undertaker to be given information about the identity of occupiers of the premises. The provision of this information will enable the undertaker to recover charges for water or sewerage services. These Regulations make provision about the procedure and timing surrounding the duty.

Under the transitional provisions in the Flood and Water Management Act 2010 (Commencement No.9 and Transitional Provisions) Order 2014, the duty first applies 21 days after the undertaker serves a notice on the owner.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2014 No. (W.)

WATER INDUSTRY, ENGLAND AND WALES

**The Water and Sewerage Information (Non-owner Occupiers)
Regulations 2014**

Made ***

*Laid before the National Assembly for Wales****

Coming into force ***

The Welsh Ministers, in relation to services provided by an undertaker whose area is wholly or mainly in Wales, in exercise of the powers conferred by sections 144C(4) and (5) and 213(2)(f) of the Water Industry Act 1991⁽¹⁾ make the following Regulations.

Title, application and commencement

1.—(1) The title to these Regulations is the Water and Sewerage Information (Non-owner Occupiers) Regulations 2014.

(2) They apply in relation to services provided by an undertaker whose area is wholly or mainly in Wales.

(3) They come into force on *****.

Interpretation

2. In these Regulations—

“the Act” means the Water Industry Act 1991;

“compliance date” means the date when—

- (a) the duty first applies as a result of a service of a notice by an undertaker under article 3 of the Flood and Water Management Act 2010 (Commencement No.9 and Transitional Provisions) Order 2014 ;
- (b) following any interruption of its application in relation to any residential premises, the duty applies in relation to those premises once again;
- (c) the occupier in relation to whom the information specified in regulation 3(1) is given ceases to occupy the premises, but at least one other of the occupiers remain;
- (d) in the case of premises which were previously unoccupied the premises become occupied;
- (e) new occupiers begin to occupy the premises; and

“the duty” means the duty in section 144C(2) of the Act.

⁽¹⁾ 1991 c.56. Section 144C was inserted by section 45 of the Flood and Water Management Act 2010 (c.29). The power is conferred by sections 144C (4) and (5) of the Water Industry Act 1991 on “the Minister” , and section 144C(8) of that Act defines the Minister for the purposes of section 144C of that Act. The functions of the Secretary of State in section 213 were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) in so far as those functions are exercisable by the National Assembly for Wales to the same extent as the powers, duties and other provisions to which those sections apply are exercisable the National Assembly for Wales. Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Information to be provided about non-owner occupiers

3.—(1) For the purposes of section 144C(2) of the Act, the information to be given by an owner in relation to an occupier of residential premises is—

- (a) full name;
- (b) date of birth; and
- (c) the date the occupier began to occupy the premises.

(2) Paragraph (1) does not apply to an occupier who is under 18.

(3) If the premises are occupied by more than one person, it is sufficient if information is given in relation to only one of the occupiers.

(4) The information in paragraph (1)(c) is not required if the occupier began to occupy the premises before the duty first applied in relation to those premises.

(5) The owner must—

- (a) if it has arranged for information about an occupier to be given to the undertaker—
 - (i) take reasonable steps to inform the occupier that the information has been given to the undertaker; and
 - (ii) tell the undertaker if the owner believes any of the information is false or incomplete; and
- (b) give the undertaker the owner's name and address (unless the undertaker already has this information).

Timing and procedure

4.—(1) The owner must comply with the duty and with regulation 3(5) within 21 days after the compliance date.

(2) The owner's liability under section 144C(3) of the Act is for charges incurred by the occupiers during a non-compliance period.

(3) Subject to paragraphs (4) and (5), a non-compliance period begins with the compliance date and ends when the owner has complied with the duty and with regulation 3(5).

(4) Where the owner complies with paragraph (1) paragraph (2) shall not apply.

(5) If the owner does not comply with the duty but the undertaker receives the information specified in regulation 3(1) through some other means, the non-compliance period ends when the undertaker receives—

- (a) that information; and
- (b) the information specified in regulation 3(5)(b).

Exemption from liability

5.—(1) An owner is not liable under section 144C(3) of the Act for any charges incurred by the occupiers if paragraph (2) applies.

(2) This paragraph applies if the owner—

- (a) in compliance with regulation 3(5)(a)(ii), tells the undertaker that information given to the undertaker is false or incomplete; and
- (b) within 21 days after the compliance date ("the 21 day period"), makes reasonable efforts to give the undertaker accurate and complete information in accordance with regulation 3(1).

(3) An owner who takes the steps specified in paragraph 2(b) after the end of the 21 day period is not liable for any charges incurred by the occupiers after the date on which the owner has taken those steps.

Service

6.—(1) An owner may comply with the duty, regulation 3(5) or the steps in regulation 5(2)(b) by serving notice on the relevant person by post, telephone or email or such other method as shall be prescribed by the relevant person.

(2) If the owner serves notice by email, service is effected when an email is sent to an email address which the relevant person—

- (a) previously identified as that person’s email address; or
- (b) previously used in any communications with the owner.

(3) In this regulation, “relevant person” means—

- (a) for the purpose of the duty and regulations 3(5)(a)(ii) and (b) and 5(2)(b), the undertaker; and
- (b) for the purpose of regulation 3(5)(a)(i), the occupier.

Change of owner

7.—(1) A person who ceases to own premises is not liable under section 144C(3) of the Act for any charges incurred by the occupiers after the date on which the person ceases to be the owner of the premises.

(2) A new owner of premises has the same liability for charges under section 144C(3) of the Act as the previous owner would have had if the previous owner had continued to be the owner.

Name

Minister for Natural Resources and Food, one of the Welsh Ministers

Date

Appendix 2 - Consultation Stage Regulatory Impact Assessment February 2013

Non-Owner Occupier Liability for Water Bill Payment

Background

1. The Welsh Government has been working actively with the water sector to take forward the commitments set out in the Programme for Government, which included priorities for the delivery of water and sewerage policy in Wales. The Programme for Government set out a series of key actions to be taken in relation to each of its overarching themes. Among these key actions are the commitments to raise household incomes and to develop a Water Strategy for Wales. One of the ways in which the successful delivery of each of these actions will be measured is in the subsequent percentage of people identified as having water affordability issues. Reducing the level of 'bad debt' in the water industry will be an important step towards reducing affordability issues as the burden of bad debt is borne by all customers. Bad debt encompasses outstanding revenue from unpaid customer bills that is eventually written off when water and sewerage undertakers deem it to be unrecoverable.
2. The Welsh Government is consulting on proposals for the implementation of the provisions in Section 144C of the Water Industry Act 1991, as inserted by Section 45 of the Flood and Water Management Act 2010, for tackling bad debt. This action was among the recommendations that emerged from the Walker Review², which the Welsh Government consulted on in 2011 (the responses to which are helping to inform developments in future water policy). Because the cost of debt from non-payment of water bills is borne by all customers, it is important that water and sewerage providers³ ('water companies' hereafter) are able to reduce this level of debt. The Welsh Government is committed to working with water companies and Ofwat to find ways to reduce bad debt.
3. For ease of reference and understanding, the terms landlords and tenants follow henceforth throughout this Regulatory Impact Assessment. These should be taken to mean owners and non-owner occupiers, respectively, as are referred to within the legal context of the draft Water and Sewerage Information (Non-owner Occupiers) Regulations 2014 and the associated Acts.

² <http://www.defra.gov.uk/publications/2011/12/06/walker-review/>

³ The majority of households in Wales are served by Dŵr Cymru Welsh Water and Dee Valley Water (Dee Valley Water); a small proportion is served by Severn Trent Water. Dŵr Cymru Welsh Water and Severn Trent Water are water and sewerage companies; Dee Valley Water is a water only supply company.

4. As part of the Welsh Government's tackling poverty agenda, we are committed to reducing the percentage of people identified as having water affordability issues in Wales. However, the Welsh Government recognises that the problem of bad debt has increased since the ban on disconnection was introduced and now adds the equivalent of £20 to the annual water bills of households that do pay their bills in Wales. Bills are relatively high in Wales compared to the rest of the UK. 30% of households (410,000) in Wales spend more than 3% of their income on water and sewerage bills and 14% of households (190,000) spend more than 5%. This compares to 23% and 11% respectively in England. Across the lowest 30% of incomes in Wales, 76% spend more than 3% of their income on water and sewerage bills and 44% spend more than 5% (compared with 64% and 36% respectively in England).
5. Section 144C of the Water Industry Act 1991, as amended by Section 45 of the Flood and Water Management Act 2010, allows for information on non-owner occupiers to be made directly available to water companies to assist in tackling the high levels of bad debt within the water industry. Customers currently have no obligation to contact water companies or to provide their personal contact details upon moving into a property. However, companies have a statutory duty to supply water and sewerage services and the disconnection of household customers is prohibited under Section 1 of the Water Industry Act 1999. This means that no household is denied water because they cannot afford to pay their bill; thereby avoiding the financial, social or health problems that could arise from disconnection. Similarly, Section 2 prohibits the use of devices to restrict household supplies, for the same reasons. The Welsh Government is clear that disconnection of domestic customers, or restriction of their supply, remains unacceptable.
6. The current situation means that water companies are facing high levels of outstanding revenue from unpaid bills, owing to lack of information about occupiers along with perceived lack of consequences of non-payment. Introducing regulation to require landlords to provide information to water companies is intended to go some way towards reducing the level of bad debt in the water industry.
7. The UK Government announced in April 2011 that, as far as possible, micro businesses should not be subject to new regulations for three years after 1 April 2011. **This moratorium does not apply in Wales.** We are therefore proposing to include **all** businesses under the proposed regulations, including those defined as micro-businesses⁴.
8. The rationale for this is that it is estimated⁵ that approximately 80% of landlords could be classed as micro-businesses in Wales.

