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Welsh Government

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Summary of Responses and Welsh Government Response to Consultation

Statutory Guidance on sewerage
undertakers' duty to connect
properties to the public sewerage
system under the Water Industry
Act 1991 Section 101A

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Introduction

Overview

The majority of properties in Wales are connected to a main public sewer, but an estimated 7% of properties depend on independent privately owned and operated systems.

Where these systems are unable to provide a satisfactory, long term solution and are giving or are likely to give, adverse effects to the environment or amenity, one option is for the owners to apply for the provision of a public sewer under the first-time sewerage provisions in section 101A of the Water Industry Act 1991.

Purpose of the Consultation

The aim of the consultation exercise was to seek views on the Welsh Ministers' "Statutory Guidance on sewerage undertakers' duty to connect properties to the public sewerage system under Section 101A of the Water Industry Act 1991".

The consultation draft of the guidance outlined the options for securing a sustainable sewerage system for properties not connected to the public sewerage system. It provided information to assist householders, occupiers and property owners in deciding if section 101A provides the right solution in their circumstance and set out the roles and responsibilities of the sewerage undertakers, the environmental regulators (Environment Agency and Natural Resources Wales) and property owners on the application of section 101A.

The draft guidance aimed to replace and update the previous guidance issued by the Department of the Environment and the Welsh Office in 1996. This is to reflect the current legislative and regulatory framework and better assist stakeholders in understanding and where appropriate using the section 101A provisions.

Consultation period and distribution

The consultation ran for a period of 12 weeks and closed on 6 March 2014. It was published on the Welsh Government website in Welsh and English and sent to a wide range of stakeholders.

Consultation Responses

We received 13 responses to the consultation, listed below. These came from a range of organisations, including public and statutory bodies, businesses, councillors and a Member of Parliament.

List of respondents

Amroth Bay Holidays
Cambridge County Councillor
Consumer Council for Water
District Councillor for Milton
Dŵr Cymru Welsh Water
Health and Environmental Services Director, South Cambridgeshire District Council
ICE Cymru
Milton Parish Council
Natural Resources Wales
Ofwat
Severn Trent Water
Simon Hart MP, Carmarthen West & South Pembrokeshire
South Cambridgeshire District Councillor

Analysis of responses

Respondents were generally supportive of the need for revision of the statutory guidance and welcomed the Welsh Government's aim of making the guidance more clear and user friendly.

For example, Ofwat, the water industry economic regulator for Wales and England stated that they welcomed:

"...the proposed update / replacement of the current guidance which dates back to the introduction of section 101A WIA1991 and is now almost 18 years old."

In addition to this they commented:

"...that the revised guidance will help meet the objective of delivering optimal outcomes for the environment, applicants and the generality of water and sewerage bill payers."

The Institute of Civil Engineers (ICE) Wales Cymru expressed the view that the guidance was:

"clear, well written and provides appropriate advice"

Some comments were received regarding the need for clarification on the geographical application of the guidance. Consultees felt it should be made clear exactly where the statutory guidance is applicable, and which sewerage undertakers would be affected.

A number of references were made to typographical and numbering errors with the draft guidance that was circulated for consultation.

The Consumer Council for Water felt that there should be a greater emphasis on community knowledge and engagement in the section 101A process. They thought Welsh Government should consider:

“Stating an expectation of good community engagement to assess the appetite of a community to connect to the new public sewers. This would contribute to an assessment of how cost-beneficial the project is.”

The definition and clarification of what is meant by the term “buildings” within the section 101A guidance was raised by the majority of consultees. Many, including Amroth Bay Holidays, Simon Hart MP and a number of councils in Cambridge, felt that the guidance should clarify the application of section 101A to caravans, caravan parks, mobile home or day rooms which are used as permanent residences all year round. The respondents felt premises that include such structures should be permitted to apply, as they generate domestic sewage and therefore, in some cases, connection to the public sewerage network would be justified.

The comments within the consultation responses also suggest that the Welsh Government should consider clarifying the roles and responsibilities of the owners of private sewerage systems, with respect to the need for maintenance and protection of the environment both before an application is made and during the period up to connection to the new sewer. The inclusion of a flow chart to make this clear was also suggested.

Clarity around the costs considered in the evaluation of schemes and the costs to individuals of connection to a new sewer were raised by a number of respondents. It was felt that there could be greater clarity about who should incur which costs and how they are taken into account.

In addition a number of responses contained very detailed suggestions for consideration in the writing of the final guidance aimed at reducing ambiguity.

Welsh Government Response to the Comments received and changes to the Statutory Guidance following consultation

The Welsh Government would like to thank all those who responded to our consultation on the ‘Statutory Guidance on sewerage undertakers’ duty to connect properties to the public sewerage system under Section 101A of the Water Industry Act 1991’. We have considered the comments and the views expressed within the responses in amending the consultation draft to produce the final document.

We are pleased that consultees welcomed our revision of the existing guidance and supported our view that they should be more current and clear.

We recognise that there should be clarity regarding the exact geographical area and sewerage undertaker(s) to which this statutory guidance applies. We have therefore included this within the new guidance and amended the wording appropriately.

Any typographical and numbering errors have been addressed within the document.

We agree that good community engagement is an important part of the section 101A process and we have included a paragraph outlining this importance within the introduction.

We agree that the lack of a definition of 'buildings' with regards to the section 101A application process has caused confusion and inequity. Section 101A(4)(b) of the Act allows the guidance to relate to any other matter which the Welsh Ministers' consider to be a relevant consideration in any case and how regard is to be had to any such matter. We have therefore provided additional guidance in this area, in particular with respect to mobile homes and similar structures to ensure that they are taken into consideration in developing any section 101A scheme.

We have taken into account the comments regarding clarity of the role of property owners in the section 101A process. Changes have been made within the guidance to highlight their roles and what is expected of applicants during the process. This includes the addition of a flow chart outlining the expected timescales and roles of each party involved.

The Welsh Government recognises that there is a desire for those dealing with the Section 101A process to have further explanation on how the balance of cost should be considered throughout the application. Some further guidance points have been added to Section 5 Assessment Process.

Next Steps

We have published the revised guidance, which takes into account the comments received in the consultation at the same time as this summary. New legislation in the form of the Water Act 2014 has just completed progress through Parliament. This Act contains provisions which give the Welsh Ministers powers to change the current Section 101A procedure. In particular these may be used to amend the appeals process. When these provisions are commenced and implemented we will revise this guidance.