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Welsh Government

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Consultation - summary of responses and Government response

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

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Introduction

On 22 April 2013 the Welsh Government, published a consultation on draft Social and Environmental Guidance to Ofwat, to be issued under section 2A of the Water Industry Act 1991 (as amended by section 40 of the Water Act 2003). This section of the Water Industry Act provides powers for the Welsh Ministers to give Social and Environmental Guidance to Ofwat as to the contribution it can make to the attainment of social and environmental policies. Ofwat is required to have regard to such guidance in the exercise of its powers and duties as economic regulator of the water and sewerage industry.

The consultation sought the views of stakeholders on new Social and Environmental Guidance to replace the Guidance that was previously issued in 2009. It was intended that this guidance would also inform Ofwat's current Periodic Review (PR14). Stakeholders were not invited to respond to specific questions but were instead asked to provide their views and comments about any aspect of the Social and Environmental Guidance, including any areas that we might not have addressed.

A full 12 week consultation on the draft guidance took place between 22 April and 7 July 2013.

The consultation was issued electronically to a range of stakeholders and was made available on the Welsh Government website.

A total of 9 responses were received and a list of the respondents can be found at Annex A.

Summary of Consultation Responses - Overview

The Welsh Government has considered the points made and the issues raised by the nine respondents to the draft Guidance. Responses were received from private individuals and on behalf of organisations from within the water, heritage, engineering and government sectors and also from regulatory and consumer bodies.

- Six respondents were broadly welcoming of the Guidance and in agreement with its aims.
- Three respondents had no specific comments to make on the policy details of the document itself but welcomed the opportunity to comment and made comments about the need to ensure the inclusion of the groups they represented as part of both this and future consultations.
- Three respondents made a number of particularly detailed comments at some length about the details of the contents; two of these did not express an explicit overall view of the guidance whilst a third respondent welcomed the focus on customers whilst drawing attention to areas where it had certain comments to make.

Speaking generally, the views expressed were reflective of and specific to the different particular backgrounds of the respondents. In terms of some common themes that emerged from the responses, these might be summarised thus:

- The need to ensure that the Guidance was clear, concise and accurate, particularly in its descriptions of different policies and duties and how these apply to different parties.
- The need (nevertheless) to be fully comprehensive and inclusive in its description of relevant policies.
- The need to encourage joined up working and partnership approaches where these are essential to the delivery of the social and environmental objectives for which the Welsh Government may appropriately seek a contribution from regulators and stakeholders in the water sector.
- The need to recognise and understand the boundaries and constraints within which regulators and water and sewerage undertakers operate and to be clear about where differing powers and responsibilities lie.

Misconceptions

One respondent misinterpreted the scope of the consultation as being about the assessment of costs as these relate to the regulation of the water sector

and the response raised detailed technical matters specific to their locality. The issues raised by this respondent have instead been responded to in other correspondence received outside of and separate to this consultation.

Detailed summary of consultation responses and outline of subsequent changes

Welsh Government Policy Priorities for Ofwat

The section concerning policy priorities was expanded upon and made more explicit in its details, especially concerning Welsh Government expectations. The most substantial comments about the contents of this section came from the Chartered Institution of Water and Environmental Management (CIWEM), Dŵr Cymru Welsh Water and Natural Resources Wales.

In particular:

- The section on 'Regulatory Proposals' was amended to take account of the Chartered Institution of Water and Environmental Management's comments that any proposed changes should take account of the sector's long term stability.
- The section on 'Resilience and joined up outcome based solutions' was expanded to reflect comments made by Natural Resources Wales and Dŵr Cymru Welsh Water to include references to other hazards and to support for investment in evidence based asset maintenance.
- The section on 'Research and evidence based decisions and policy making' was also expanded, again to reflect comments made by Natural Resources Wales and Dŵr Cymru Welsh Water, in respect of encouraging Ofwat to support funding for research and evidence to assist projects to facilitate catchment based solutions to problems and also to underscore the principle that sound evidence should be used to underpin future investment decisions for sewerage infrastructure.
- As suggested by Dŵr Cymru Welsh Water, the section previously entitled 'Water Quality' was retitled and rendered specific to 'Drinking Water Quality' in order to enhance clarity.

Welsh Government Policy and Guidance to Ofwat

A number of useful changes were suggested by the Institute for Archaeologists (IfA), Natural Resources Wales and Dŵr Cymru Welsh Water:

- The Institute for Archaeologists suggested the need to ensure that the Water Strategy for Wales should be set in the context of the Historic Environment Strategy for Wales and for Ofwat to include Cadw as a relevant stakeholder in its decision making;
- Dŵr Cymru Welsh Water suggested a change to the section on Sustainable Development to include a reference to the Water Industry Forum as a potential mechanism for partnership working.

- Natural Resources Wales suggested the addition of flood risk management considerations to the section on Long Term Outcomes.
- An addition was made to the bullets under 'Long Term Outcomes' in response to Dŵr Cymru Welsh Water's suggestion to reflect the importance of investment in asset maintenance, set in the context of sustainable infrastructure.