⁴ Micro-businesses are defined as those which employ fewer than ten people and so may include some private landlords.

⁵ Based on rental lettings data received by Rent Officers Wales database of market rents from January 2011 to date (evidence from 3648 landlords, companies and letting agents within the private rented sector). Using 'management of less than 5 properties' as a measure to fit the definition of a 'micro-business' there are 2505 landlords managing 4313 properties. Using 'management of less than 10 properties' as a measure to fit the definition of a 'micro-business' there are 2921 landlords managing 6499 properties. Hence, it is estimated that there could be 80% (2921 / 3648) of private landlords classed as micro-businesses in Wales.

9. Communications with water companies have indicated that from past experience, gathering information about tenanted properties tends to be more difficult from those landlords with relatively small portfolios. If all of the landlords falling into the 'micro-business' category were exempt from coverage by the regulations, a substantial proportion of the rented sector would be excluded. Since this is the sector at which the policy is primarily aimed, exempting micro-businesses could be counter-productive and is likely to prove ineffective in achieving the policy objectives. Furthermore, it is likely to prove difficult and overly burdensome for water companies to identify which landlords are micro businesses in Wales and hence which landlords would be exempt from the proposed regulations.
10. This universal approach would complement the mandatory landlord licensing scheme being introduced in Wales (which does not exist in England). It is thought that it would be inconsistent and potentially confusing, especially for tenants, to introduce some aspects of landlord obligations as universal/compulsory whilst others are only voluntary for some. Tenants would also benefit under a universal approach, from avoidance of some disputes and quicker resolution of disputes around liability for water and sewerage charges. They would also be able to receive better information about affordability support, e.g. tariffs and assistance funds. Through having better tenant information, water companies would be able to offer better targeted social tariffs.

Problem Under Consideration

11. Since the ban on disconnection for domestic properties in 1999, water companies have seen a rise in bad debt in the industry. This problem has arisen because water companies have a statutory duty to supply. The absence of a contract means that occupiers are not required to reveal their details to water companies in order to secure a water and sewerage supply. Nor are owners or occupiers of properties required to provide information on the identity of those liable for the water and sewerage bills.
12. Ofwat analysis of the Family Resources Survey indicates that tenants are estimated to account for approximately 80% of water debtors. However, since many water debtors are individuals that have already been identified and who are being chased for their water debts, the proposed regulations will not apply to this group. It is only the unidentified debtors and customers that will be affected by the proposed regulations.
13. The majority of households in Wales are served by Dŵr Cymru Welsh Water⁶. Severn Trent Water⁷ and Dee Valley Water⁸ also serve a proportion of households in Wales. Dŵr Cymru Welsh Water and Dee Valley Water operate wholly or mainly in Wales, whereas Severn Trent Water operates wholly or mainly in England. The policy

⁶ Dŵr Cymru Welsh Water is a water and sewerage company operating **wholly or mainly in Wales.**

⁷ Severn Trent Water is a water and sewerage company operating in Wales but which is **wholly or mainly in England.**

⁸ Dee Valley Water is a water-only company operating in Wales.

proposals will therefore only apply to Dŵr Cymru Welsh Water and Dee Valley Water.

14. Water companies face the need to strike a balance between affordability for customers and quality/reliability of service. Increasing costs of debt recovery for the water industry as a whole mean increase in the average bills of **all** customers if permitted through the price setting process.
15. Bad debt arises in some cases because of genuine issues with affordability; in other cases, the water companies simply do not possess enough information about the occupier of a property to bill them for their water usage (generating 'unbilled revenue' which accumulates over time). Lack of occupier information is a problem in the rented (non-owner occupier) sector in particular, since it is often difficult for water companies to determine who the occupier of a property is. Sometimes water companies send out bills addressed to 'The Occupier' where occupier details are unknown, although this practice has proven to be ineffective in obtaining a satisfactory response and, as a result, bills often go unpaid.
16. Owing to the uncertainty in the current economic climate, water companies anticipate that they could face increasing levels of non-payment of bills, with higher levels of debt arising as a result. Increasing debt levels risks increasing customers' bills and, at its most extreme, the financial sustainability of companies.

Rationale for Intervention

17. The Water Industry Act 1991 made the occupier of a property liable for water and sewerage charges, but water companies cannot require occupiers to provide their details in order for them to be billed. The ban on disconnection of domestic properties from water supply, introduced across the UK in 1999, meant that water companies could no longer manage this situation since they have a statutory duty to provide services to households; they are not permitted to withdraw their services where non-payment occurs. This has led to a substantial increase in bad debt in the UK water industry in the last decade.
18. Ofwat (the economic regulator for the water industry) incentivises improvements in efficient debt management in order to protect paying customers to some extent from water companies' costs. Water companies have an incentive to outperform their efficiency targets since this generates a time-limited benefit to them. Ofwat allows water companies to recover the costs of debt from their customer base via bills to domestic and non-domestic customers. It is estimated that the cost of debt now adds the equivalent of around £20 per year to the average bill of paying household customers in Wales. Both customers and water companies can therefore benefit from future reductions in the level of debt and increases in revenue collected.

19. Despite existing codes of practice for managing debt in the water industry, the level of outstanding revenue for water companies operating in Wales has increased by 30% in real terms since 2007/08⁹. Water companies often find it difficult to collect revenue for outstanding water and sewerage bills since some customers do not provide their details to water companies. In some cases, water companies will 'write off' (no longer actively pursue) outstanding revenue when they have exhausted all attempts to recover it, for instance:

- if a customer has left the property and trace agents cannot successfully locate them;
- if it is uneconomic to pursue the customer; or
- if the customer is deceased or has been declared bankrupt.

Most water companies do not write off debts from existing occupiers. Debt will only be written off when all avenues for chasing payment have been explored and there is no other option left. In total, water companies operating wholly or mainly in Wales wrote off £12m of household revenue¹⁰ during 2010-11 – a substantial increase of around 430% in real terms since 2007-08. This £12m is equivalent to 2.4% of household revenue billed during 2010-11.

20. The number of properties for which tenant details are unknown to water companies in Wales is estimated to be in the region of 6,000¹¹. The potential uncollected revenue associated with these properties is estimated to be around £2.3m per annum¹². This equates to around 0.4% of total turnover for water companies in Wales and around 2% of total debt (i.e. revenue outstanding for greater than 3 months plus revenue written off). If the water companies held details for the occupiers of these properties this revenue could potentially be collected, in turn generating a benefit to existing paying customers over the long run through potential reductions in their water bills. However, this uncollected revenue from unknown tenants is clearly only a part of the problem of total debt in the water industry.

21. The Flood and Water Management Act 2010 makes provisions to allow water companies to request specified information from landlords relating to the tenants of their rental properties, within a given timeframe, so that they can bill named customers, and if necessary pursue them for unpaid bills. Landlords are not currently required to provide this information to water companies and don't necessarily have an incentive to do so. Many landlords are also cautious of the Data Protection Act and are not willing to provide tenant information to water companies for fear of breaching Data Protection laws; however, the Information Commissioner's Office has

⁹ Source: Ofwat, June Returns. Trend up to 2010-11.

¹⁰ Source: Ofwat. This includes revenue from both measured and unmeasured households.

¹¹ Based on water company estimates.

¹² Based on average annual water and sewerage bills.

published guidance¹³ for landlords which indicates that it is within their rights to disclose the names of tenants to utility companies.

22. It is intended that the proposed regulation will enable the water companies to place an obligation on landlords to make their tenants' data available to water companies, and to require landlords to provide the relevant information within a specified timeframe. Provision of tenant information to water companies as soon as possible after they move into a property will help to maximise the prospects of recovering previously unbilled revenue. Failure to provide the specified information would lead to the landlord becoming jointly liable for the water and sewerage bill of their tenanted property. Landlords will not be liable for unpaid bills if they have provided the required information to water companies.

Policy Objectives

23. The objective of the policy is to reduce the problem of debt in the water industry, which arises both from non-payment of bills and uncollected revenue, through enabling water companies to obtain the necessary information to bill customers living in rented accommodation. The proposed regulations aim to maximise the potential for water companies to collect uncollected revenue where occupier details are currently unknown.
24. The proposed regulations require Landlords to provide the specified information to water companies so that tenants can be billed directly, by name and in a timely manner. It is intended that the regulations will make tenants fully aware of their liability for water bill charges via the receipt of a personalised bill, and may encourage tenants to start paying where they do not currently do so.
25. It is anticipated that the proposed regulations will encourage those customers who genuinely cannot afford to pay their bills to engage with the relevant water company in order to arrange repayment or assistance in paying their bills.

Options under Consideration

26. Two policy options are being considered at the consultation stage, the costs and benefits of which are presented in this impact assessment:
 - 1) **Do nothing** (baseline) – level of outstanding and uncollected revenue continues to increase at current rate as water companies have insufficient information about tenanted customers to pursue debts.
 - 2) **Regulate** to require provision of basic tenant details from landlords to water companies (preferred option).

¹³ ICO guidance available at:
http://www.ico.gov.uk/for_the_public/topic_specific_guides/housing/landlords.aspx

27. Policy option 2, to introduce regulation to require landlords to provide tenants' details to water companies, is the preferred option since it is aligned with the objectives of the policy and is estimated to generate a net benefit to society.
28. It is assumed that, under the 'do nothing' option, there is already a form of 'voluntary' provision of information from landlords, hence a voluntary approach has not been included as a separate policy option. The current approach has not been effective in alleviating the problem of bad debt in the water industry. Even though some water companies already engage with landlords to encourage them to share tenant data, this has had little impact on the size of the debt problem.
29. Option 2 is intended to go some way towards reducing the level of uncollected revenue in the water industry, through reducing the limiting factors faced by water companies in the pursuit of unknown debtors. However, in order for this option to achieve the objectives of the policy it will require a robust and effective approach to debt prevention and recovery by water companies, along with efficient administration of their customer records.

Assumptions Used in the Analysis

Void and Billed Households

30. Ofwat requires water companies to issue bills to properties receiving a service, or to list properties as 'void' where no service is being received (i.e. where the property is unoccupied). Void properties should not be billed; as a result, no debt can accumulate against these households and they have no revenue impact on the water companies.
31. If a property listed as 'void' is metered, water companies will be readily able to tell when consumption is occurring, and should bill the property and remove it from the 'void' category. If a property is classified as 'void' and is unmetered, it will be more difficult for the water companies to determine when water is being consumed and to establish whether a property is actually occupied and should be billed. For properties incorrectly classified as void (i.e. they are in fact occupied), their water and sewerage services are being paid for by paying customers, who face upward pressure on their bills as a result.
32. In 2011-12 the overall void for household customers in Wales was estimated to be around 4%, equating to around 53,000 properties. Based on data matching work undertaken with a number of Registered Social Landlords, a sample indicated that around 2.9% of properties that had been classified as void were actually occupied, and that 2.2% of properties that were still being billed were actually void. It is therefore estimated that there is an 'error rate' of approximately 5% in the classification of void properties. This error rate leads to impacts on the revenue of water companies – i.e. properties that are being billed but are actually void contribute to uncollected revenue that may eventually have to be written

off, whereas water companies are missing out on potential revenue from properties that are occupied but not billed.

33. The proposed regulations will therefore create a benefit to paying customers in the form of lower average bills, since they should enable water companies to identify unknown occupiers and as a result to bill more households for services that are being consumed. Water companies will also benefit from reduced debt recovery costs, reductions in bad debt and capital borrowing requirements, and improved cash flow.

Identifying unknown Occupiers

34. There are assumed to be three different categories of properties served by water companies in Wales. Firstly there are those properties which are known to be in receipt of water services but for which the name / details of the occupier are unknown to the relevant water company. Water companies sometimes address the water bills for these properties to 'The Occupier' in the absence of specific details. This practice, however, is not very effective in securing a positive outcome in terms of bill payment. Methods for attempting to identify the occupier are often undertaken alongside this.
35. Secondly, there are some properties for which water companies estimate they have incorrect or out of date details for, possibly owing to a change of occupancy. Water companies will also undertake actions to attempt to identify the correct occupier in these cases.
36. Finally, there are some properties that the water companies record as 'void' or empty but which are actually believed to contain occupiers using the unmetered water supply. Since these properties are (incorrectly) considered 'void', they are not billed and no debt can accumulate against them - they therefore have no revenue impact on the water companies.
37. Water companies in Wales are estimated to have around 53,000 properties classed as 'void', but it is estimated that approximately 1,500 of these could in fact be occupied. If these wrongly categorised properties could be billed effectively the water companies could potentially collect more revenue, which in turn could reduce the bills of the rest of the customer base. This would not have an impact on the overall level of bad debt in the industry, since unbilled revenue is not recorded as debt, but would improve company cash flow and reduce capital borrowing requirements. It would also have an impact on the bills of all customers, since the majority of costs relating to servicing the debt are assumed to be directly transferred to all customers.
38. The number of households currently served by water companies operating wholly or mainly in Wales is approximately 1.4 million¹⁴. Approximately 26% (around 355,000) of those households are in the rented sector, either private rented or social rented. Water companies estimate that around

¹⁴ Source: Dŵr Cymru Welsh Water and Dee Valley Water

20% of tenanted customers in Wales are currently in debt, amounting to around 71,000 tenanted households, as indicated in Table 1.

Table 1 - Total Households and Tenanted Households Served by Dŵr Cymru Welsh Water and Dee Valley Water

Number of Households Served	1,378,723
Number of Tenanted Households	353,920
Number of Tenanted Debtor Households	70,784

Source: Ofwat, Dŵr Cymru Welsh Water and Dee Valley Water

Water Bills in Wales

39. The average household bill of Dŵr Cymru Welsh Water customers was £397 per annum in 2010/11 and £363 for Dee Valley Water customers¹⁵. Water companies operating wholly or mainly in Wales estimate that the equivalent of £20 of the average customer bill goes towards covering the operating costs of recovering outstanding revenue. However, there could be some variation in this figure between companies, since the methodologies used to calculate this amount are sensitive to companies' individual write-off policies. The £20 figure is therefore considered to be an upper estimate and should be treated with some caution.
40. Keeping water bills affordable for households in Wales is a key priority; therefore, if the proposed regulations can go some way towards reducing the cost of debt recovery this could potentially reduce the level of costs that are transferred (directly or indirectly) to customers.

Specified Information Requirement

41. In order to minimise the regulatory burden on both landlords and water companies, the level of detail required by landlords about their tenants should be kept to a minimum. Ofwat¹⁶ has recommended the following specification to ensure that the Information Commissioner's Office (ICO) requirements for data quality are met, and that water companies are able to bill and pursue debts more accurately:
- The tenant's full name;
 - The tenant's date of birth;
 - Tenancy start date;
 - Tenancy end date (where applicable);
 - Start and end dates for periods of non-occupancy (where applicable);
 - Start and end meter readings (where applicable);
 - Bill responsibility (i.e. whether landlord or tenant pays the bills under the terms of the tenancy);

¹⁵ Average water bill amounts for 2010/11. Source: Ofwat.

¹⁶ Source: Ofwat's response to Defra's consultation on tackling bad debt in the water industry, 2012

- The owner's name;
- The owner's address;
- The owner's date of birth; and
- The owner's opinion on the accuracy and completeness of the information provided.

Ofwat recommends that a detailed information requirement such as that listed above is thought to be more likely to enable water companies to pursue outstanding tenant debt more effectively.

42. However, the Welsh Government is committed to minimising the burden on landlords of additional regulation. Requiring landlords to provide this level of detail may incur a relatively high cost since landlords are likely to hold only a basic level of detail about their tenants. Collecting additional information is likely to require an additional communication between the landlord and tenant, incurring time and costs to both groups. For landlords with a very large number of tenants, gathering this information could prove overly burdensome and costly. Hence, in order to minimise the burden on landlords it is recommended that only a basic level of detail is required.
43. Following Defra's recommendation in their Final stage Impact Assessment we are proposing that the information requirement consists of the following:

For Occupiers

- Full name of occupier;
- Occupier's date of birth;
- The date the occupier began to occupy the premises.

For Owners

- The owner's name and address (unless already provided to the water company).

Defra's communications with water companies have indicated that this would be the minimum level of detail they would require in order to effectively bill (and, if necessary, pursue) a customer. Enabling water companies to require the basic details listed above would go some way towards improving the effectiveness of debt recovery, although there would also need to be a commitment from the water companies to follow a robust and effective approach to pursuing outstanding debt.

44. It is envisaged that the proposed regulations should allow 21 days for landlords to provide the required information to water companies. This period would initially begin when the regulations are issued – whereby landlords will be required to supply the details of existing tenants – and thereafter whenever there is a change of occupancy in their rental properties.

Water UK National Website

45. Water UK has committed to providing a national website for all landlords to provide the specified tenant information to water companies. It is anticipated that this would go some way towards making the proposed regulations less burdensome for some landlords and managing agents than if they had to provide the information by post or by telephone. A survey of landlords by the National Landlords Association indicated that 85% would be interested in using the proposed Water UK web portal.

Appraisal Assumptions

46. For the purpose of analysis, a 10-year appraisal period has been used. This is deemed to be a reasonable time period for comparing the options since there is uncertainty regarding changes in the industry over any time period beyond that. There are likely to be changes over the coming decade as a result of the forthcoming Water Strategy for Wales. Hence, it is considered prudent to assess the impacts of the options over a 10 year period rather than a longer time period.
47. In line with HM Treasury Green Book¹⁷ guidance, a 3.5% discount rate has been applied to all costs and benefits arising over the appraisal period.
48. The level of outstanding revenue is assumed to increase at a constant rate, based on the actual real increase between 2009-10 and 2010-11. A 5% annual rate of interest is also applied to this.

Costs and Benefits of the Options

Option 1 – ‘Do nothing’ (baseline)

49. Under option 1 (the baseline) the current situation would continue, with no regulatory intervention. It is anticipated that the level of outstanding revenue and unbilled revenue in the water industry would continue to grow. Outstanding revenue (‘debt’) can be attributed to customers who don’t / won’t or can’t pay their water bills. Unbilled revenue is attributed to occupiers who are using water and sewerage services but whose details are unknown to the relevant water company.

Identifying Unknown Occupiers

50. Unbilled revenue can be attributed to properties which are consuming water services but for which the relevant water company has no details for so cannot bill. Water companies currently incur costs on an annual basis to identify unknown occupiers, through a variety of means. These include desktop investigations conducted internally and mail-shot campaigns to prompt contact with unknown occupiers. Void properties are also inspected, sometimes by a third party contractor and sometimes by the companies’ own meter readers, to help determine whether the properties

¹⁷ http://www.hm-treasury.gov.uk/data_greenbook_index.htm

are correctly or incorrectly considered 'void'. For tenanted properties it is often harder to identify the occupier than for owner-occupied properties, and hence the costs incurred are typically relatively higher. Costs are often incurred by water companies to try and identify the occupier of a tenanted property without success.