Social Objectives Policy

Comments relating to this section of the guidance were broadly supportive and were received from the Consumer Council for Water (CCWater), the Chartered Institution of Water and Environmental Management (CIWEM), Dŵr Cymru Welsh Water and the Institution of Civil Engineers (ICE) Wales Cymru. Only very minor and non-substantial changes were made to this section.

- CCWater expressed support for the Welsh Government's expectations of Ofwat in relation to social tariffs and for its approach towards taking measures to reduce bad debt in the water industry.
- CCWater also noted the Welsh Government's expectation that Ofwat should encourage water and sewerage undertakers to examine the impact of any expansion of metering on customer affordability and take mitigating actions to assist vulnerable customers. Whilst the particular suggestion for more expanded advice to Ofwat on the approach to this was not included, an amendment was made to suggest that any deliberations taken in relation to metering should also take account of the Welsh Government's Guidance on social tariffs.
- CIWEM supported the principle that all everyone in Wales should have access to clean water and good sanitation. They suggested that the duty of Ofwat should be to ensure that water charges are reasonable, whilst matters of social equity should be managed by the appropriate Government agencies, seeing these as being the best equipped to do so, leaving water and sewerage undertakers to focus on their core skills.
- In relation to measures for tackling bad debt, CIWEM were in agreement about the need to have effective mechanisms in place to recover charges from those who choose not to pay (in contrast to those who do not have the means to pay).
- Dŵr Cymru Welsh Water were broadly supportive of the Welsh Government's approach whilst querying the customer acceptance conditions of the current social tariff guidance and debating the pros and cons of the fairness of approaches to metering.
- Whilst also supportive of the principle of social tariffs, the ICE Wales Cymru took a firmer and contrasting view to that of Dŵr Cymru Welsh

Water by suggesting that the Welsh Government should adopt a policy to encourage the implementation of universal metering.

Environmental Policies

This section of the guidance elicited the most comments, which was to be expected given the environmental duties that apply directly to the water sector (as contrasted with the section on Social Objectives).

Explicit support for the continued commitment to the 'polluter pays' principle was expressed by IfA, CCWater, CIWEM and Dŵr Cymru Welsh Water, with the point made by several respondents that water and sewerage undertakers should not be held solely responsible for delivering improvements where other parties are partially or wholly responsible for problems or where others should be expected to contribute to solutions. Further comments were also received from ICE Wales Cymru and from Natural Resources Wales on matters across this area of the guidance. The most significant comments and changes were as follows:

- In response to comments made by Natural Resources Wales concerning monitoring, in the section on Research and Evidence we have set out the expectation that Ofwat should work with the Welsh Government and others to help ensure that water and sewerage undertakers incorporate effective environmental monitoring processes in their respective business plans.
- In response to the comments made by ICE Wales Cymru about better demand management, the value of water and metering, changes were made to the section on supply-demand balance to seek the cooperation of Ofwat in encouraging an increase in demand management measures by water and sewerage undertakers.
- Responding to other comments made by ICE Wales Cymru an addition was made to the section on leakage to say that the Welsh Government would expect Ofwat to take action where water and sewerage undertakers failed to deliver Ofwat's annual leakage reduction targets.
- The sections on Floods and Resilience and Surface Water Flooding and Local Strategies were amended at the suggestion of Natural Resources Wales to include references to the European Union Floods Directive and to Ofwat's Drainage Strategy Framework.
- Dŵr Cymru Welsh Water suggested the inclusion of a reference to compliance with the European Drinking Water Directive in relation to Drinking Water Quality, and the section was amended accordingly.
- The section on 'Environmental Water Quality' was amended to acknowledge and raise awareness of the non-alignment of the price review cycle and the planning cycle for River Basin Management Plans and also of the need for Ofwat, the Environment Agency and Natural

Resource Wales to work together with the water and sewerage undertakers, to identify and deliver measures required under the Water Framework Directive, as suggested in the response supplied by Dŵr Cymru Welsh Water.

Next Steps and Government Response

Response to comments made

The Welsh Government has given full consideration to all the responses received as part of the consultation whilst also taking account of technical advice and comments from the regulatory bodies (Ofwat and Natural Resources Wales) where this was required during the further drafting process. The final Guidance has been amended in light of the points raised by respondents wherever these have been substantial, appropriate and consistent with the policies and duties to which the Guidance is intended to refer.

Next Steps

The revised Social and Environmental Guidance was subsequently laid before the National Assembly Wales for 40 days (excluding recess dates) commencing from 3 December 2013 and ending on 10 February 2014, after which date the Guidance came into effect.

This guidance may be reviewed at a point in the future, with the possible result that new or revised guidance might be issued for consultation, should this be deemed necessary by the Welsh Ministers, as a result of new or significantly developed Welsh Government policy.

The Welsh Government would like to thank all those who responded to the consultation on the Social and Environmental Guidance to Ofwat.

Annex A - List of consultation respondents

1. Chartered Institution of Water and Environmental Management
2. Consumer Council for Water
3. Dŵr Cymru Welsh Water
4. Institute for Archaeologists
5. Institution of Civil Engineers Wales Cymru
6. Mr David Nattress
7. Natural Resources Wales
8. One Voice Wales
9. Penarth Town Council