51. Currently, the cost of identifying an unknown occupier is typically around £18 per visit for properties in Wales. Data check searches via external financial service providers cost an average of £3 per check, which would typically be incurred once every 12 months on a continuously void property. The cost of sending letters in an attempt to identify unknown occupiers is circa £0.20 per letter. Where a 'void' property is resolved without a visit (i.e. the occupier is identified or the property is confirmed void) the cost could be between £1 and £5; where a void is resolved with one visit this could cost between £5 and £25; and where a void property requires several actions and visits this could cost upwards of £100.
52. It is estimated that there are approximately 53,000 'void' properties in Wales. Water companies estimate that approximately 2.9% of void properties (around 1,500 properties) are wrongly categorised, i.e. they are actually occupied. If it is assumed that all of these voids are resolved without a visit, the minimum cost to water companies of resolving them could be between £53,000 and £265,000 per annum. If all void properties required at least one visit, the annual cost to water companies could be up to around £1.3 million. However, a proportion of the void properties could run into several hundreds of pounds to resolve, which could add to this figure (although there is likely to be a threshold above which it would be inefficient for companies to continue to pursue the debt).
53. Identifying unknown occupiers means that properties can be billed for the services they are using, increasing potential revenue in the water industry. However, identification of occupiers does not necessarily lead to this unbilled revenue actually being collected. Whilst water companies will be able to bill these properties, there is no guarantee that the bills will start to be paid. Unpaid bills contribute to the level of outstanding revenue in the water industry, and lead to 'chase' and 'finance' costs being incurred by water companies. Where all potential avenues for pursuing payment of water bills have been exhausted and the bills remain unpaid, water companies may 'write off' this revenue (incurring costs in doing so).

Level of Outstanding Revenue

54. The statutory duty to supply, along with the lack of requirement for customers to provide their details and the lack of consequences of non-payment has contributed to a sharp increase in the level of outstanding revenue in the water industry. Despite existing codes of practice for managing debt in the water industry, outstanding debt for water companies operating in Wales has increased by around 51% since 2007/08.

55. The total level of household revenue outstanding in the water industry in Wales in 2010-11 was £119 million¹⁸, of which £19.4 million was more than 48 months old. Outstanding revenue that is more than 12 months old (£78.5 million in 2010-11) is currently less likely to be collected. Revenue that is written off (i.e. bad debt) is ‘transferred’ from those who do not pay their water bills to those that do pay, since the written off revenue forms part of water companies’ costs and is then recouped through customer bills.
56. Water company’s estimate that outstanding revenue costs paying households the equivalent of £20 per year. The three components¹⁹ of bad debt consist of:
- the costs that water companies incur on debt recovery activities, e.g. through sending out reminder letters or outsourcing accounts to debt collection agents;
 - the revenue that is written off as bad debt when the companies deem it to be unrecoverable; and
 - the interest costs associated with revenue that is not recovered (this is assumed to be 5%).
57. Table 2 shows the current outstanding debt for water companies operating wholly or mainly in Wales (Dŵr Cymru Welsh Water and Dee Valley Water). The level of outstanding revenue written off has substantially worsened since 2007-08, increasing by over 400% in real terms between 2007-08 and 2010-11.

Table 2 – Level of Outstanding Debt for Dŵr Cymru Welsh Water and Dee Valley Water, 2010 prices

£m	2007-08	2010-11	Increase
Total household revenue outstanding	90.9	118.9	31%
Including non-households	114.5	141.5	24%
Revenue written off	2.3	12.0	427%

Source: Ofwat, 2011 June Returns for Dŵr Cymru Welsh Water and Dee Valley Water.

58. Table 3 below outlines the age profile of current outstanding debt as reported to Ofwat. It indicates that 34% of outstanding revenue is less than a year old, 57% is less than two years old, 73% is less than three years old and 84% is less than four years old. 10% of revenue outstanding in 2010-11 was written off as uncollectable.
59. The level of outstanding revenue has increased substantially since 2007-08 and is expected to continue increasing over time as unpaid bills continue to accrue. If no regulation is implemented to reduce the level of outstanding revenue in the water industry it is likely to continue increasing,

¹⁸ Source: Dŵr Cymru Welsh Water and Dee Valley Water June Returns, 2011. This includes all household revenue outstanding, including revenue more than 48 months old.

¹⁹ Source: Ofwat

with a continuing impact on customer bills. The rate of increase of outstanding revenue is based on a number of different factors, including: increase in number of households served by water companies, number of tenanted properties, number of unidentified occupiers and number of households unwilling or unable to pay. There is considerable uncertainty surrounding all of these factors, and it is therefore difficult to predict the rate of future increase of outstanding revenue.

Table 3 – Age Profile of Outstanding Revenue in the Water Industry in Wales, 2010-11

Age of Outstanding Revenue	£m	% of Total
<3 months	13.7	12%
3-12 months	26.7	22%
12-24 months	27.0	23%
24-36 months	19.0	16%
36-48 months	13.0	11%
Total <48 months	99.5	84%
>48 months	19.4	16%
Total revenue outstanding	118.9	
Including non-households	141.5	
Revenue written off	12.0	

60. However, it is possible to make some assumptions about the rate of increase based on the historic rate of growth of outstanding revenue, for the purpose of analysis. Outstanding revenue (greater than 3 months) in the water industry currently amounts to the equivalent of around £80 per billable household in Wales. If outstanding revenue continues to increase at the same level as it is currently rising, under the ‘do nothing’ option it could, if not written off, increase to the equivalent of around £140 per household served in Wales over the next decade (in 2010 prices)²⁰. The cost of servicing the outstanding revenue would also increase, and could add the equivalent of £30 (2010 prices) to the bills of all customers by 2022 compared with the current cost of around £20 per bill in 2013²¹.
61. Due to the considerable uncertainty surrounding these estimates it is considered prudent to consider a range of values for the scale of benefits that could be realised under the proposed regulations compared with the ‘do nothing’ option.

Cost of debt recovery

²⁰ This calculation assumes that the level of outstanding revenue will continue to grow at the same rate as seen between 2009-10 and 2010-11 (i.e. a 5% real increase per annum over the appraisal period), with an indicative annual interest rate of 5%. It also assumes that the number of households served increases at the historic (five-year) average rate of 0.6% per annum over the appraisal period. All figures are in 2010 prices for comparison.

²¹ The total cost of debt is assumed to consist of the revenue written off and the cost of servicing the debt (chase and financing costs). Revenue written off is assumed to remain at the 2010-11 proportion of outstanding revenue over the appraisal period, i.e. 10% of outstanding revenue. The cost of servicing the outstanding revenue is assumed to remain at 11% of outstanding revenue over the appraisal period.

62. To recover outstanding debt, water companies incur operating expenditure relating to debt collection, including:

- Issuing reminder bills;
- Staffing costs;
- Commission payable to local authorities or debt collection agents; and
- Legal and court fees.

63. It is estimated that water companies in Wales currently spend an average of £5 per household where minimal debt recovery action is required. For late payers this figure increases to an average of £30 per household, and for persistent non-payers the cost of debt recovery action could be £100 or more, going into several hundreds of pounds for the worst non-paying households. Table 4 sets out the operating expenditure of Welsh Water and Dee Valley Water for outstanding revenue collection in 2010-11, as reported to Ofwat.

Table 4 - Operating Expenditure on Debt Collection, 2010-11

£m	DCWW	DVW	Total
Chase costs	6.4	0.3	6.8
Financing costs	5.8	0.1	5.9
Write-off costs	11.8	0.2	12.0

Note: 'Chase' costs are those incurred by water companies for chasing non-payers for outstanding bill payments. 'Financing' costs include the cost of borrowing. 'Write-off' costs are costs absorbed by water companies as a result of an inability to determine who is liable for unpaid water bills (bad debt).

64. Table 4 indicates that debt collection costs water companies in Wales around £25m per year, although these costs are estimated to have increased since 2010-11. This is an increase of approximately 90% since 2007-08. This increasing cost of debt collection is unsustainable in the long run because of the conflicting demands on water companies, to both improve efficiency and keep water and sewerage bills at an affordable level for customers.

Option 2 – Require provision of basic details by Landlords

65. Option 2 is a regulatory option to commence Section 144C of the Water Industry Act 1991, as amended by Section 45 of the Flood and Water Management Act 2010, which will require specified information relating to tenants to be provided to water companies by landlords. If landlords fail to supply this information they will become liable for their tenants' water bills.

66. Under the proposed regulations, the details which landlords must supply to avoid liability are the names and dates of birth of the tenants and the date that the occupancy started, along with their own name and address if they have not already supplied this. In response to Defra's consultation on this issue, water companies responded that this would be the minimum level of

detail they would need in order to effectively bill and, if necessary, pursue a customer. Some organisations representing landlords said that collecting these details should not be onerous and would be a normal part of referencing for a new tenant. However, date of birth may not be routinely collected and may need to be obtained via additional communications between landlords and existing tenants. It is anticipated that under the proposed regulations these details would then be incorporated into future tenancy agreements.

67. Landlords would have 21 days from the date of their duty beginning to provide the required information for their existing tenants. It is assumed that the duty to supply the details would operate as a general duty so landlords would have to supply the details of their tenants 21 days from the regulations being issued, and thereafter 21 days after any change of occupancy. Most respondents to Defra's consultation indicated that 21 days was an acceptable length of time.
68. The requirement to provide details is proposed to cover households for which the water companies do not currently hold any details for. It is assumed that the main affected groups will fall into the following categories:
- Water Companies operating wholly or mainly in Wales;
 - Landlords (including Registered Social Landlords, Local Authorities and private landlords);
 - Tenants of rental properties;
 - Customers.

These groups are all anticipated to incur costs and/or benefits that are additional to the baseline as a result of the proposed regulations.

Costs

Transition Costs – Water Companies

69. Water companies will incur transition costs through having to inform Landlords of the new requirements. It is expected that water companies will inform landlords (including Registered Social Landlords, Local Authorities and private landlords) by writing to them to inform them of the regulations and how it affects them. It is anticipated that there will be no additional costs associated with this lettering, compared to current voids processes. However, where landlord details are unknown to water companies there will be costs incurred with identifying them (e.g. through letting agencies) and sending them introductory letters and advice sheets.
70. Liaising with Community Housing Cymru could also help in communicating the changes and the impacts arising. Such communication could also act as an opportunity to promote improved partnering arrangements between Registered Social Landlords / Local Authorities and water companies, which could prove beneficial for all involved. Communicating the changes could also be undertaken through targeted advertising towards landlords in the private rented sector, since these landlords are likely to be more

difficult to identify and obtain details for. Alternatively, additional information pages could be set up on water company websites, though these costs are anticipated to be minimal since they are likely to be integrated into existing IT services.

71. Transition costs could also be incurred by water companies through setting up systems and/or training employees to enable effective receipt of information provided by Landlords. However, some water companies have already made certain changes to systems in anticipation of the proposed regulation, which will keep transition costs to a minimum. It is envisaged that receipt of information will be processed by existing call advisors who will be trained to deal with new landlord contacts. New data capture requirements are likely to be included in updates to customer billing systems, with processes automated wherever possible (for instance when there is a change of tenancy). This is likely to minimise the initial costs associated with the introduction of the regulations. Some additional changes to systems may be required further down the line, although the costs of these are uncertain.
72. Table 5 sets out the estimated transition costs likely to be incurred by water companies in Wales as a result of the proposed regulations.

Table 5 – Estimated Transition Costs for Water Companies in Wales, 2012 prices

Transition Costs	£
Web information pages and Web forms	4,000
Staff Training	0
Lettering / Communication / Advertising	6,000
Systems/process automation	30,000
Total	40,000

Note: Staff training costs are anticipated to be absorbed into existing training programmes so there is no additional cost associated with this.

Transition Costs – Landlords

73. Data from Rent Officers Wales indicates that there could be up to 10,000 landlords within the private rental sector in Wales. All landlords will incur minimal transition costs through making themselves aware of the new obligations and informing relevant individuals (e.g. tenants, or other landlords within an organisation). The contact options available to landlords for provision of information to water companies are likely to include telephone, web-based forms, email, the proposed Water UK web portal, or standard letter.
74. It is anticipated that a majority of Landlords will choose to provide the specified information via online methods, potentially either through the Water UK website, via a water company's own website or via email, for example. Additional transition costs could therefore arise if Landlords decide to use the Water UK website to provide water companies with the required details of tenants, through time taken to familiarise themselves

with the website's processes and possibly to set up an account on the website. It is anticipated that, owing to the minimal time and cost of doing so, a majority of Landlords would use this online medium for submitting details to water companies as opposed to providing details by telephone or post. Based on 10,000 landlords each taking 5 minutes to register on the proposed Water UK website, the estimated total transition cost of doing so would amount to around £15,000²². It is thought that a small proportion of Landlords would continue to provide tenant details to water companies by telephone.

75. Some landlords will also incur transition costs through having to provide water companies with the specified details for their existing tenants where they have not already done so (and/or where the tenant details are unknown to water companies). It is assumed that most landlords already hold at least some of the required details about their tenants, so gathering any additional necessary information should incur minimal time and cost per tenanted household. For landlords with large portfolios, such as Registered Social Landlords and Local Authorities, the additional one-off cost associated with collecting the unknown information (e.g. date of birth) could be fairly substantial if the details need to be collected for a large number of properties. However, it is not known what proportion of Registered Social Landlord and Local Authority tenanted properties would need to provide these details (i.e. where they have not already provided them to water companies), so it has not been possible to estimate this cost for the purpose of this Impact Assessment.

Transition Costs – Tenants

76. Existing tenants in Wales will incur minor transition costs through having to provide their landlords with the required data where they have not previously done so. However, it is assumed that a majority of tenants would already have provided at least some of the specified information to their landlords as part of the tenancy agreement (whether formal or informal). It is anticipated that any data that the landlord doesn't already hold, such as date of birth, will be collected as part of other communications with tenants, hence the additional cost to tenants of providing the required information is expected to be minimal. Based on water company estimates of 6,000 tenanted households needing to provide their details, the estimated transition cost to tenants²³ is around £4,000. Table 6 outlines the estimated total transition costs to all three affected groups.

²² Median hourly pay of landlords taken from Annual Survey of Hours and Earnings (ASHE) 2011.

²³ Median hourly pay of tenants taken from Annual Population Survey (APS) 2011. Cost to tenants assumes it takes 5 minutes to communicate the necessary information to landlords.

Table 6 – Estimated Total Transition Costs, 2012 prices

	£
Water Companies	40,000
Landlords	15,000
Tenants	4,000
Total	60,000

Note: Figures may not sum due to rounding.

Ongoing Costs – Water Companies

77. Ongoing costs that are additional to the baseline are also anticipated to arise for all three groups (landlords, tenants and water companies). Water companies are expected to incur ongoing costs that are additional to the baseline, from having to inform and remind customers of the new regulations. This is expected to be carried out via the provision of information sheets and notices on all customer bills. Providing information sheets is expected to result in an additional cost for water companies of around £20,000, and is likely to be incurred over a number of years following the introduction of the regulations.
78. Water companies will also face additional ongoing costs from having to identify unknown landlords who still do not provide their own information, or that of their tenants, to water companies. Water companies already incur costs to identify unknown occupiers or owners of a property. However, the regulations will enable water companies to follow through with identifying unknown occupiers and chasing them for payment of currently unbilled revenue, so it is anticipated that the Land Registry will be increasingly used a source of data for identifying unknown property owners. Since it costs £4 per request to obtain the details about the registered owner of a specific property, this is currently assumed to be a 'last resort' option for water companies. It is anticipated that the Land Registry will remain a last resort for identification under the proposed regulations, but is more likely to be used because the costs of doing so are more likely to be offset by collection of currently unbilled revenue. Water companies estimate that Land Registry enquiries for properties in Wales could generate an ongoing cost over a number of years of around £40,000 per annum. Disputes (and lost income arising as a result of disputes) with landlords are estimated to cost water companies in Wales approximately £15,000 per annum.

Table 7 – Estimated Ongoing Costs for Water Companies in Wales, 2012 prices

Ongoing Costs	£
Lettering	0
Information sheets	20,000
Land registry enquiries	40,000
Disputes with landlords	15,000
Lost income	20,000
Total	95,000

Note: Ongoing costs are expected to be incurred on an annual basis over the policy period. Figures may not sum due to rounding.

Ongoing Costs – Landlords

79. Landlords will incur additional annual costs from obtaining the required information from tenants and providing it to the relevant water company where they have not already done so, via the necessary means (telephone, email or post). It is estimated that a majority of these landlords are likely to already hold at least some of the specified information about their tenants. Some of the information may require an additional communication between the landlord and tenant, although it is anticipated that this will be collected as part of other communications (or in future as part of tenancy agreements) so the additional time and cost of obtaining the data is expected to be minimal. For the purpose of analysis, if it is assumed that the number of unknown tenanted households remains the same over the policy period (i.e. 6,000 unknown households per annum) the total estimated annual cost to landlords of collecting the tenants' information would be around £30,000.

Ongoing Costs – Tenants

80. Some tenants will incur annual costs from having to provide the required information to Landlords where they would not otherwise have done so. For the purpose of analysis it is assumed that the time taken for tenants to provide the information (estimated to be five minutes on average) is equal to the time taken by Landlords to obtain that information. Again, based on the assumption that the number of unknown tenanted households remains the same over the policy period the total estimated annual cost to tenants of providing their information would be around £4,000. However, the proposed regulations are anticipated to reduce the number of unidentified tenants so this additional annual cost to tenants (and landlords) arising as a result of the regulations is likely to be an upper estimate.
81. The **total average annual cost** (to landlords, tenants and water companies) is therefore estimated to be around **£130,000** (approximately £95,000 to water companies, £30,000 to landlords and £4,000 to tenants).

Benefits

82. For the purpose of analysis it is assumed that there will be 100% compliance with the proposed regulations, to the extent that all landlords will provide the water companies with the specified details relating to the tenants of their rental properties. This is due to the fact that, under the proposed regulations, landlords will become liable for the payment of bills where tenant information is not provided, where details are currently unknown. In reality, however, it is anticipated that there will still be a proportion of landlords who either don't comply, or whose details the water companies are unable to determine. **The benefits are therefore upper estimates and the actual outturn is likely to be more conservative.**

Lower Costs of Identifying Unknown Occupiers

83. Water companies estimate that approximately 2.9% of 'void' properties are actually occupied. This means that there could be around 1,500 properties for which the proposed regulations could lead to a positive impact on water companies' identification costs. If there are indeed 1,500 'void' properties which are tenanted, the proposed regulations might lead to landlords providing the relevant water companies with the specified tenant information, which in turn could reduce the costs incurred by water companies in trying to identify the occupiers.
84. If it is assumed that these 1,500 occupied 'void' properties cost between £5 and £25 to resolve (i.e. they are all resolved with one visit), the total benefit to the water companies of the landlords providing the tenants' details could be between £7,500 and £37,500. However, a proportion of these may cost several hundreds of pounds to resolve, requiring several visits. The total benefit to water companies of landlords providing the tenant information in this case could be upwards of £100,000. However, it this benefit is based on the assumption that all landlords will comply with the regulations and will provide all tenant details for properties incorrectly classed as 'void'. In reality, there is likely to be less than 100% compliance and it could continue to be a problem for water companies to try and identify occupiers of currently 'void' properties.
85. The costs of identifying unknown occupiers may be transferred indirectly from water companies to all customers, via the price setting process or through impacts to services. Going forward, the retail price control will be based on average cost to serve, which includes debt. If the costs of identification can be reduced under the proposed regulations, it is assumed that this will lead to an indirect benefit for customers.

Revenue Impacts on Water Companies and Customers

86. Based on estimates from water companies, there could be in the region of around 2% to 3% of tenanted properties²⁴ in Wales that are consuming water but have unknown occupiers (i.e. occupier details are not known to the water companies). There are assumed to be approximately 355,000 tenanted properties in Wales served by Dŵr Cymru Welsh Water and Dee Valley Water. This means that there could be upwards of around 6,000 tenanted properties for which water companies are currently losing potential revenue due to not being able to identify the occupier.
87. The benefits arising to water companies from being able to identify the occupier are cumulative, i.e. the impact of debt from unidentified households continues to have an impact on bills each year until the company writes it off as uncollectable. The benefits from identifying the occupier are therefore cumulative to customers as well, where costs of outstanding revenue are transferred directly to customer bills.

²⁴ Source: Ofwat communications with Northumbrian Water and the Welsh Government communications with Dŵr Cymru Welsh Water

88. Water companies estimate that approximately 20% of customers in rented accommodation (approximately 71,000 households) are currently in debt to them; Ofwat analysis suggests this figure could be much higher (closer to 80%, or around 280,000 households). Since the proposed regulations will enable water companies to identify and pursue tenant debtors more easily, they might also encourage more tenants to start paying their bills. This is because having the tenant's name and date of birth will make it easier for water companies to pursue outstanding revenue through the courts. It will also be easier for water companies to engage with tenants who are in debt because they cannot afford to pay their outstanding bills, which may enable and encourage more debtors to start paying.
89. There is an incentive for tenants to comply and pay their bills since, once they have the details of previously unknown tenants, water companies will be better able to trace debtor tenants through credit referencing agencies when they move house. However, it could be the case that a proportion of tenants continue to avoid paying their bills even though they will receive a bill that is directly addressed to them. Outstanding revenue could therefore continue to accumulate, although the level of growth is expected to decline over time as more customers potentially start paying their bills.
90. As an upper estimate, assuming around 90% of tenanted debtors were to start paying, this could mean around 65,000 additional households start to pay their outstanding water and sewerage bills (based on water company estimates of 20% of tenanted customers currently being in debt). However, willingness to pay water bills needs to be considered alongside ability to pay. Affordability is a key issue and a key concern for some of those customers who don't pay, but there is a 'can't pay' versus a 'won't pay' issue to take into consideration.
91. Due to the considerable uncertainty surrounding the baseline assumptions relating to current tenant debtors, it is considered prudent to use a range of values to estimate the benefits. For instance, we could assume that if 20% of tenanted customers are currently in debt, between 25% and 90% of these households²⁵ might start to pay their bills under the proposed regulations, with a central assumption of 50%.
92. If water companies in Wales were able to identify and bill the additional circa 6,000 tenanted properties estimated to be currently unknown and unbilled then the revenue of water companies could potentially be increased by approximately £2.3m per annum. This represents approximately 0.5% of turnover for households in Wales. This unbilled revenue is also estimated to add the equivalent of approximately £1.80²⁶ to other customers' bills.
93. If the 35,000 additional tenanted debtor properties (using the 50% central assumption) were also to start paying their outstanding water bills following the introduction of the proposed regulations, this could potentially

²⁵ Based on communications with water companies and analysis by Ofwat and Defra

²⁶ This average is weighted by the number of properties billed.

reduce outstanding revenue by around £13 million²⁷ per annum (around 2.6% of turnover for households in Wales). This is assuming that each of those households were to pay one outstanding average water and sewerage bill (2010-11 prices) per annum. Some of these households may owe more than one annual bill and therefore the revenue impact could be higher.

94. If outstanding revenue was directly transferred onto other customers' bills this £13 million would be the equivalent of almost £10 per bill. However, since not all outstanding revenue is directly transferred this would not necessarily equate to a direct reduction of £10 per bill for other customers; the actual level of reduction would depend on a number of factors. There might also be indirect impacts for customers in addition to direct bill impacts.
95. Table 8 gives an indication of the estimated revenue impacts that could potentially arise if more tenanted debtor households were to start paying their outstanding bills, based on the assumption that outstanding revenue is directly transferred to the bills of all customers. A range of scenarios have been considered alongside the central 50% assumption. These are based on differing percentages of tenanted households likely to start paying their bills following the introduction of the proposed regulations. The potential annual reductions in outstanding revenue are additional to the potential revenue that could be billed if the circa 6,000 unknown tenanted households were identified (i.e. approximately £1.80 per household).

Table 8 – Estimated Annual Revenue Impacts from Increase in Tenant Rate of Payment, 2010 prices

No. of Households served in Wales	1,378,723			
No. of Tenanted Households	355,000			
No. of Tenanted Households in Debt	71,000			
Proportion that might start paying	90%	70%	50%	25%
No. that might start paying	65,000	50,000	35,000	18,000
Potential Reduction in Outstanding Revenue, £m	23.8	18.5	13.2	6.6
Potential Bill Reduction for Customers, £	17.6	13.5	9.7	4.9

Note: Figures may not sum due to rounding. It is estimated that 20% of tenanted households are currently in debt to water companies in Wales. Potential revenue reductions are estimated based on the average (2010-11) water and sewerage bills of households served by Dŵr Cymru Welsh Water and Dee Valley Water and weighted by the number of households²⁸.

²⁷ This is an estimate based on the average water and sewerage bills of properties served by Dŵr Cymru Welsh Water and Dee Valley Water and weighted by the number of properties.

²⁸ These estimates are based on the level of outstanding revenue in 2010-11, and could be higher if outstanding revenue were to increase or if the number of tenant debtors were to increase over the appraisal period. The potential reductions are based on households paying one outstanding annual bill per annum. Potential bill impacts for customers are based on the assumption that outstanding revenue is directly transferred to all customers' bills. Owing to the number of uncertainties surrounding the level of outstanding revenue over time, the potential reduction in outstanding revenue is indicative only.

96. Table 8 indicates that if a proportion of current tenant debtors start to pay their bills as a result of the proposed regulations, there is likely to be a positive impact on bills for all customers. This is based on the assumption that outstanding revenue is currently directly transferred to the bills of all customers. These bill reductions are in addition to the £1.80 reduction that could potentially be realised through the identification of the circa 6,000 unidentified households.
97. The more tenanted households that start to pay their bills, the more outstanding revenue will be able to be collected - which could indirectly benefit the bills of all customers. For instance, if 25% of tenant debtors started to pay their annual bills then this could lead to a potential reduction in the annual bills of all customers of around £5, whereas if 90% started to pay their unpaid bills then the saving to all customers could be approximately £18 per annum. In reality, not all costs associated with outstanding revenue are directly transferred to customer bills; there are often indirect impacts arising in the form of improved services for customers. Hence, the range of potential bill reductions shown in Table 8 are indicative only and will not necessarily be realised.
98. The potential annual reduction in outstanding revenue is also indicative and is derived from the reduction that is estimated to be seen in year one of the policy (2010 prices). This is due to the assumption that the number of households and hence number of tenants (along with tenanted debtors) is likely to increase over the appraisal period. The average water and sewerage bill per household is also likely to increase over the period. Since the majority of variables are assumed to increase, it is therefore the potential saving per household that is important rather than the overall potential saving to water companies, since it is this benefit that will be considered for the purpose of analysis.

Benefits to Landlords and Tenants

99. Potential benefits to landlords may arise under option 2 if the information requirements of the proposed regulations indirectly encourage them to enter into tenancy agreements more often. This could lead to better safeguarding of both Landlords' and tenants' rights and could avoid potential disputes further down the line. This could prove beneficial to both tenants and landlords in terms of cost savings arising from avoided disputes.

Non-Monetised Benefits

100. Affordability issues are more likely to be prevalent in the rented sector, particularly in the social rented sector. It is estimated²⁹ that 60% of social rented households are likely to struggle to pay their water bills, compared with 39% of private rented households.

²⁹ Source: Ofwat

101. The proposed regulations are anticipated to raise awareness of affordability issues, through enabling water companies to potentially identify and hence communicate with tenants who might struggle to afford their water and sewerage bills. Water companies will be able to assist better if they have the details for the bill payer; they may also be able to prevent large bills accruing by issuing the tenant with smaller, more regular bills. (See Annex B for more detail on affordability).

Summary of Preferred Option

102. The preferred and recommended option is option 2, to undertake regulatory action to require landlords to provide water companies with the specified information about their tenants. This is because of the substantial benefits that are likely to arise to customers and water companies as a result of potential reductions in the cost of servicing outstanding revenue. The total benefit to customers is anticipated to far outweigh the additional costs to landlords and water companies of having to implement the regulations.

103. Table 9 sets out the estimated costs and benefits (additional to the baseline) that could arise under option 2. Benefits are estimated to amount to around £15.2 million (on average) per annum over the 10-year appraisal period. Transition costs in year one are estimated to be around £60,000 and ongoing costs are estimated to be around £130,000 per annum. The present value of total costs over the appraisal period is estimated to be around £1.2 million, whilst the present value of benefits is estimated to be substantially higher at around £131 million under the central scenario.

Table 9 - Estimated Costs and Benefits arising under Option 2

	£m
Estimated Transition Costs	0.1
Estimated Average Annual Costs	0.1
Estimated Average Annual Benefits	15.2
PV Total Costs	1.2
PV Total Benefits	131.1
Net Present Value	129.9

Note: The estimated costs and benefits are based on the central scenario of 50% of tenanted debtors starting to pay their bills, and all 6,000 currently unidentified tenants being billed and paying for the services they are receiving. Figures have been rounded to nearest 100,000.

104. Table 9 indicates that option 2 is also estimated to generate a positive net present value³⁰ of around £129 million. This is based on the central scenario of 50% of tenanted debtors starting to pay their bills, and water companies being able to identify, bill and collect owed revenue from all 6,000 currently unidentified tenants.

³⁰ Net Present Value (NPV) is the difference between the stream of the Present Value (PV) of total benefits and the PV of total costs. A positive NPV indicates an overall net benefit.

105. The NPV is the primary criterion for deciding whether government action can be justified³¹. Hence, since the NPV for the central scenario is positive, option 2 is the preferred and recommended option over 'doing nothing'.

Assumptions and Uncertainties

Tenant Payment Rate

106. The estimated costs and benefits shown in Table 9, above, are based on the central assumption that 50% of the 71,000 tenanted debtor households in Wales start to pay their annual bills as a result of the regulations. However, without any robust evidence to verify the assumption that a 50% increase in the payment rate will be achieved, it is considered prudent to assess a range of values for the possible outcomes arising.

107. Table 10, below, therefore sets out the indicative costs and benefits that are estimated to arise under a number of different scenarios for increases in the rate of tenant debtor bill payments. As would be expected, the overall net benefit gets relatively larger as the proportion of tenants paying their outstanding bills increases.

Table 10 - Estimated Costs and Benefits of Differing Tenant Payment Scenarios

	£m			
Potential Increase in Tenant Debtor Bill Payers	25%	50%	70%	90%
Estimated Average Annual Benefits	8.9	15.2	20.2	25.6
PV Total Costs	1.2	1.2	1.2	1.2
PV Total Benefits	76.3	131.1	173.8	220.5
Net Present Value	75.2	129.9	172.7	219.4

108. The scenarios in Table 10 are based on the assumption that a proportion of tenanted debtor households will start to pay their outstanding bills if the proposed regulations were to come into force. However, should it be the case that the proposed regulations have minimal or zero impact on tenanted debtor households' outstanding bills, the total benefits arising would be relatively smaller.

109. It is estimated that if the proposed regulations only had an impact on currently unbilled revenue (for the circa 6,000 currently unidentified households) and had no effect on the 71,000 known tenant debtors, the average annual benefit could be around £2.3 million. The overall NPV is estimated to be around £18 million.

110. Table 11 indicates the average annual benefit arising under different scenarios for unbilled revenue. For instance, if only 25% of the 6,000 unidentified households starting paying bills (with no reduction in known

³¹ HM Treasury Green Book, http://www.hm-treasury.gov.uk/data_greenbook_index.htm

tenant debt), the annual benefit could be around £0.6 million and the NPV around £3.3 million. The NPV would still be positive if only 10% of those households started paying their bills, at around £0.2 million, but would become negative below this point since the costs of implementing the regulations would be relatively larger than the benefits arising.

Table 11 – Potential benefits arising from newly billed revenue alone

Proportion of the 6,000 to start paying their bills	Ave. Annual Benefit, £m	PV Total Benefits, £m	NPV, £m
100% (6,000)	2.3	20.1	19.0
50% (3,000)	1.2	10.1	9.0
25% (1,500)	0.6	5.0	3.9
10% (600)	0.2	2.0	0.9

Note: Calculations assume that the regulations have no effect on current tenanted debtor households, i.e. there is no impact on the level of outstanding revenue. Benefits arise from water companies being able to bill, and attempt to collect, previously unbilled revenue. Costs remain unchanged from the central scenarios, i.e. PV Total Costs is £1.2m.

Costs to Landlords

111. It is assumed that a majority of landlords already routinely collect most of the specified details required under option 2. However, where details are not routinely collected or are unknown, for example tenant date of birth, the transition cost associated with collecting this could be fairly substantial for landlords with very large portfolios. Transition costs have been estimated using all available evidence but are naturally largely assumption-based at this stage of the policy development process. **It is anticipated that further information regarding these additional costs will be provided during the consultation period.**
112. It is anticipated, however, that even if these costs are fairly substantial they will not impact upon the outcome of option 2, i.e. it will still generate an overall net benefit to society with a positive overall NPV.

Level of Outstanding Revenue

113. For the purpose of analysis the level of outstanding revenue is assumed to increase at a rate of 5% per annum over the appraisal period under the 'do nothing' option (the baseline), based on the actual real rate of growth between 2009-10 and 2010-11. The number of households is also assumed to increase at the rate of growth witnessed over the same period (0.6% per annum), whilst the proportion of tenants and tenant debtor households is assumed to remain at its current level. An interest rate of 5% per annum on the outstanding revenue is also assumed.
114. The level of revenue written off is assumed to remain at the proportion of 10% of outstanding revenue and grows in line with this. Similarly, the cost of servicing the debt is assumed to remain at 11% of outstanding

revenue, but will increase each year over the appraisal period as the level of outstanding revenue rises.

115. Based on these assumptions, under the 'do nothing' option the cost of servicing the debt is assumed to increase from around £20 per customer bill in 2013 to around £30 in 2022 (2010 prices). However, if the rate of increase of outstanding revenue was based on an historical three-year average of 9% per annum, the cost of servicing the debt could add around £45 to £50 to every customer bill by 2022.

Owner-occupied Households

116. The proposed regulations will only impact upon the outstanding revenue related to tenanted households. There will not be any impact upon the level of debt associated with owner-occupier households. However, the majority of debtors are assumed to be tenanted households rather than owner-occupied households. Since the latter are more readily identifiable, for example via Land Registry enquiries, it is assumed that the number of unidentified households that are owner-occupied is relatively low compared with the number of unidentified tenanted households.

Role of Water Companies

117. Historically, water debtors have been described by companies as 'can't pays' or 'won't pays' but the situation is more complex than those labels suggest. The 'can't pays' may include customers on low income who struggle to pay their weekly bills, customers who have experienced a sudden fall in income and can no longer afford their bills, and customers with social and health issues that prevent them from managing their finances successfully.
118. The 'won't pays' may include customers withholding money on principle: e.g. ex-partners withholding payment or customers who can afford to pay but choose not to. There is also a large group of transient debtors who may not have received a bill while occupying a property or been unaware of their liability.
119. The proposed regulations are intended to enable water companies to identify more of those tenanted households that are currently unidentified. However, it is anticipated that the regulations themselves will only go some way towards solving the problem of bad debt in the water industry; water companies must continue to ensure that they do everything within their powers to try and identify, bill and pursue payments from tenanted households.
120. The proposed regulations should enable water companies to identify and hence directly communicate with more tenanted households, which will go some way towards addressing concerns with affordability or payment of bills. Water companies should continue to ensure that affordability concerns are identified and addressed as early as possible in order to try and prevent further debt accruing.

121. The Welsh Government has worked closely with Dee Valley Water, Dŵr Cymru Welsh Water and Ofwat to ensure that this impact assessment fully takes into account the needs of Welsh customers.

Specific Impact Tests

Small and Micro Businesses

122. Approximately 80% of landlords could be classed as micro businesses in Wales. If all of these landlords were exempt from coverage by the regulations, a substantial proportion of the rented sector would be excluded. Since this is the sector at which the policy is primarily aimed, exempting micro-businesses is likely to prove ineffective in achieving the policy objectives. Furthermore, it is likely to prove difficult for water companies to identify which landlords are micro businesses.
123. It is anticipated that the additional costs to micro businesses (likely to be landlords with a relatively small portfolio) will be relatively minor. This is because it is assumed that a majority of landlords already hold at least some of the information required under the regulations. The substantial total benefit to customers arising under the proposed regulations is expected to far outweigh the additional small burden placed on micro businesses.

Competition

124. It is not anticipated that the proposed regulations will have any detrimental effects on competition (see competition filter test table, below).

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Annex A of the Regulatory Impact Assessment – Ofwat as the Regulator

Ofwat is an economic regulator established by primary legislation. It has a series of primary and secondary duties that are the main drivers of how it regulates. These include primary duties to:

- protect consumers, wherever appropriate by promoting competition; and
- ensure that efficient companies can finance their functions.

Ofwat's secondary duties include the need to contribute to sustainable development.

As well as its statutory duties, Ofwat works within a policy framework set by Government. This ranges from the better regulation principles that guide all economic regulators, to the specific social and environmental guidance given to Ofwat by the Welsh Government.

The Welsh Government intends to issue a water strategy in 2013. In setting out the future price limits principles and framework, Ofwat has had regard to this context and ensured that its approach is consistent with the wider policy landscape. Ofwat's principles and framework are designed to further Government policy objectives by ensuring that it regulates in a way that supports and underpins those objectives.

Ofwat's job is to protect consumers' interests. Most customers cannot choose their supplier, so one of the ways Ofwat does this is by setting price controls that monopoly water-and-sewerage and water-only companies must deliver. These price controls affect the bills that customers pay and the water and sewerage services consumers receive.

Ofwat currently sets price controls for the water and sewerage companies every five years and will next set them in 2014. These price controls will apply to customers' bills and the services they receive between 2015 and 2020.

When setting price controls, Ofwat has a duty to:

- make sure that each company has enough money to finance its functions; and
- protect consumers' interests.

This means that the interests of consumers must be balanced with the need to make sure the sectors can finance the delivery of water and sewerage services. Ofwat also needs to make sure they are able to meet their other legal obligations, including their environmental and social duties.

There needs to be a balance between required investment and keeping bills down. Ofwat's price setting process therefore challenges companies to:

- improve their efficiency;
- deliver the outcomes their customers want and need; and
- work hard to keep customers' bills down.

Annex B of the Regulatory Impact Assessment – Welsh Government policy on Water Affordability in Wales

The Welsh Government policy with regard to water affordability has been informed by the responses received to its 2011 consultation on the Review of Household Charging and Metering for Water and Sewerage Services that had been led by Anna Walker in 2009. With regards to water affordability specifically, the review discussed options for providing better support for vulnerable and low income households in Wales, which included the development of social tariffs and reducing debt issues.

The proposals covered in this impact assessment, as well as those being considered in the development of the Water Strategy, build on the Written Statement on Water Policy in Wales that was published by the previous Minister for the Environment and Sustainable Development in December 2011. This contained the following statements on affordability:

“Keeping water bills at an affordable level is a key priority for the Welsh Government. Providing a choice of charging options, protecting vulnerable groups and reducing bad debt will achieve this...”

Because the cost of debt from non-payment of water bills is borne by all customers it is important that water and sewerage undertakers are able to reduce this level of debt. The provisions in the Flood and Water Management Act 2010 on bad debt allow for information on non-owner occupiers to be made directly available to the water and sewerage undertakers to assist in tackling the high levels of bad debt within the water industry...

As part of the Welsh Government’s tackling poverty agenda, we are committed to reducing the percentage of people identified as having water affordability issues in Wales. We will be looking to build on the work we have already carried out on social tariffs and bad debt and further work will form part of the Tackling Poverty Plan.”

The Welsh Government is committed to helping households who genuinely struggle to pay their water and sewerage bills. In November 2011 the Welsh Government published a consultation on the implementation of the Flood and Water Management Act 2010, which enables water and sewerage undertakers to reduce charges for individuals who would otherwise have difficulty paying their bill in full. This Act explicitly allows undertakers to introduce cross-subsidy between customers.

The Welsh Government’s Social Tariff Guidance for the water industry in Wales, was published on 1 March 2013. This guidance seeks to help address the issue of affordability problems in Wales. The purpose of the guidance is to set the framework within which an undertaker can bring forward a social tariff if it chooses to do so. It also sets the framework which Ofwat should have regard to when exercising its power to approve charges schemes under Section 143 of the Water Industry Act 1991. Social tariffs are expected to target households most in need of help as part of a water undertakers’ charges scheme.

The Welsh Government is of the view that water companies have a responsibility, and are best placed, to proactively address the particular needs of their customers. However, the guidance indicates the factors that should be taken into account when deciding whether one group of customers should subsidise another.

The picture around water affordability is extremely complex and varies, amongst other things, within household types and across different parts of Wales. The Welsh Government will therefore review the Social Tariff Guidance in light of the Water Strategy, which will be published later in 2013, to take account of new evidence and best practice.

Water and sewerage undertakers currently offer tariffs to assist vulnerable customers in paying their water bills, for instance Welsh Water Assist which caps the bills of certain households according to specific criteria³².

Water affordability is part of a broader issue of general poverty, where households struggle to afford the necessities of life as well as paying other bills. The policy proposals being taken forward as part of this consultation, and subsequently as part of the Water Strategy, will contribute to the Welsh Government's wider objectives within its Tackling Poverty Action Plan, as well as seeking to meet the meet the key actions described in the Programme for Government.

³² For instance, households that contain a person on a qualifying benefit and either have a person with a medical condition which necessitates a high essential use of water or have three or more children under the age of 19.

Appendix 3 – Legal Basis

Section 144C of the Water Industry Act 1991 as inserted by Section 45 of the Flood and Water Management Act 2010

Water and sewerage charges: non-owner occupiers

144C Non-owner occupiers

(1) This section applies to residential premises which are occupied by one or more persons other than the owner (and not by the owner).

(2) The owner must arrange for the undertaker to be given information about the occupiers.

(3) If the owner fails to comply with subsection (2), the occupiers' liability for charges under this Chapter becomes shared jointly and severally with the owner.

(4) The Minister may make regulations—

(a) about the information to be given under subsection (2);

(b) about timing and procedure in connection with subsection (2) or (3).

(5) The Minister may make regulations exempting owners from liability under subsection (3) where—

(a) information supplied by them is false or incomplete, but

(b) they have taken steps specified by the regulations to ensure its accuracy or completeness.

(6) “Residential premises” means premises that are—

(a) occupied by one or more persons as a home (but not necessarily as their only or main home), and

(b) a “dwelling”, a “house in multiple occupation” or “accommodation for the elderly” within the meaning of paragraphs 1 to 3 of Schedule 4A.

(7) Where a person is the “owner” of premises by virtue of being agent or trustee (see section 219(1)) the duty and liability under this section attach to the principal (and not to the agent or trustee).

(8) “The Minister” means—

(a) the Secretary of State, in relation to services provided by an undertaker whose area is wholly or mainly in England, and

(b) the Welsh Ministers, in relation to services provided by an undertaker whose area is wholly or mainly in Wales (for which purpose section 213 applies with references to the Secretary of State and either House of Parliament being taken as references to the Welsh Ministers and the National Assembly for Wales).”

(2) Transitional provision of an order commencing this section may, in particular, provide for application of the duty in new section 144C(2) to depend on service of a notice by an undertaker.

Appendix 4 – Consultee List

Age Concern
Association of Residential Letting Agents
Association of Residential Managing Agents
Barnardos
Black Voluntary Sector Network for Wales
British Property Federation
British Water
Caerphilly County Borough Council
Cardiff University
Chartered Institute of Housing
Chartered Institute of Environmental Health
Chartered Institute of Water and Environmental Management
Citizens Advice Cymru
Community Housing Cymru
Confederation of British Industry Wales
Consumer Council for Water
Consumer Focus
Council of Mortgage Lenders
Cymorth
Dee Valley Water
Defra
Department for Work and Pensions
Drinking Water Inspectorate
Dŵr Cymru Welsh Water
Equality and Human Rights Commission
Federation of Small Businesses (FSB)
Federation of Small Builders
Gofal
Information Commissioner's Office
Institute of Directors Wales
Institute of Welsh Affairs
Joseph Rowntree Foundation
Liberty
MIND
Minority Ethnic Women's Network (MEWN) Cymru
Money Advice Service
National Association of Estate Agents
National Approved Letting Scheme
National Federation of Property Professionals
National Federation of Residential Landlords
National Landlords Association
National Offender Management Service
Newport County Borough Council
Ofwat
Older People's Commission for Wales
One Voice Wales
Oxfam
Public Health Wales
Residential Landlords Association
Royal Institute of Chartered Surveyors Wales
Severn Trent
Shelter Cymru
Society of British Water and Waste Water Industries
SSE Water

Tenant Services Authority
The Association of British Pharmaceutical Industry Wales
The Property Ombudsman
Torfaen Demonstration Project
TV Licensing
UKWIR
Unison
United Utilities
Wales Coop
Wales and West Housing
Water UK
Waterwise
Welsh Local Government Association
Welsh Tenants and Residents Federation

Appendix 5

Tackling Bad Debt within the Water Industry in Wales:
The Water and Sewerage Information (Non-owner Occupiers) Regulations

Consultation Response Form

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

Question 1: Do you agree with the estimated costs/benefits arising from the implementation of these Regulations or otherwise wish to comment upon any area of the Regulatory Impact Assessment?

Question 2: Do you have any comments upon any of the provisions in Regulation 3 concerning the personal details being requested about occupiers?

Question 3: Do you have any comments upon the provisions in Regulation 3 about communicating with occupiers or the provision of an owner's address?

Question 4: Do you have any comments upon any of the provisions in Regulation 4 concerning the timing of when the duty takes effect or the period when compliance is required?

Question 5: Do you have any comments about the requirement for an owner to inform an undertaker of any doubts concerning the information they are providing about occupiers?

Question 6: Do you have any comments upon the exemption from liability for charges accrued after the compliance date, where information has been supplied within 21 days of the date when the duty first applies?

Question 7: Do you have any comments upon the exemption from liability, where the owner has provided the undertaker with the information required after the 21 day period when the duty first applied?

Question 8: Do you have any comments upon any of the provisions in

Regulation 6 concerning how an owner should provide occupiers' details to the undertaker?

Question 9: Do you have any comments upon any of the provisions in Regulation 7 concerning change of ownership at an occupied property?

Question 10: We welcome your views and comments on any aspect of the Regulations or the Regulatory Impact Assessment, including anything you feel we may not have addressed.

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: