

Review of Water Resources Management Plan Process Final Report

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EXECUTIVE SUMMARY

Background

Water Resources Management Plans (WRMPs) show how each of the 21 water companies that operate in England intends to maintain the balance between supply and demand for water over the next 25 years. Preparation of the Plans – which had previously been voluntary – became a statutory requirement in 2007 to make them more robust in addressing security of supply, improve environmental protection from abstraction and also to provide transparency in the planning process and the opportunity for stakeholders and customers to make representations on their content. The first planning process (covering the period 2010-2035) is largely complete, with most Plans now published.

Review process

In October 2010, Defra commissioned the In House Policy Resource (IHPR) to undertake an independent review of the new statutory process. The main aims of the review were to:

- work with key stakeholders and use written evidence to identify lessons learned from the first round of WRMPs and opportunities to improve the process;
- undertake an objective assessment of the opportunities to improve the process, focusing in particular on the potential to reduce the administrative burden, avoid duplication of reporting to regulators, and align the WRMP and PR processes;
- make recommendations to Defra on how the process may be improved while retaining robust planning for security of supply against the increasing challenges for future water supply.

Primary evidence was sought through structured interviews with 37 key stakeholders: water companies; regulators; and a cross-section of statutory consultees and other interested parties including NGOs and contributors to public inquiries.

The questionnaire on which the interviews were based was designed to cover the key areas of concern. It asked about: the effectiveness of the overall process and the Guideline for water companies as well as the effectiveness of each stage in the process; clarity in regulatory roles and responsibilities; alignment with the PR process and other processes; the cost of the process and the extent to which it achieved its objective.

The questionnaire was also sent to national, regional, local authority and parish council statutory consultees and NGOs known to have made representations, the Welsh Assembly Government and Welsh water companies, and the Department for Communities and Local Government. The review and questionnaire were also advertised on Defra's website and posted on the relevant local authority Community of Practice. Sixteen completed questionnaires were returned.

Evidence was also sought from a review of supporting documentation including relevant legislation and guidance, Defra briefing to Public Inquiry Inspectors, example final WRMPs, correspondence and papers supplied by water companies.

Findings

Many aspects of the process were felt to have worked well, notably the increased openness and transparency brought about by the requirement for stakeholder engagement. Water companies welcomed the structured approach which helped to ensure consistency across companies and a common understanding of what was required; they also felt that the Guideline was pitched about right. Most contributors were comfortable with the frequency and overall time period for the WRMP.

Examples of good practice were cited relating to active use of the pre-consultation stage for high-level discussion on water companies' plans and key regulatory issues; deployment of clear user-friendly summaries and targeted stakeholder events as part of the public consultation process, and water companies demonstrating their accountability to stakeholders through an effective Statement of Response to representations received, sometimes incorporating a revised draft Plan.

However the first statutory process was inevitably a learning process for all involved, and the review identified four key areas for action.

1. Action to ensure improvements to alignment of timing and process, coupled with effective sequencing of decision-making between the WRMP and PR processes and streamlining of data requirements and regulatory auditing.

In particular there is insufficient alignment between the PR's Strategic Direction Statement (SDS) and the WRMP pre-consultation stage; publication of the draft WRMP ahead of the draft BP risks limiting confidence in the WRMP, and there is perceived duplication between the WRMP Annual Review and Ofwat June Return. Some companies have ended up a final WRMP inconsistent with their final BP / FD. For many companies, misalignment was intensified by delays caused by issue resolution prior to publication of draft WRMPs, work required at SoR stage, and referral to Public Inquiry. For others it appears that misalignment arose from a failure to follow guidance. The review also found overlapping data requirements and duplication of vetting and auditing.

2. Action is needed to clarify regulatory roles and ensure that each is clearly distinguished from the others. There is scope to improve (and better communicate) systems to ensure effective liaison between regulators throughout the process.

Regulatory roles with the WRMP process were generally perceived to be inadequately defined; in particular there was not always a clear distinction between the roles of the Environment Agency and Ofwat.

Water companies felt strongly that Environment Agency and Ofwat (and on occasion, the Environment Agency and Natural England) did not liaise closely enough during the process, although the regulators felt that this was more a matter of perception.

3. There is scope for a more optimal dialogue and information exchange between the regulators and water companies, and for water companies improve the quality of their engagement with the statutory consultees and wider public.

Two key opportunities were identified here:

- Scope to improve regulator-water company dialogue at a strategic and local level and through improvements to the Guideline, and
- Specific steps to improve the effectiveness of different stages in the WRMP process to be taken up by water companies delivering improvements to their engagement with other players in the process, in particular through improved public consultation.

Contributors to the review felt strongly that improved water company-regulator dialogue and improved public consultation should help to minimise recourse to Public Inquiry. There was consensus that Public Inquiry should remain - as now – the option of last resort, and that alternatives such as Examination in Public should be considered.

4. There are significant opportunities to streamline and further improve the operation of the WRMP process to deliver more efficient and effective planning. There is scope for regulators and water companies to take action to further improve the quality and sustainability of the resulting Plans.

The evidence builds a case for action in five substantive areas, underpinned by a range of potential improvements to the Guideline:

- Further clarification of the purpose and scope of WRMPs to better to manage stakeholder expectations, and exploration of possible steps to tailor the structure of the WRMP more closely to what can reasonably be planned for;
- Streamlining the WRMP process to ensure that each company's efforts can be focused as tightly as possible on water supply-demand planning in its local context;
- Exploring the potential to improve the process to manage possible tensions between economic and environmental drivers for action more effectively, and so that the resulting Plans are more sustainable;
- Aligning the WRMP process with other related processes., and
- On the basis of these improvements, water companies will need to take responsibility for improving the quality of analysis that supports their Plans.

Solutions and recommendations

The final report makes 14 recommendations across the four areas. Key recommendations include:

- Building on existing work to explore improvements to the timeline to enable the best possible alignment between the WRMP and PR processes;

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- A high-level document setting out the purpose, scope and expectations of the WRMP process and the roles and responsibilities of the different parties involved;
- A new joint Guideline endorsed by all the regulators;
- Regulators and water companies working harder to communicate with each other and with stakeholders, including through a new National Forum bringing together key players to enable an open dialogue throughout the WRMP process, and
- A series of opportunities for action to improve the quality and long-term sustainability of WRMPs.

Most of the recommendations involve joint working – between the regulators and between the regulators and the water companies. Self-evidently, it will not be sufficient to prepare new documentation and set up new frameworks for dialogue.

For real improvements to be achieved, all parties will need to commit to implementation. The three regulators will have particular responsibilities. It will be equally important for the water companies to take on board the new, improved Guideline, to make best use of dialogue with the regulators, and on the basis of their experiences during the first statutory process, as well as improved guidance, to devise and manage more effective public consultation processes. It will be critical that water companies take responsibility for demonstrating that their proposals will deliver the best long-term outcomes for water customers and the environment. Regulators and water companies will all need to play a role in raising the profile of – and improving access to - the WRMP process to enable the right range of statutory consultees, other stakeholders and members of the public to make a full contribution.

1. INTRODUCTION

1.1 Background

Water Resource Management Plans (WRMPs) show how each of the 21 water companies that operate in England intends to maintain the balance between supply and demand for water over the next 25 years. These were made a statutory requirement for the first time in 2007. Prior to that, preparation of plans had been voluntary and used to support water company Business Plans (BPs) in the Periodic Review (PR) of price limits by the economic regulator, Ofwat. Statutory plans were introduced in order to make plans more robust in addressing security of supply, improve environmental protection from abstraction and also to provide transparency in the planning process and the opportunity for stakeholders and customers to make representations on the content of plans.

Processes for the first round of plans (covering the period 2010-2035) are largely complete, with most plans having now been published.

Given that the new statutory process was designed to achieve a significant culture change in the water resources management planning process, it is not surprising that there has been a learning curve for all parties. Prior to the launch of this Review, a number of concerns had been raised by water companies and others focusing on:

- the bureaucracy of the process;
- duplication of effort (e.g. with similar information provided for the PR);
- alignment with the PR;
- lack of engagement from some water companies in the new process;
- costs – in particular the cost of the Public Inquiry process;
- frequency of the planning cycle; and
- engagement of stakeholders.

1.2 Scope of Review

In October 2010, Defra commissioned the In House Policy Resource (IHPR) to undertake an independent review of the new statutory process to develop WRMPs and make recommendations on how the process may be improved.

The main aims of the review were to:

- work with key stakeholders and use written evidence to identify:
 - lessons learned from the first round of WRMPs; and
 - opportunities to improve the process.
- undertake an objective assessment of the opportunities to improve the process, focusing in particular on the potential to:
 - reduce the administrative burden;
 - avoid duplication of reporting to regulators, and
 - align the WRMP and PR processes.

- make recommendations to Defra on how the process may be improved while retaining robust planning for security of supply against the increasing challenges for future water supply.

2. BACKGROUND

2.1 Legislative Framework

Water companies have a statutory duty to maintain adequate supplies of wholesome water. The preparation and maintenance of WRMPs became a statutory requirement in April 2007 under the Water Industry Act 1991 [1], as amended by the Water Act 2003 [2]. This sets out the requirement for preparation and publication of a WRMP, describes what the WRMP should address and the need for review and revision. The Water Resources Management Plan Regulations 2007 (“the 2007 Regulations”) [3] set out the consultation process including the handling of representations and the companies’ statements of response as well as the power of the Secretary of State for Environment, Food and Rural Affairs (SofS) to hold an inquiry or hearing. Water Resources Management Plan Directions (“the Directions”) [4-7] provide further detail on additional matters to be addressed in the WRMP.

2.2 Policy Framework

In addition to the legislative framework, Defra requires water companies to follow the Water Resources Planning Guideline (WRPG) published by the Environment Agency [8]. This Guideline provides a framework for water companies to follow in developing and presenting their WRMPs, including the following policy framework.

The overarching objective of the WRMP process is to “look ahead 25 years and describe how each water company aims to secure a sustainable supply demand balance for the supply of water taking into account the implications of climate change and assessing the impact of each option in terms of greenhouse gas emissions”. The WRMP is complemented by the water company’s drought plan [9], which sets out the short-term operational steps the company will take as a drought progresses.

Companies are required to set out a forecast of the demand for water that shows the need for households and non-households (such as manufacturing or agricultural operations) and what they expect to leak from their network of pipes. This initial forecast that they need to calculate is called the “baseline”. This should show what happens to the demand for water over the next 25 years and should include:

- the effect on demand if the company did not change its current practices or policies;
- any effects of forthcoming changes to legislation relating to demand management and related policies that Defra set out to be implemented in the 25 year period, and
- a description of how climate change may alter household and business use of water over the 25 year period.

This is then compared against a baseline forecast of available water supply, assuming current resources and future changes that are known about. Companies should also consider the impact of climate change on supply, and forecast the required level of

headroom to allow for uncertainty in the assessment. Headroom is a buffer between supply and demand designed to cater for specified uncertainties.

This gives a calculated surplus or deficit of water for each year, known as the “baseline supply-demand balance”. Companies aim not to have a deficit. Where there is a deficit, companies should choose water management options to meet the difference. A company’s WRMP should consider the costs and benefits of a range of options and justify the preferred option set. These options should include existing as well as new measures.

The company is then required to prepare a final supply-demand balance, taking into account its preferred options for water management, to demonstrate that the WRMP meets the forecast demand.

A company’s WRMP should be a stand-alone document that provides a realistic strategic plan for managing water resources. Companies should provide evidence in their WRMPs in support of their preferred strategy and full details of the assumptions they have made. Companies should demonstrate a clear understanding of the performance of their systems, the main factors affecting their supply-demand balance, and how their preferred WRMP is both flexible and robust to the various risks and uncertainties, including the potential impacts of climate change.

Once a WRMP has been finalised, the water company must keep it under constant review and report any changes in its annual review to the SofS. If there is a material change at any point in the WRMP, the company must start the process to develop a new WRMP.

The 2007 Regulations provide for the SofS to cause an inquiry or hearing to be held in connection with a draft WRMP if (s)he believes it is appropriate. Hearings and inquiries provide the means of testing the evidence and assumptions in draft WRMPs to decide whether they are fit for purpose and may assist the SofS in deciding whether and how to direct a water company to change its WRMP.

2.3 Roles

The Environment Agency has a duty for long-term water resources planning and is a statutory consultee in the development of WRMPs. As such, it reviews all draft plans produced by water companies operating in England and makes representations on them to Defra.¹

The Water Services Regulation Authority (Ofwat) sets price limits for water and sewerage companies in England. It is Ofwat’s duty to enable water companies to finance their functions. It also protects consumers’ interests by making sure that they receive reliable services and value for money. Ofwat must carry out its duties in a manner that it considers is best calculated to contribute to the achievement of sustainable development. The WRMPs form the supply-demand balance component of the companies’ strategic BPs submitted to Ofwat (see Section 2.4 below).

¹ Here and throughout, similar arrangements apply to water companies in Wales.

2.4 Business Plans and Periodic Reviews

The WRMP shows how a water company will manage its supply and demand for a 25-year period. Water companies must also produce a BP that covers a five-year period. This shows how it will manage its business and where it will spend the money it raises from customers. This plan covers all aspects of the water company's business. If it is a water supply and sewage company, it will contain details of how it plans to manage wastewater as well as water supply. This plan is used by Ofwat to set water company prices for a five-year period.

Water resources management planning and the PR are two separate processes, although in advance of PR09 efforts were made by Defra, the Environment Agency and Ofwat to streamline the two processes to complement each other as far as possible.

The Guideline states that "Ofwat will use the water resource management plans to assess the supply-demand balance element of price limits as part of the Periodic Review of water company prices". It adds that they "should take account of, as far as is possible, the synergies and overlaps that will result from investment in other areas of the business. For example, investment to maintain the serviceability of the network would reduce leakage and the water made available for use should be included in the water resources management plan. Alternatively, some investment to meet water quality obligations may result in a reduction to water available for use."

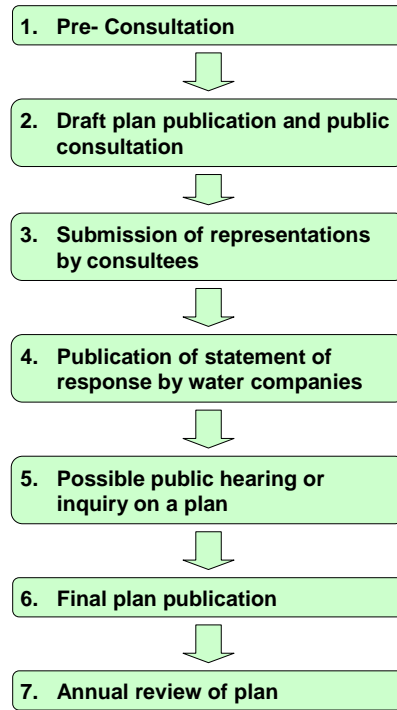
The most recent PR concluded in 2009, covering the five year period from April 2010 to March 2015. The statutory process and timetable for developing WRMPs was intended to link with the PR timetable, with the final Plans due for submission by April 2009. However, the Guideline did acknowledge the possibility that the timetable between the two processes could differ; for example, a hearing or inquiry could delay the final Plan.

The Guideline also noted that "any issues relating to funding are for the company to resolve with Ofwat". It added that if a company had added an option in its WRMP that was not funded by Ofwat, it had two choices:

- it could decide not to proceed with the option and, if that caused a material change to the Plan, it would need to revise its entire Plan again
- it could decide to proceed with the option at its own cost.

2.5 Key stages in the WRMP process

The seven main stages in the WRMP process are set out below:



Stage 1 – Pre-consultation

Before preparing their plans, water companies must consult with the SofS, the Environment Agency, Ofwat and any licensed water supplier that supplies water to premises in the company’s area. The companies can choose how they carry out this consultation. The Guideline states that they “should also consider starting discussions with other groups that may have a particular interest” in the WRMP or are “likely to be directly affected by it”.

Stage 2 – Draft Plan publication and public consultation

Water companies prepare their draft Plans following the Guideline and any relevant Regulations and/or Directions and submit them to the SofS, along with a statement declaring any aspects that they wish to remain unpublished due to their commercial confidentiality. The SofS passes the Plans to the Environment Agency and Ofwat for review in their respective roles as the Government’s environmental advisor and independent financial regulator. The SofS also checks the draft Plans for information contrary to national security and reviews the representations from water companies on commercial confidentiality.

Companies must publish their draft Plans for consultation – both in paper form and on their websites – within four weeks of receiving confirmation about commercial confidentiality and national security from the SofS. The Guideline provides detail on submission format. It also states that “Ministers expect water companies to fully engage the public when consulting on their draft plans” and that companies should “consider how best to communicate and engage with anyone who is likely to be affected by the plan”, e.g. by advising customers when issuing bills, advertising in the local media or placing Plans in public places such as libraries.

Water companies must also publish a statement with the draft Plan to state whether any commercially confidential material has been excluded and they must describe the process for an interested party to make a representation. The Guideline recommends a 12-week consultation period – reminding water companies that it “will include parties who are not familiar with the plan or with water resources planning and they should be allowed a reasonable amount of time to consider the issues”.

Stage 3 – Submission of representations by consultees

This is the period of representation to the SofS and is open to all individuals and organisations. Representations are received by the SofS and forwarded to the relevant company.

Stage 4 – Publication of Statement of Response by water companies

Water companies must produce a Statement of Response (SoR) to representations they receive within the timescales that are set within issued Directions. The Guideline does not provide any guidance on format but states that “companies must contact Defra directly if they have any questions on the production of the statements of response.”

Regulation 4 of the 2007 Regulations specifies the requirements for preparing the water company’s SoR to the representations received. It states that water companies must:

“...prepare a statement detailing—

- (a) the consideration that it has given to those representations;
- (b) any changes that it has made to the draft water resources management plan as a result of its consideration of those representations and its reasons for doing so; and
- (c) where no change has been made to the draft water resources management plan as a result of its consideration of any representation, the reason for this.”

Stage 5 – Possible public hearing or inquiry on a Plan

The Guideline comments that public hearings or inquiries are not expected to be the norm, anticipating that “hearings would be held for a case that requires detailed discussion but does not require a formal inquiry”, while “inquiries will be held where a plan is particularly complex or controversial, or has caused particular local interest”. The SofS decides on a case-by-case basis.

Defra additionally published guides to water companies and stakeholders on hearings and inquiries [10].

Stage 6 – Final Plan publication

In the lead-up to final Plan publication, the SofS may make Directions in relation to a single company or a number of companies. The SofS also has powers to enforce the duty of the water undertaker in relation to publishing its WRMP, including any Directions made regarding the content of the Plan. (Water companies may object to a Direction regarding commercial confidentiality.)

Water companies prepare their final WRMPs and submit them to the SofS. The Environment Agency checks that the plans follow any Directions on behalf of the SofS and the final Plan is checked by Defra to ensure that no information contrary to national security has been added.

Water companies publish their final WRMPs once directed to by the SofS.

Stage 7 – Annual Review of Plans

Before the anniversary of the date of publishing the WRMP, each water company must review its plan and submit a statement of its conclusions to the SofS. This should set out progress on implementing its WRMP and any changes to it. It should make use of the most recent data submitted to Ofwat as part of its annual June Return. There is no legal requirement for annual review statements to be made available to the public.

2.6 First round of Plans

Processes for the first round of Plans (covering the period 2010-2035) are largely complete, with all but two Plans (Portsmouth Water and Thames Water) having now been published. However, inevitably with the new statutory process, it was a learning curve for all parties and a number of concerns have been raised by water companies and others about issues such as the lack of alignment with the PR, the quality of the resulting Plans, the bureaucracy and duplication of effort within the process and the costs involved, particularly those associated with the Public Inquiry process.

The IHPR Review is intended to consider all aspects of this new statutory process and make recommendations on how it can be improved.

3. METHODOLOGY

3.1 Evidence gathering

Primary evidence was sought through structured interviews with 37 key stakeholders comprising: water companies; regulators; and a cross-section of statutory consultees and other interested parties including NGOs and contributors to Public Inquiries. A follow-up meeting was also held with water companies and WaterUK.

Interviews typically lasted between 30 and 60 minutes and notes were made and shared with those interviewed. Details of all those interviewed are at **Annex A**.

The questionnaire, on which the interviews were based (at **Annex B**), was designed to cover the key areas of concern and was structured as follows:

- Overall process, including:
 - what worked well / less well;
 - frequency of the planning period and time period covered by Plan;
 - scope for streamlining, and
 - what, if anything, Defra could do better;
- The Guideline;
- Clarity of the regulators' roles;
- Alignment with the PR process, including suggestions for improvement, and overlap with any other processes;
- Cost of process, and
- Achievement of the WRMP objective.

- At each stage in the process:
 - what worked well;
 - problems encountered, and
 - suggested improvements.

The questionnaire was also sent to national, regional, local authority and parish council statutory consultees and NGOs known to have made representations, the Welsh Assembly Government and Welsh water companies, and the Department for Communities and Local Government (DCLG). The review and questionnaire were also advertised on Defra's website and posted on the relevant local authority Community of Practice. Sixteen completed questionnaires were returned and these are listed in **Annex A**.

Evidence was also sought from a review of supporting documentation including relevant legislation and guidance, Defra briefing to Public Inquiry Inspectors, example final WRMPs, correspondence and papers supplied by water companies. The bibliography is at **Annex C**.

3.2 Approach to analysis

Responses to each of the 54 questions asked during the interview or completed in the questionnaires were analysed qualitatively and, where possible, quantitatively.

There were 9 nine yes / no questions concerning the overarching issues of principle. These covered:

- Scope to streamline process;
- Frequency and length of plans;
- Scope to improve Environment Agency Guideline;
- Definition of regulatory roles;
- Alignment with PR;
- Duplication between processes;
- Achievement of overall objective;
- Openness and transparency of the process, and
- Whether views taken into account without Public Inquiry.

There were also 7 yes / no questions asking about problems at each stage of the process.

For the purposes of most of the statistical analysis, respondents were grouped into three categories:

- Regulators and national Government;
- Industry and industry advisors, and
- Stakeholders (including statutory consultees, NGOs and Public Inquiry contributors).

From this initial analysis of responses to all of the questions, the findings were brigaded under the following headings and are reported in Chapter 5:

- Stages in the process – covering what worked well, problems and improvements at all seven stages;
- Costs – covering estimated costs to organisations of the whole process and the Public Inquiry stage, if relevant;
- Regulatory roles and relationships – focusing on the respective roles of Defra, Environment Agency and Ofwat and consistency between them;
- Overarching process – including frequency and time period of Plans, potential to streamline the process and effectiveness of the Guideline;
- Alignment between WRMP and other processes – covering alignment with the PR and other processes, and
- Achievement of the overall objective.

From these groupings, the following four key areas for action were identified and these are set out, with associated recommendations, in chapters 6 and 7 respectively:

- Alignment of the WRMP and PR processes;
- Clear regulatory roles and transparent arrangements for liaison between regulators;

Policy projects for CLG, DfT, DECC and Defra

-
- Engagement, dialogue and information exchange between regulators and water companies, and between water companies and stakeholders, and
 - Streamlining and improving the WRMP process to improve quality and sustainability of resulting Plans.

In carrying out the analyses and preparing the report, one of the main challenges was to find a way to present the findings in a balanced manner and to judge the optimal course of action given:

- The inherent skew in the process caused by the fact that, while water companies, regulators and key NGOs / statutory consultees have a strong incentive to engage with the Review process, water customers and most statutory consultees were more difficult to engage with and as a consequence were not, numerically, as well represented, and
- That respondents' contributions are likely to be coloured by their particular goals for the WRMP process and for the Review.

The approach taken to test the Review's emerging and draft findings through the Steering Group was intended to ensure that opinions expressed by one sector could be challenged and, where necessary, a shared cross-sector view could be reached on how best to ensure balanced analysis.

Another challenge was to present all the key points raised – some of which overlapped and were interlinked – in a clear way that avoided any unnecessary duplication. The approach taken to distil the Review findings into four areas for action was carried out as a way of trying to improve the clarity and reduce overlap of issues raised.

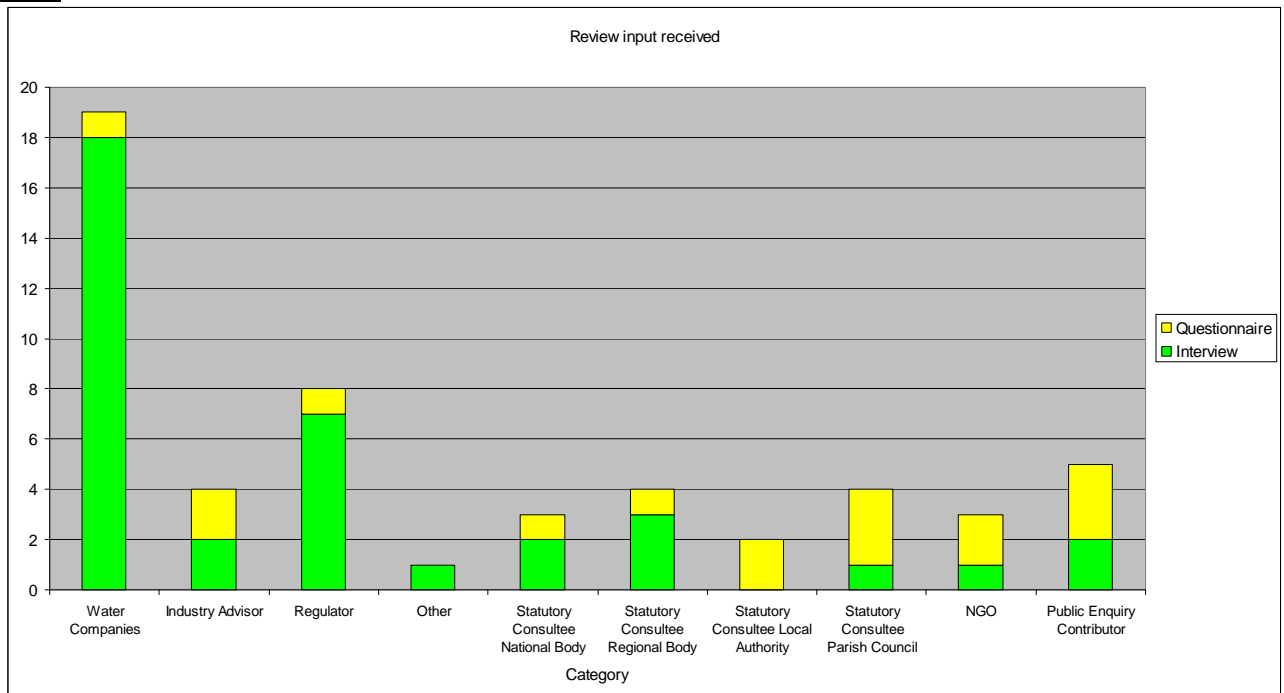
3.3 Steering Group

The Review was overseen by a Steering Group which was convened to provide expert insight to help, guide and challenge the proposed methodology and findings. Chaired by Defra's Deputy Director for Water Supply and Regulation, the Group's membership represented Defra, regulators, industry and consumers. Full membership is listed at **Annex D**.

4. ANALYSIS OF RESPONDENTS

The graph below sets out responses received by sector and type (interview or questionnaire). In total, 37 responses were made through interview and 16 by questionnaire. Respondents are listed in full at **Annex A**.

Chart 1



Of the sectors, the largest input was from water companies and advisors to the industry such as CIWEM and WS Atkins, with 23 responses (19 from water companies and four from advisors), followed by statutory consultees (13 responses) and regulators (8 responses).

Statutory consultees included:

- national bodies such as Natural England and the Consumer Council for Water (CCWater);
- regional consultees such as the Broads Authority;
- local authorities (e.g. Kent County Council), and
- parish councils (e.g. Drayton Parish Council).

In the 'Regulators' category, which also included other Government departments, responses were received from Defra, Ofwat, the Environment Agency (5 responses: one from Head Office and four from regional groupings covering all regional offices²), as well as from DCLG.

² The four groupings of Environment Agency regional offices were: Anglian, Midlands and South West; Yorkshire and North East; North West; Southern and Thames.

Responses were also received from three NGOs (including the RSPB and Waterwise) and from five Public Inquiry participants.

It should be noted that some difficulties were encountered in obtaining a representative sample of respondents. In particular, there were difficulties in:

- securing sufficient engagement from statutory consultees and other stakeholders to balance industry and regulatory input – to fill key gaps, efforts were made to obtain questionnaire responses from bodies such as English Heritage, the Wildlife Trusts, the English National Parks Authorities Association (ENPAA) and the Association of Inland Navigation Authorities. As a result, further responses were obtained from English Heritage and the Wildlife Trusts.
- in engaging with any regional or local representatives outside the South East (because regional and local representatives generally only became involved with WRMPs over controversial infrastructure proposals, which were in the South East) – efforts were made to counter this by asking water companies and regional regulators outside the South East to suggest contacts, but with very limited success. This has resulted in a south-east skew to the process.
- getting Public Inquiry contributors to take a wider perspective beyond the particular issue which interested them – this was obviously more successful with interview responses.

5. FINDINGS: RESPONDENTS' VIEWS ON WHAT WORKED WELL AND PROBLEMS ENCOUNTERED

5.1 Introduction

Chapter 5 reflects the views expressed by contributors to this review about what worked well in the first statutory process and where problems or issues were encountered.

It seeks to achieve a balance in reporting views within and across the three main groupings (industry, regulators, stakeholders), distinguishing perception from fact, where possible backing assertions with evidence or reflecting countervailing views.

The section's core purpose is to set out the views received in a way that enables identification of the areas where action is needed to enable the WRMP process to work better.

To that end, it works systematically through each of the seven stages in the process, and then teases out concerns in four key areas: regulatory roles and relationships, the overarching process, alignment between the WRMP and PR and with other processes, and achievement of the process's objective. Cross-cutting issues are cross-referenced throughout the text.

5.2 Key messages: what worked well and less well

To provide a high-level view of the effectiveness of the first statutory WRMP process, contributors to this Review were invited to set out what they thought had worked well and less well overall, and at each stage in the process. The two sections that follow bring together that feedback to provide a snapshot of contributors' views on the effectiveness of the first statutory process. The key themes raised are then explored in full in sections 5.3-5.8.

5.2.1 What worked well?

In response to the overarching question "What worked well in the first statutory WRMP process?" the most frequently mentioned successful aspect of the process was **stakeholder engagement**. Nearly half of respondents – mainly industry and stakeholders – felt that the "increased openness and transparency", had worked well.

The second most commonly mentioned success – mainly advocated by water companies – was the **structured approach to the process** which, as described by Severn Trent Water, was felt to have "ensured a consistent approach was taken across companies, and meant that we and our stakeholders had a common understanding of what was required at each phase". Water companies felt the Guideline was pitched about right, and most contributors were comfortable with the frequency and overall time period for the WRMP.

Other particularly positive aspects of particular stages of the process were:

-
- Where both sides engaged actively, pre-consultation provided a good opportunity for high-level discussion on water companies' plans and key issues for the regulators;
 - Examples of good practice in public consultation, including clear user-friendly summaries and targeted stakeholder events;
 - Examples of water companies producing a "good, clear" SoR and preparation by some of revised draft WRMPs showing changes made;
 - The effectiveness of the Statement of Common Ground (prior to Public Inquiries) in helping to reduce the number of outstanding issues between regulators and the water company, and
 - Feedback that the Planning Inspectors who led the two Inquiries had done a very good job.

5.2.2 What worked less well?

While these aspects of the process attracted praise, respondents also felt there was scope for further improvement: both in the framework and tools provided by the regulators, and in the quality of delivery by water companies.

A substantial number of industry and regulator respondents highlighted **misalignment between the WRMP and PR processes** as an aspect which had worked less well: it was not clear which process took precedence. There was also scope for better alignment between the WRMP and other processes. The WRMP's long-term sustainability was called into question by some.

Also high on contributors' list were concerns that the **regulators' roles and responsibilities** in the WRMP process were poorly defined, and in particular the roles of the Environment Agency and Ofwat were not always clearly distinguished. There was scope to improve dialogue among the regulators and between the regulators and water companies.

Notwithstanding the general praise for the increased openness and transparency of the process, **many stakeholders found the draft plan and public consultation stage rather inaccessible** – through lack of information, or over-complexity. One Public Inquiry contributor commented "The process is undemocratic, lacks effective public and technical scrutiny and lacks innovation – customers are priced out of the process due to the time and cost involved in understanding the technical documents, including the Environment Agency Guideline".

And although on the plus side the **Guideline** was felt in general to be pitched about right, nearly half of respondents (three fifths from industry, nearly two fifths stakeholders) identified aspects for improvement. The key requests were for greater clarity on the level of prescription, and for guidance to be accessible and timely, and consistent and integrated across all the regulators.

On the matter of **water companies' performance**, the regulators were clear that, while the Plans produced through the first statutory process represented an improvement compared with the results of the previous, non-statutory process, there remained

significant scope for further improvements³. They also felt that water companies were not consistent regarding their preferences for the level of prescription in the process – in some circumstances wanting more prescription, and in others wanting greater flexibility. Ofwat felt that many companies had carried out a box-ticking exercise and did not pay sufficient attention to ensuring that they put forward a robust and internally consistent case for investment. Water UK accepted that it had been a challenge for water companies to respond to the shift to achieve effective public consultation at the same time as satisfying the regulators’ technical requirements.

Other specific aspects of the process felt to have worked less well were:

- Pre-consultation was poorly understood by many, and not used well;
- Requirements at SoR stage were poorly understood by the water companies; the resulting document was not always fit for purpose as the company’s public response to the consultation exercise;
- The two Public Inquiries, while broadly upholding the concerns which had led to their being called in the first place, were felt by nearly all who commented to have been costly, adversarial, difficult for stakeholders to engage with, and an inappropriate forum for the technical debate that was needed.

5.3 Stages in the process

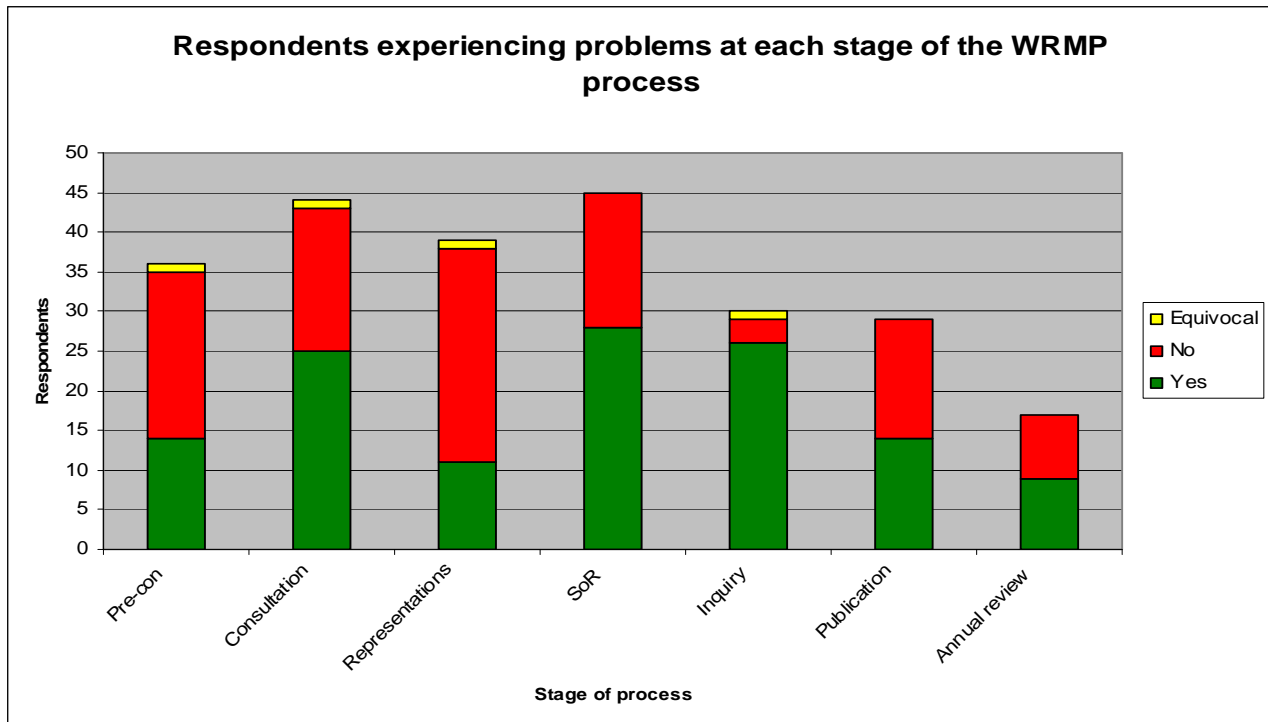
5.3.1 Overview

For each of the seven stages of the WRMP process, contributors to this Review were asked whether they had experienced “problems”. The term was interpreted widely - the problems identified ranged from significant obstacles, via misunderstandings, through to inconvenience or disagreement with regulatory interpretations.

Chart 2 shows the number of respondents (in green) who indicated that they had experienced some kind of problem at each stage. The differing total number of responses to the question at each stage reflects the degree of engagement with that stage – so the Public Inquiry, publication of final WRMP, and Annual Review stages, each for their own reasons, attracted fewer responses.

³ A letter from Ofwat’s Chief Executive, Regina Finn, to Phil Woolas MP, then Minister of State for the Environment, in September 2008, commented “Companies’ latest draft plans reveal some progress compared with their 2004 plans. In particular, they give more attention to environmental and social costs, and to the effects of climate change. Overall, however, there is still room for further improvement.”

Chart 2



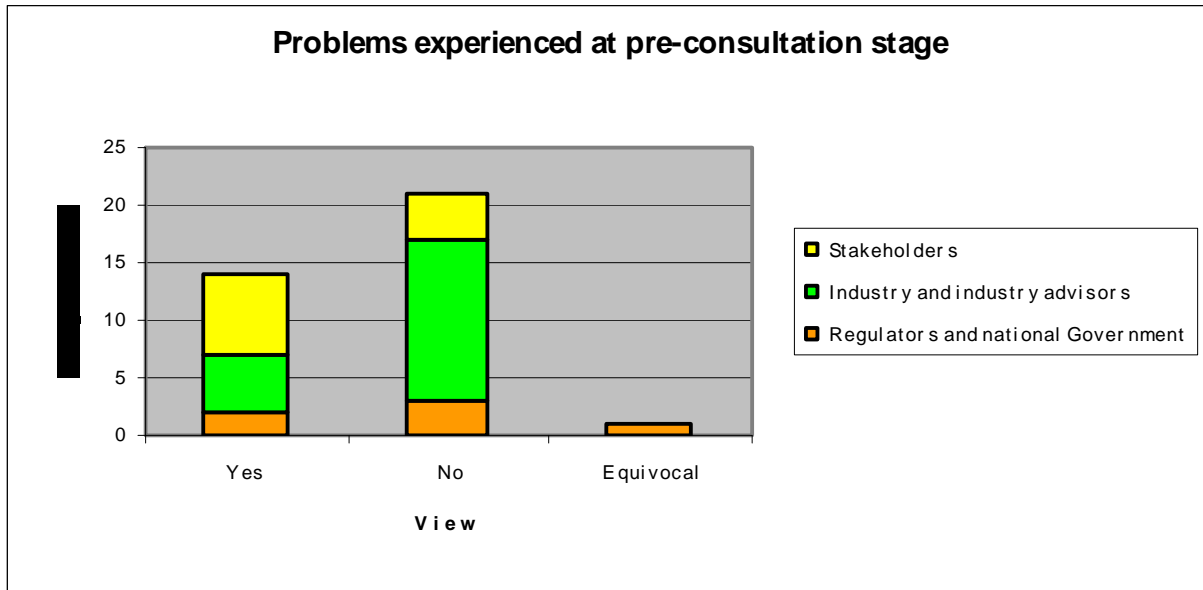
The Public Inquiry stage was, proportionately, the stage that generated most concern (although it is worth noting that it has only affected three water companies, and both the Inquiries held have upheld the concerns which sparked them), followed by the SoR stage. At least half of respondents to the question also experienced problems at public consultation, publication stage and Annual Review, although the absolute numbers for the latter two are much lower, as they have affected fewer respondents.

The sections below take each stage of the WRMP process in turn, exploring what worked well and less well and identifying particular problems needing resolution.

5.3.2 Pre-consultation

Over a third of respondents who commented – see Chart 3 - had experienced difficulties at pre-consultation. The statutory consultees and wider stakeholders who commented were, proportionately, the least satisfied sector.

Chart 3



Water companies generally noted that, if it could be made to work well, a pre-consultation stage was sensible in marking the start line for the WRMP process. Environment Agency regional representatives and Ofwat found it a “good opportunity” to discuss company plans and methodology prior to submission and to direct companies to consider relevant issues. Agency regional representatives felt that when companies actively engaged them and worked to agree their position and technical assumptions prior to consultation, it worked well. Natural England concurred that the process “undoubtedly worked best where there was greater pre-consultation engagement”.

Notwithstanding such pockets of good practice, the greater body of evidence indicated that the effectiveness of pre-consultation was in most areas limited.

Water companies and regulators had different views as to why this was the case. Water companies felt it was caused by the regulators’ failure to set out clearly not only the purpose and requirements for pre-consultation but also their requirements for the WRMP process. At the root of the problem was what one regulatory interviewee described as Defra’s “lack of visibility and ownership of the process”. The Environment Agency, on the other hand, felt that water companies had failed to engage with the process in time, despite significant regulatory input. The Agency also noted that the requirements for pre-consultation were set out clearly in the Direction and that companies were free to ask for clarification.

Whatever the root cause, these opposing views are indicative of failures in communication between the water companies and regulators at the outset of the WRMP process. The result was a lack of clarity in water companies’ minds as to how best to go about pre-consultation, and with whom, which led to a range of responses and levels of engagement.

Some Environment Agency regions also felt hampered by the formal high-level approach to pre-consultation which had led to a less open – and therefore less effective –

relationship with water companies than they had had previously. And some water companies observed that there could have been a closer link to the Strategic Direction Statement (SDS) [11]⁴ required by the PR process, which was published at around the same time. It is not clear whether any water company actually took internal action to join up its SDS with its WRMP pre-consultation process.

Water companies overwhelmingly described pre-consultation as not having added value. They reported receiving “high level” and “generic” responses from the regulators; one said that neither Ofwat nor the Environment Agency gave a considered response, instead referring the company to published guidelines. For their part, the Environment Agency attributed water companies’ perspective to the fact that the companies themselves had failed to engage sufficiently at pre-consultation. While some water companies acknowledged that Ofwat had engaged with pre-consultation, e.g. attending meetings, they did not feel that this was enough. Of itself, this seems indicative of poor expectation-setting in the process given that, as noted above, Ofwat was clearly alive to the communication opportunities offered by pre-consultation (although the regulator did acknowledge water companies’ view that there was scope to make pre-consultation work better).

The legal requirement at pre-consultation stage only extends to consulting the SofS, Ofwat and the Environment Agency (plus any licensed water supplier in the area), so statutory consultees’ and wider stakeholders’ expectation of involvement must be treated with some caution. That said, the Guideline states explicitly that water companies “should also consider starting discussions with other groups that may have a particular interest in the water resources plan or are likely to be directly affected”.

At least some water companies clearly took steps to engage relevant statutory consultees, as some who were involved commented on its usefulness. For example, CCWater praised it as an “early opportunity to feed in points of interest or concerns for the company to address in their plan consultation”. But most who commented (including many who went on to play a full role in the process) found it to be of little use, with little information provided and a lack of engagement. Drayton Parish Council (representing the interests of residents who stood to be affected by reservoir proposals) described it as the “beginning of the failure to effectively deal with reservations about the process”. This, combined with one water company’s reflection that stakeholders provided “limited replies”, is indicative that expectations for stakeholder engagement were not clear to either side.

5.3.3 Draft publication and public consultation / Submission of representations

Chart 4 shows that a majority of respondents who commented experienced problems at draft publication and public consultation stage, but that the process was disproportionately problematic for regulators and stakeholders – analysis of their commentary reveals that

⁴ The requirement for water companies to produce a Strategic Direction Statement at the outset of the PR process was introduced for the first time in PR09. Its purpose, as explained by Ofwat, is to “set out for your consumers, regulators and other stakeholders your direction of travel over the long term – say 25 years hence. This is your opportunity to set out your vision clearly and show how it delivers for your consumers and the environment. Your strategy will help us, and others, to consider your draft and final business plans in a long term context.”

the key concern for both of these sectors was the consultation’s limited accessibility to consultees. Somewhat surprisingly, a majority of industry respondents indicated that they had not experienced problems, although their subsequent commentary tends to pick up the common theme around difficulties with public engagement. Many water companies felt that these reflected the novel nature of the public consultation requirement within the WRMP process, and that they had learned lessons for implementation next time.

Chart 4

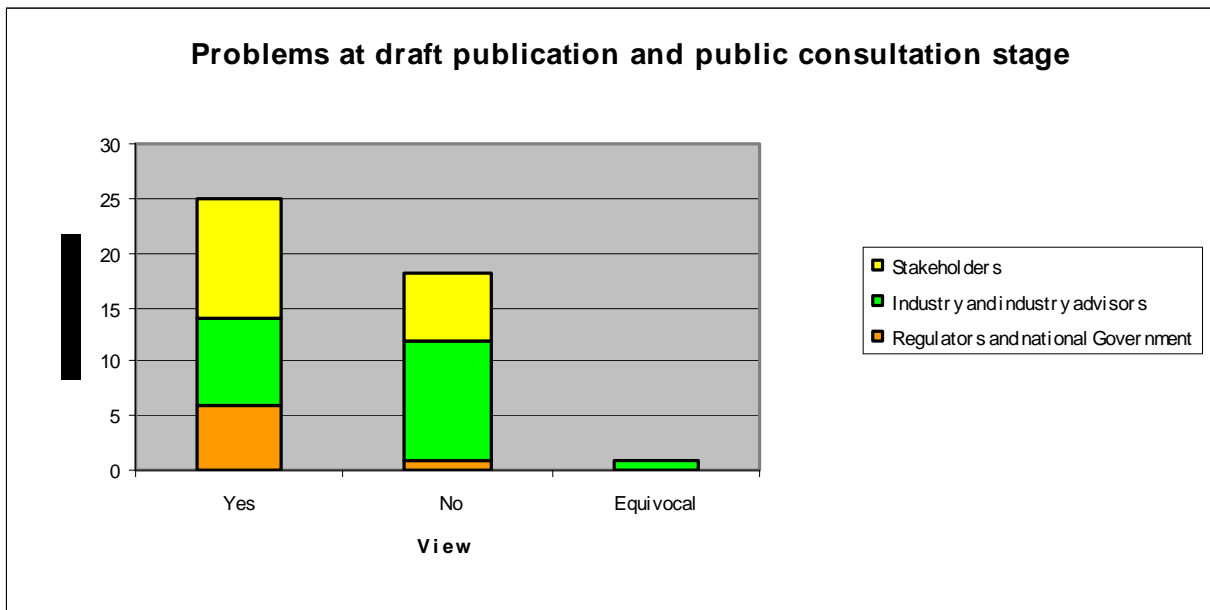


Chart 5

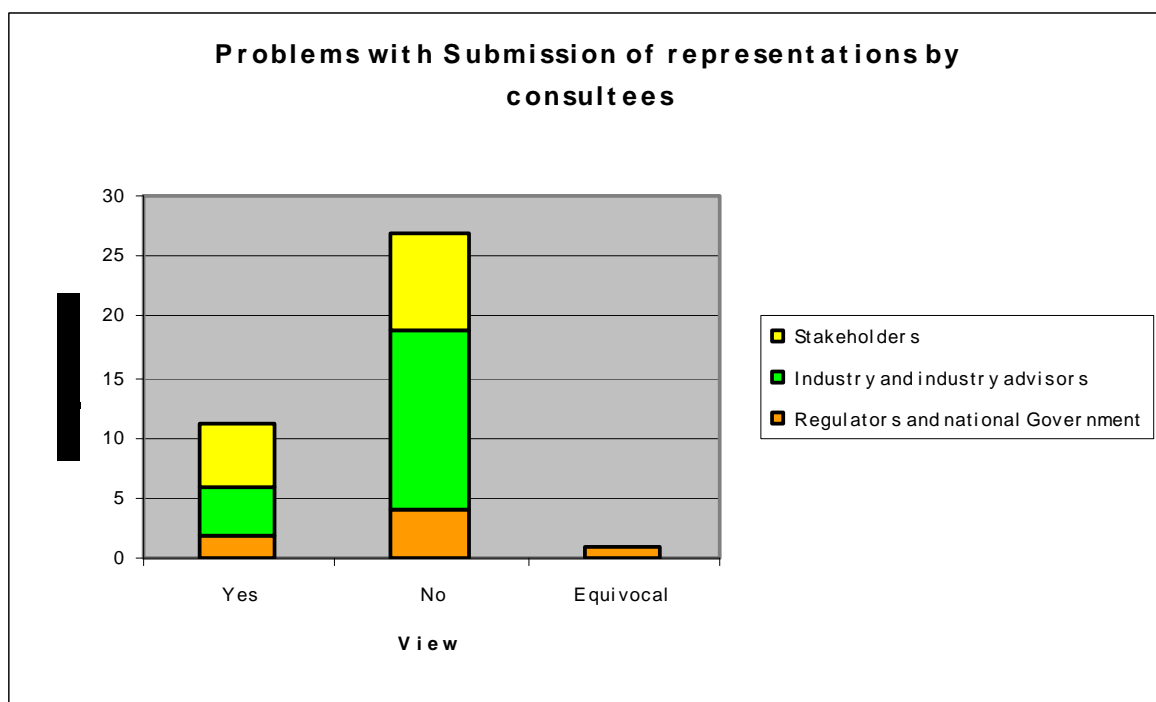


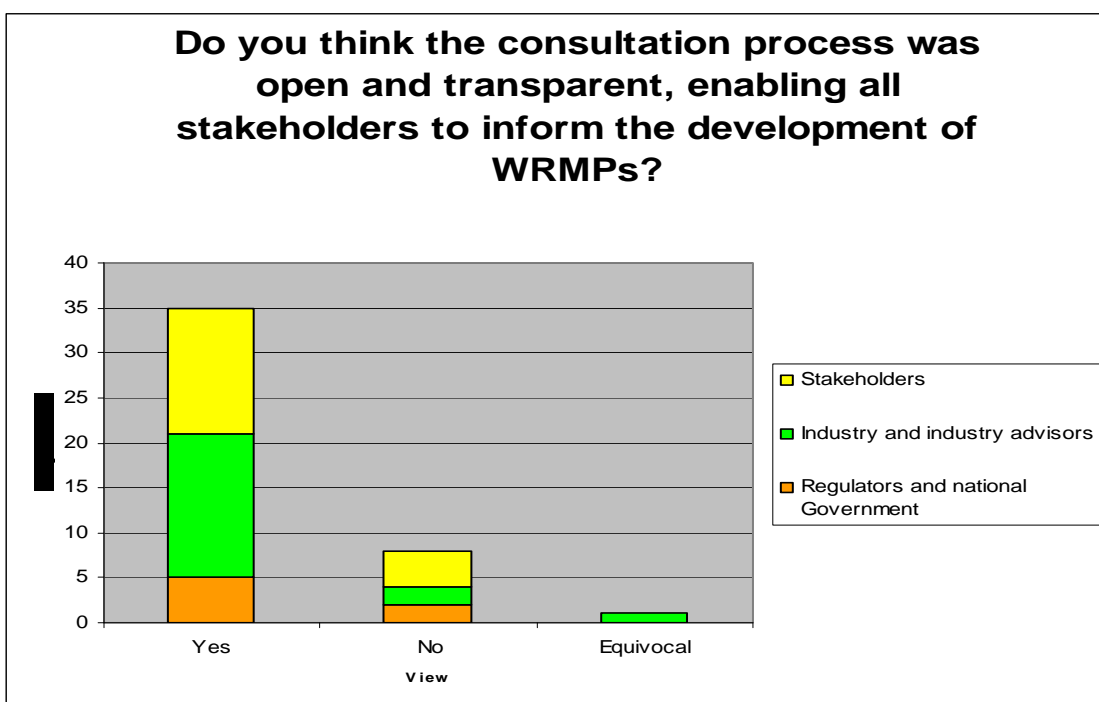
Chart 5 indicates that the process by which consultees submitted their representations was much less problematic: fewer than a third identified a problem, and these almost exclusively related to the consultation process.

Contributors to this Review were asked specifically to give their views as to whether the consultation process had been “open and transparent, enabling all stakeholders to inform the development of WRMPs”. As indicated by Chart 6 below, the majority felt that it had been open and transparent – industry representatives were most certain, stakeholders slightly less certain, and regulators least certain.

Key reservations from the minority who felt it had not been open or transparent were:

- A concern from a water company that many stakeholders were not aware of the consultation;
- Acknowledgement from some Environment Agency representatives that the process needed to be more accessible and understandable to help engage the general public. This was borne out by statutory consultees’ and NGOs’ reservations regarding the complexity of the material and the way it was presented; Public Inquiry contributors felt it was geared towards organisations.

Chart 6



Water companies acknowledged that pre-requisites for effective consultation were a “readable document” (although one company received legal advice that they should not publish a non-technical summary) and genuine engagement with the public: some noted their efforts to place copies of the plan in public places including public houses and village halls; Cholderton and District Water felt it had “worked well” to talk to parish councils.

Some specific examples of good consultation practice were identified:

- The Environment Agency identified some examples of “clear, user-friendly summaries”. An industry advisor particularly highlighted Wessex Water’s plan as being a good example of a highly readable document aimed at the informed public, while CCWater identified several documents, such as:
 - Thames Water’s summary brochure of the planning process;
 - South East Water’s non-technical overview – for an interested/informed reader;
 - Southern Water leaflet – setting out its plans for a wider audience, and
 - Water Resources in the South East Group’s bi-annual stakeholder newsletter – one was produced at the time draft Plans went out for consultation summarising the companies’ strategies and the overriding regional issues.
- Effective stakeholder engagement: the Environment Agency praised the public events and promotion days held by several companies, and the RSPB also described such events as “useful”. CCWater felt that stakeholder engagement was more successful when companies sought to engage directly in a more targeted way. A good example was where Southern, South East and Veolia South East water companies provided a joint briefing session with Kent County Council as all three companies serve parts of the county. Feedback on the event was very positive. CCWater also noted that South East Water and Yorkshire Water carried out a series of roadshows/drop-in events at key locations. However, their success in attracting attendees was largely dependent on how well they were publicised. Some companies like Thames Water chose to hold larger gatherings (in London and Reading) of interested parties to set out plans and use this to identify the groups and individuals who wished to have further direct engagement with, and input to, the development of their Plan.
- Web publication of Plans and supporting reports was welcomed – Natural England described this as having been “particularly helpful”.
- One company welcomed CCWater’s engagement, and in return CCWater welcomed the opportunity provided by the process for companies in water-stressed areas facing similar issues to undertake joint engagement.

In some cases, a company’s proactive approach reaped dividends. Southern Water found that their consultation process had been “very successful in promoting greater openness and transparency”. Consultation on previous (non-statutory) plans had been limited to the regulators; the company secured over 100 responses to its consultation on the first statutory plan (the third largest of all water companies) with a particularly strong response from parish councils and other elected bodies. The company attributed its good response rate to its consultation approach: it had prepared a simple non-technical summary and put a short questionnaire online (most responses came through the latter). Environment Agency Head Office agreed that some companies – although a minority – had engaged fully with the process and made it more open. An Agency regional grouping commented on the useful comments they felt the consultation had generated, including from key organisations such as CCWater, Ofwat, Natural England and wildlife groups.

While the level of water company effort influenced the extent of public response to some degree, a more significant factor in determining the level of engagement was probably the existence of major infrastructure proposals (as evidenced by the broad correlation between the size of the supply-demand deficit to be tackled, and the number of representations received), and most water companies were very disappointed by the lack of public engagement.

Water companies felt that this lack of engagement was mainly down to the highly technical material involved, and felt that it was important to be realistic about the level of public engagement that such a technical process could achieve. Only one company questioned its targeting, wondering whether it had focused its efforts on the right individuals in local authorities. For some water companies, the public consultation process was not helped by their efforts to consult additionally on a Strategic Environmental Assessment (SEA) (see section 5.7.3).

Where stakeholders and the public did engage, water companies struggled to explain to them the WRMP process and the requirements that this placed on companies. As a result, they found that some stakeholder representations “lacked clarity” or referred to issues outside the consultation’s scope. Water companies were also concerned about how to treat responses – e.g. to manage the risk of lobby groups skewing the process (because supporters were less likely to respond) and how to avoid regulators “overshadowing” the responses of other stakeholders.

Water companies also drew attention to constraints on the effectiveness of, and confidence in, the consultation:

- The requirement to publish and consult on the draft WRMP ahead of publication of the draft BP meant that it could not be considered in the context of the wider investment strategy underpinned by the draft BP’s assessment of a wider range of water supply issues (further evidence in section 5.7.2);
- Both companies and Environment Agency regions were frustrated by being unable to pursue an ongoing dialogue during and after the consultation period (because of Agency fears of compromising their technical advice role). Such discussion was deferred until after the consultation closed and often led to later, major changes to draft plans. This caused companies concern that they risked losing credibility in the eyes of their stakeholders and the public. On the other hand, it is clear that dialogue at this stage would need to be treated carefully - the purpose of the statutory WRMP process is to be open and transparent, so ongoing private dialogue between water companies and the Environment Agency could fuel concerns and perceptions of the Agency’s superior power to influence;
- Some felt the credibility of the public consultation exercise was also called into question by the lack of certainty that the agreed strategy would be delivered, given Ofwat’s independent decision-making role on funding (although Ofwat pointed out that certainty would increase if the company put forward a robust case);
- National security concerns preventing publication of the locations of infrastructure proposals.

Stakeholders agreed that there were difficulties in engaging the public, due to the technical subject matter and the inability to identify proposed sites due to national security concerns (RSPB noted that this made it “very difficult for people to engage unless they were ‘in the know’”). However stakeholders also drew attention to a range of other factors which had inhibited their responses to consultation:

- Water companies appeared to be uncertain about the depth of material to place in the public domain for consultation, and this led to inconsistent approaches of varying effectiveness – information was described by one independent consultant as “insufficient”; another noted “inconsistency in volume, content and specificity of information”. Not all consultees had access to all pre-consultation material, nor to the technical reports provided to supplement the Plan;
- The fact that each water company decided how to present its WRMP made it difficult for stakeholders to compare plans from neighbouring companies: Kent County Council commented specifically on the difficulties in understanding the inter-relationships between plans for the five water supply companies in its area, because insufficient information from the Water Resources in the South East group was in the public domain;
- RSPB felt that even the summaries were “too technical and selective”, missing out key pieces of information;
- There was insufficient direct engagement with customers (perhaps partly owing to the formal nature of the consultation process), with the process “aimed at organisations” (RSPB described stakeholder events as being aimed at “the more informed”; one Public Inquiry contributor had found it “difficult for informed individuals” to engage with; another felt it was “geared towards organisations”);
- An independent consultant drew attention to the fact that each respondent “acted alone” as none were able to see others’ representations;
- Some statutory consultees, NGOs and individuals involved in controversial reservoir proposals felt that their comments were not “being taken seriously”. Their perception was that the relevant water companies were not genuinely consulting and had already committed to the proposed infrastructure. One Public Inquiry participant felt that there had been a lack of honesty, with potential “premature dismissal of viable options”.

It should be noted that it proved very difficult to encourage most statutory consultees to engage with this Review. This suggests a further significant failing with the consultation process: that many key stakeholders were not aware of the WRMP process at all. English Heritage and the Wildlife Trusts were both able to provide constructive input to this Review but commented, respectively, that:

“Awareness of, and engagement with, the process was variable nationally. Occasionally regional officers (principally Regional Planners) were invited to pre-scoping meetings, more often we received the draft WRMP and SEA for consultation and sometimes there was no knowledge of the process until the final report was released.”

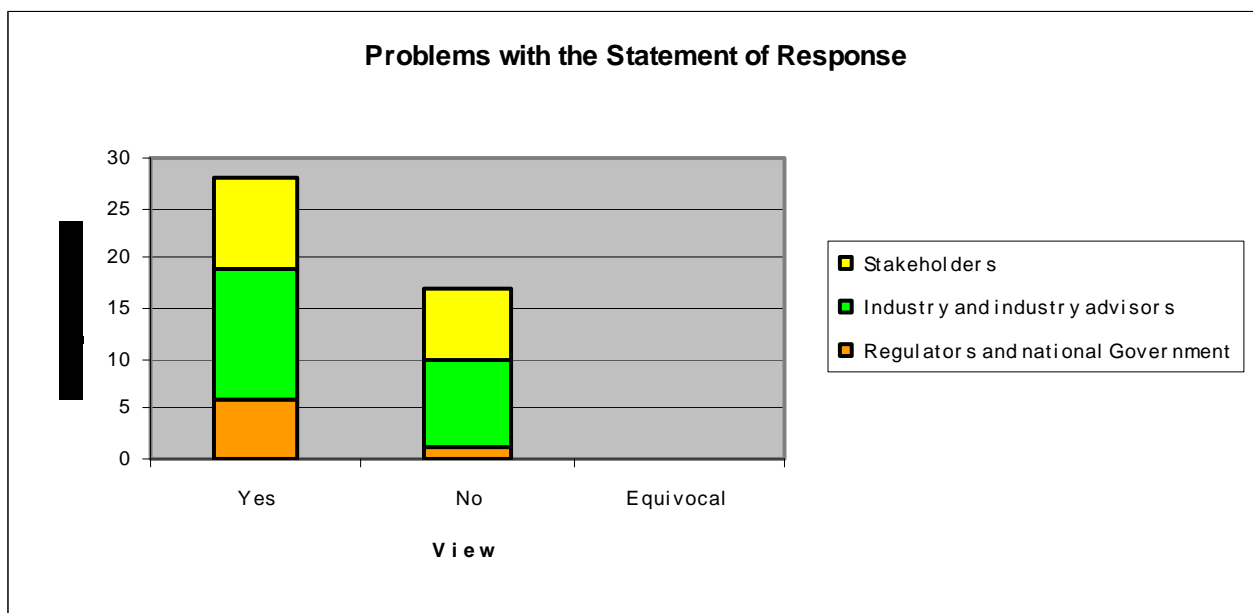
“We are not engaging well with the WRMP process at all.”

Finally, it is worth drawing attention to two practical difficulties encountered at the public consultation stage. The first was “teething problems” regarding national security and commercial confidentiality issues which led to delays in publishing draft plans. The second was the administrative burden on Defra relating to its obligation to take receipt of representations and pass them onto water companies.

5.3.4 Statement of Response

As illustrated by chart 7, over half of water companies experienced a problem at this stage, as did nearly all regulators and a slight majority of those stakeholders who responded. The main issue was a lack of clarity among water companies as to how to address adequately the comments made on their Plans. There was particular uncertainty about the need for a final draft Plan. For most water companies whose final WRMP was not aligned with its final BP, this was the trigger for the misalignment.

Chart 7



Some Environment Agency regions noted that their water companies had “followed the guidance and Directions”, had generally produced a “good, clear response with consultation responses listed and clear explanations of how comments had been dealt with”; some had produced revised draft WRMPs that showed changes made in response to consultation. For such companies, typically those with no supply-demand deficit and therefore few issues to address in their statement, the stage felt easy: one noted that it was “not particularly onerous”. Other companies in this position noted that the stage was “pointless and time consuming”, or that it “added no value”.

But for other water companies for whom the SoR was a substantive task, the main problem was what all three regulators characterised as a “lack of industry understanding” about the requirements of the Statement and “confusion” over the need to provide a final draft Plan. This meant that different companies took different approaches, for example:

- In the absence of a final draft Plan, it was not always clear how companies had committed to actions in their statements, nor how these ultimately affected the Plan;
- Some companies did not submit a full response as required by the Directions, and
- Some companies did not allow themselves sufficient time for the statement, leading to subsequent delays and overlap with the BP process.

Affected water companies, while grateful that Defra had acknowledged the problems described above and had allowed additional time, felt that the problem had been caused by “inadequate guidance” on the Statement and the requirement for a final draft Plan. One Environment Agency region observed that water companies had received conflicting legal advice on the needs of the Directions. In discussion together, water companies noted that there had been inconsistency between Agency regions in what was asked of them. One Agency region also noted uncertainties about its own role (e.g. in its role as Defra advisor how should it deal with comments from third parties which were dismissed by water companies but could not easily be substantiated).

The key complaint of companies which struggled with the SoR stage was that the requirements were “hugely onerous”; an industry advisor felt that the need to provide individual responses to all comments (even when grouped) was “lacking in end value” and “diverted companies from the key job in hand – revising the draft Plan”. This suggests that some in the industry did not appreciate that they needed to be accountable to the regulators and their stakeholders.

One company complained that what it perceived as the late introduction into the process by Defra of a final draft Plan indicated “no appreciation of the work involved”; another was concerned that “insufficient time was allowed” (e.g. to “revisit key elements of the forecasts and then revise the whole plan”). However, Defra commented that there was no requirement for a final draft Plan in support of the SoR. The Regulations (see section 2.5) state (at Regulation 4 (b)) that water companies must detail any changes made to the Plan as a result of consideration of representations received, and (Regulation 4(c)) if there are no changes then the reason for this.

However, many companies responded to representations saying the issue would be addressed in their final Plan. This would not meet the requirement to demonstrate how it had changed the Plan and so, where the changes were significant or numerous, a revised draft may have provided the easiest way of demonstrating these. A particular problem encountered by Ofwat was when one company’s SoR indicated that the company would make a significant improvement but did not articulate this in any detail. When the company published its revised Plan, the “improvement” fell far short of expectations. In such circumstances it would have helped had the water company published revised text – not necessarily a fully revised draft Plan – alongside the SoR (see section 5.7.2 for a further exploration of Ofwat’s concerns regarding how best to ensure water companies implement the commitments in their SoRs).

While the evidence does not indicate exactly where the problem lies on the spectrum between lack of industry understanding and inadequate regulatory guidance, the consequences were clear. For most water companies that experienced a problem with

alignment between the WRMP and PR processes, the delays experienced at SoR stage were at the root of the misalignment.

A separate – but equally important – issue reported by a third of water companies was their perception that the Environment Agency, in its role as technical advisor to Defra, had not been impartial. These companies described the Agency as “focusing on its own comments” and “ignoring those made by other consultees”. Some water companies also felt that the Agency’s operation of its technical advisor role lacked transparency – not least because companies were not allowed to see or input to the advice prior to submission and did not, therefore, have full confidence in its accuracy (although the advice was published once it had been considered by the SofS). These issues are explored in full in section 5.5.3 on the Environment Agency’s role.

The views of statutory consultees and other stakeholders were mixed. The majority experienced no problems at this stage, and a couple of respondents (CCWater and the Broads Authority) acknowledged the advantages of allowing interested parties to see how their representations had been dealt with (although the differences in timing of plans made it difficult to keep track of the progress of different WRMPs). However the minority of stakeholders who engaged with Plans which were subsequently tested at Public Inquiry were underwhelmed by water companies’ responses. RSPB commented that one company’s SoR was “over-complex, detailed and confusing for stakeholders”. Two Parish Councils, CPRE Sussex and RSPB also reported that several companies “ignored the majority of comments” and were “defensive and dismissive” in their replies; two of the individual contributors to Public Inquiries reported a similar experience.

5.3.5 Public Inquiry

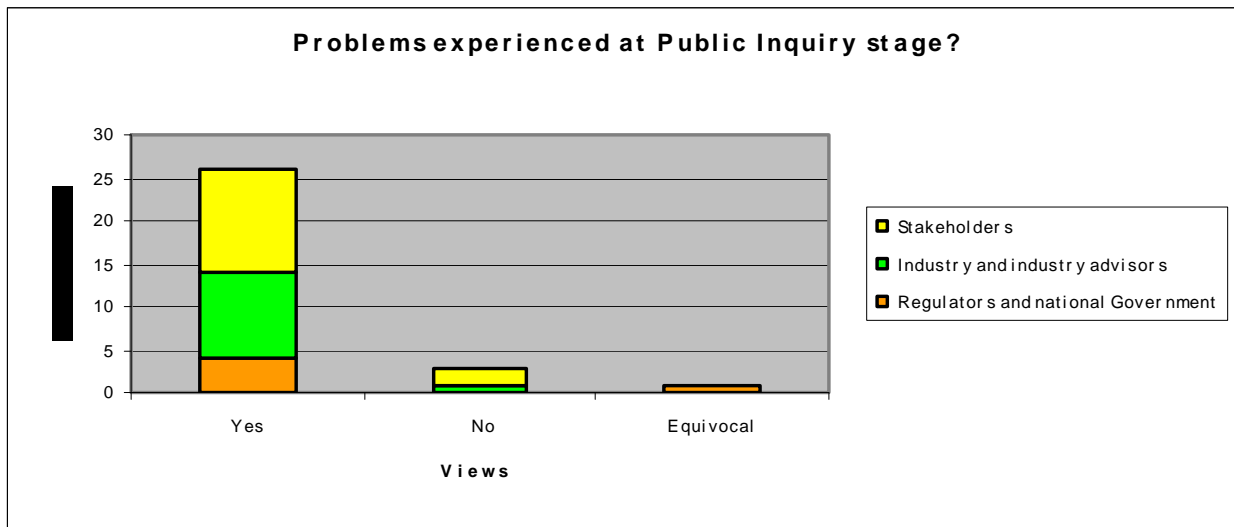
As noted in section 2.5, the Guideline states that the SofS “does not expect public hearings or inquiries to be the norm”. In the first statutory WRMP process, to date, the draft WRMPs of two water companies – South East Water and Thames Water – have been tested through a Public Inquiry. In each case, the Inspector has broadly endorsed the concerns which had triggered the Inquiry [12]⁵. Portsmouth Water’s draft Plan was also to have been subject to an Inquiry, but this was stayed to allow the company to re-consult on a revised draft.

⁵ The South East Water Inspector concluded that, post 2020, there were doubts about the fitness of the plan for the purposes of managing and developing South East Water’s water resources, regarding demand forecasts and the justification for some of the supply side options. The Inspector also raised concerns that reservoir options had not been adequately assessed in terms of their appropriateness and deliverability against alternative options, but concluded that the demand forecasts and the options appraisal and selection were fit for purpose for the period to 2020.

The Thames Inspector concluded that, while the provisions of the revised draft WRMP would enable Thames Water to maintain a secure supply of water over the plan period 2010-2035, deficiencies present in the plan meant she could not conclude that the supply of water during this period would be efficient and economical. Consequently, the Inspector concluded that the revised draft WRMP did not meet the statutory requirements. The Inspector also found that the description of the methodology used in the programme appraisal and options appraisal was not robust with the result that the programme of measures Thames Water proposed to adopt were not fully justified by evidence.

Chart 8 below shows that the Public Inquiry stage caused problems for nearly all respondents who commented, making it proportionately the most problematic stage of the process.

Chart 8



No respondent challenged the need for an independent review process for controversial plans. Indeed water companies specifically acknowledged the need for a “fair process”, and both they and stakeholders concluded that the Planning Inspectors who had chaired the Inquiries had done a very good job (one Public Inquiry contributor described the Thames Inspector as having conducted the Inquiry in an “excellent and impartial manner”). However, some statutory consultees and other contributors, including Waterwise, Ringmer Parish Council and Whitewater Valley Preservation Society, commented that “people with knowledge of environmental issues” would have been preferable to Planning Inspectors. Some statutory consultees drew attention to particular aspects of the Inquiries which had worked well: these included sharing of evidence, the transparency of the process and more scope to explore issues than had been expected.

Among those who commented, there was almost universal consensus that “costly, adversarial” Public Inquiries were not the right forum to debate a strategic and technical document like a draft WRMP, and it was recognised that, because Inquiries were time-consuming, recourse to them further increased misalignment with a water company’s BP. Water companies felt it was not clear who stood to benefit from an Inquiry, and the evidence shows that the two Inquiries held so far failed to meet many of the expectations of stakeholders. In particular, Public Inquiry contributors:

- were frustrated by not being permitted to cross-examine the Environment Agency;
- considered Ofwat’s absence a “cop out” which meant that key financial questions could not be asked, although Ofwat has noted that it specifically offered to provide during the course of the Inquiries whatever relevant information was required for their proper conduct;

-
- were disappointed that it did not enable them to object to a particular scheme, and that the process was not equipped to address the social aspects of water supply and demand.

The fact that the WRMP Public Inquiry format was based on standard planning inquiry practice – to model the procedures and because this was where best practice lay – and that the WRMP Inquiries were also led by the Planning Inspectorate appears to be at the root of stakeholder confusion as to the scope and purpose of the Inquiries.

More significantly, the formality and adversarial nature of the Inquiry process, and the expense of getting involved, made it difficult and intimidating for individuals and smaller NGOs to participate. As the Environment Agency acknowledged, this meant that some stakeholders did not participate (although Ringmer Parish Council noted that the South East Inquiry inspector was “very tolerant of the inexperienced”). CCWater additionally noted that if a stakeholder/consultee like CCWater did not have legal representation at Inquiry, they appeared to have a lower status in the proceedings than groups that had secured legal counsel. Moreover, as CPRE Sussex pointed out, it was difficult for NGOs and individuals to come up with detailed technical proposals as they lacked modelling capacity.

Contributors to this Review provided a number of technical reasons as to why a Public Inquiry had been inappropriate. Key among these were:

- The adversarial nature of the process, which meant that companies were forced to field expert witnesses for their ability to withstand confrontational examination; this did not make for an informed technical debate (which was what was needed);
- The lack of proportion in the Public Inquiry format given the provisional nature of longer-term proposals in the WRMP – a strategic plan including “inevitable uncertainties” beyond 10-15 years. One industry advisor, reflecting wider industry views, pointed out that each of the key elements requiring planning permission would be examined fully as part of the planning process, and, if necessary, might be called for examination at a Public Inquiry. In his view, therefore, it was “not necessary to debate each individual element – which may or may not happen – at this stage”;
- The inappropriateness of Inquiries raising general principles, e.g. the merits of the micro-components approach, a view expressed by water companies. This meant the costs of debating issues of national concern were borne by an individual water company and its customers.

A significant number of practical difficulties were also noted. Defra had experienced difficulties in preparing Inquiry guidelines, as this had to be done from scratch based on best practice, and the actual process, led by the Planning Inspectorate, did not always follow the anticipated steps or timeframes. Defra also felt that liaison with the Inspectorate could have been improved, identifying difficulties in obtaining responses, identifying

inspectors and fixing dates for the Inquiries. It had also proved problematic that it was for the Inspectorate to decide whether a hearing or inquiry should be called⁶.

Statutory consultees and Public Inquiry contributors also highlighted specific problems:

- Some difficulties in accessing information from water companies:
 - One contributor had difficulties in securing the information needed from water companies to inform submission of expert evidence;
 - Natural England reported that confidentiality and security concerns, as well as the format of the information, made it difficult for them to access some key supporting information underpinning options screening;
 - Kent County Council noted that the overall impact of changes to South East Water's draft WRMP was "unclear for a long period; this had made it very difficult for them "to make judgements about the level of consultancy and legal support that we would need. When the revised WRMP was finally made available it then left insufficient time for securing these inputs and preparing our case".
- Geography and logistics:
 - The size of South East Water's area caused problems regarding the location of the Inquiry, although the Inspector did hold some local sessions;
 - One contributor commented that at the South East Water location there was no document storage; a very small room; and no power sockets making it difficult to look at documents on screen.

The industry, regulators and most stakeholders were in agreement that more could have been done to try to avoid recourse to a Public Inquiry – the phrase "a more conciliatory approach" was used repeatedly. One Public Inquiry contributor went so far as to say "We would not have needed the Public Inquiry if the process had been more open and sensible". Ofwat commented that the "process was a very expensive and resource-intensive way of pointing to ways in which a plan could be improved".

In all three cases where an Inquiry was in prospect, development of the Statement of Common Ground (SoCG) between the water company and the Environment Agency resolved "many problems", and the water companies concerned were frustrated that the Agency had not been able to engage before the Inquiry route was decided upon. The Agency had a different perspective: they felt that many of the issues were long-standing and could have been addressed by water companies at the SoR stage – but that it was only the impetus of the SoCG and Inquiry process that led to their resolution.

The industry advisors who contributed to this Review adopted a different stance again, stating that most of the issues upon which the Public Inquiry was called were resolved prior to the Inquiry, and that much of each Inquiry was spent addressing "uncertainties" and "concerns" that could and should have been resolved before, or outwith, an Inquiry.

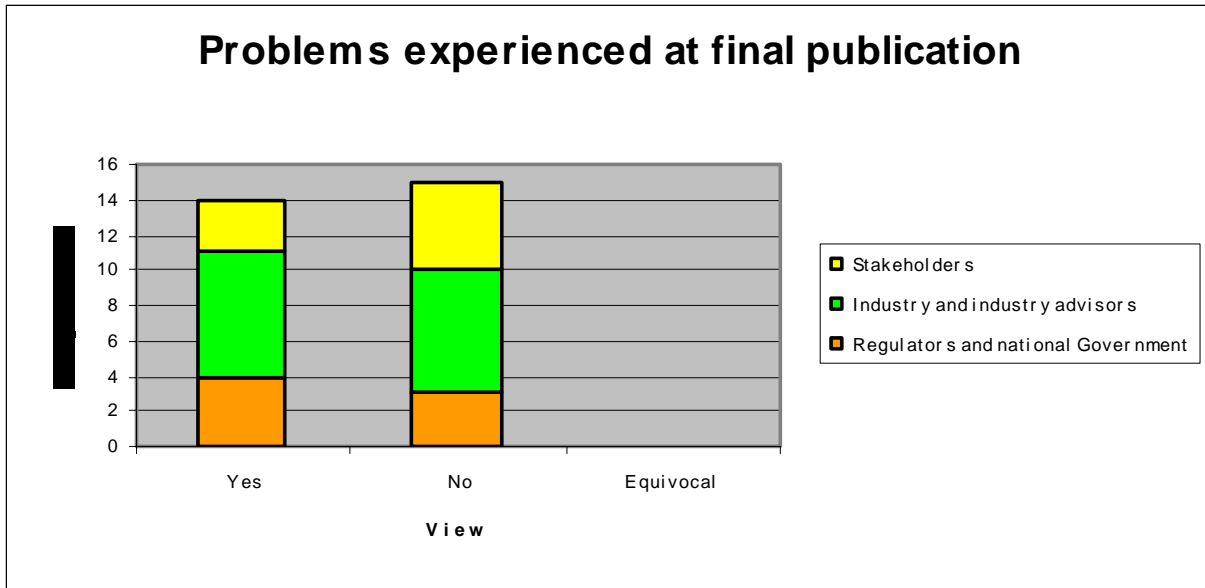
⁶ The Guideline states "It is anticipated that hearings would be held for a case that requires detailed discussion but does not require a formal inquiry. Inquiries will be held where a plan is particularly complex or controversial, or has caused particular local interest."

Defra challenged the industry advisors' perceptions. The purpose of the SoCG was to determine what could be agreed, enabling the Inquiry to concentrate on unresolved issues. However, as a SoCG had only to be prepared between the water company and Environment Agency, it did not necessarily address the concerns of other stakeholders. Where issues were resolved through the SoCG, this enabled the Inspector to concentrate on the issues that remained unresolved. Defra also pointed out that, where issues of concern or disagreement remain following SoR, an impartial process in public was required to address these and provide impartial advice to the SofS. Noting that the Inspectors broadly endorsed the concerns that triggered the Inquiries, Defra nevertheless acknowledged their cost implications and adversarial nature of the process and noted that that it would investigate with the Planning Inspectorate whether alternative processes such as Examination in Public might be appropriate.

5.3.6 Publication of final WRMP

Relatively few respondents commented on the final publication stage, and most of the substantive views came from water companies and regulators. As chart 9 shows, around half of those who commented had experienced problems. These concerns focused around the decisions on final Plans rather than publication *per se*: the key issue being misalignment and inconsistencies between some final WRMPs and the company's final BP and Ofwat's Final Determination (FD). This is explored in full in section 5.7.2 on alignment between the WRMP and PR processes.

Chart 9



Other, more minor, procedural difficulties highlighted by water companies and the Environment Agency related to the timing of publication:

- Timescales were not set for publication of final Plans (there is no statutory basis for this), and the timing of different water companies' Plans was misaligned. This made it more difficult for the Environment Agency to compare plans and provide consistent

advice to the SofS regarding a particular company's final Plan's fitness for publication. One water company pointed out that, unless WRMPs were somehow brought back into alignment across the country, any future guidance would be timed wrongly for some water companies;

- The “lengthy sign-off procedure” in the Agency and Defra (as described by some Agency regional representatives) delayed the approval of Plans. This caused uncertainty among water companies as to when Plans would be published.

Some water companies were surprised that dialogue with the Environment Agency continued after permission to publish had been received: they appear to have assumed that permission meant that no further amendments were needed. For example Severn Trent Water reported that publication of their final WRMP had been delayed by specific questions which they felt “could have been dealt with at Annual Review stage”. In a similar vein, United Utilities had found that the Agency was still coming back with questions even though the company's final WRMP had been published: this meant that some schemes were on hold. At least one Environment Agency region was also unclear on this point, saying that it wanted more feedback and explanation from Defra regarding its decisions on whether water companies should be allowed to publish their Plans, including acknowledgement that, even where the decision had been made to allow publication, the Agency still had issues with the Plan.

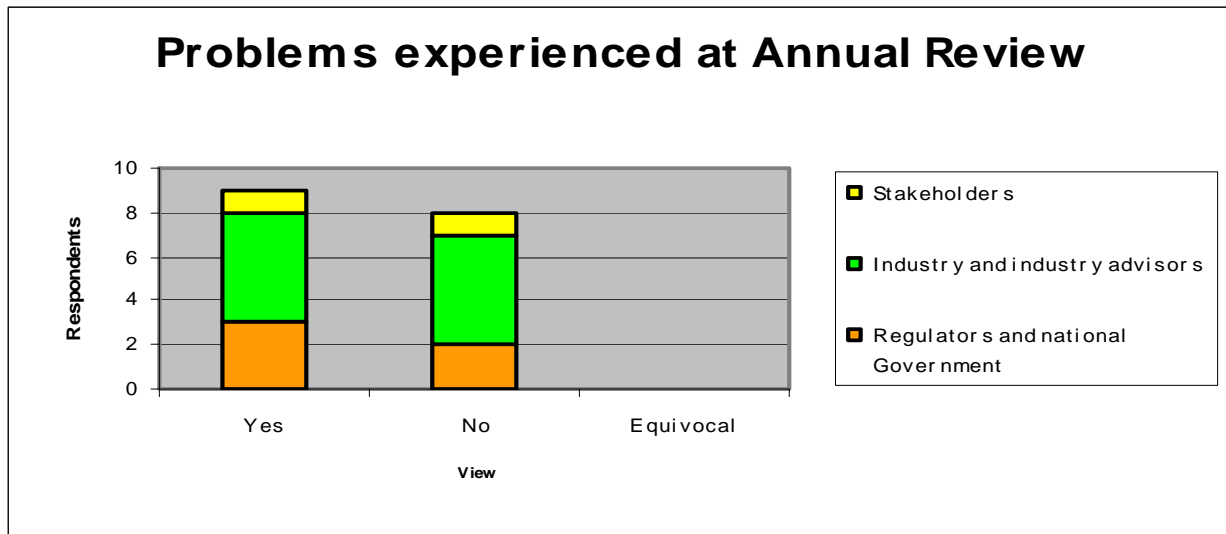
This suggests that, although Defra made clear in decision letters to water companies that there remained areas where the company could make further improvements for the future and that the Agency would contact them to discuss, water companies had not always recognised this.

Stakeholders had few specific comments regarding plan publication; the only comments played back again their concern that the Public Inquiry procedure for South East Water had had little impact – their final WRMP had changed little compared with the pre-Inquiry plan as regards proposed reservoir sites (CPRE Sussex) – and that the Inquiry had not delivered clarity beyond 2020 (Ringmer Parish Council and Whitewater Valley Preservation Society). These reflect the broader lack of understanding among stakeholders of the purpose of WRMPs, their increasing uncertainty over time, and how a Public Inquiry may influence future water resources management planning in a given company. This is discussed further in sections 5.6.2 and 5.8.1 below.

5.3.7 Annual review

As chart 10 shows, there were limited comments on the Annual Review stage – mainly because not all water companies have reached that stage yet, and stakeholders have not necessarily been involved.

Chart 10



The majority of water companies that commented felt that, in process terms, the Annual Review worked well: one characterised it as “short, easy to complete”. The Environment Agency guidance [13] was well received – described by water companies as “clear” and “easy to follow” – although for the first companies to carry out an Annual Review it came “too late to inform the process”. For their part, the Environment Agency acknowledged the lateness of the guidance for some water companies, but felt in general that companies had “responded well to the light touch approach”, following guidance and submitting their Annual Reviews on time. It had therefore been a “straightforward task” for the Agency to advise Defra.

Among those who had experienced a problem there were two key concerns:

- The spread of timing of individual companies’ Annual Reviews over the year, leading to misalignment and duplication with the June Return to Ofwat (although as set out below the real problem appears to stem from companies not taking account of the clear guidance on how to avoid misalignment), and
- For those companies whose final WRMPs do not exactly match Ofwat’s FD, uncertainty as to how the Annual Review process will play out.

The spread of timing of Annual Reviews over the year results from the fact that individual water companies received permission on different dates to publish their final WRMP. For some companies, one consequence of this is misalignment with the June Return to Ofwat. Some Environment Agency regions raised this as a particular concern, noting that the lack of clarity regarding the period covered by the Annual Review led companies to take different approaches: for example United Utilities’ Annual Review did not mention the recent drought because it was published in June and covered the year up until June, excluding the period from June to September. Duplication arose between the two processes either where the data for the June Return was updated for a later Annual Review, or where companies wrote a separate commentary for each. Nearly all the water

companies that commented felt there was a strong case for aligning or combining the two processes.

This Review sought clarification from the three regulators as to the *status quo* and the potential for closer alignment. They explained that it is already good practice to integrate the two processes. The Environment Agency said that the main issue is a practical problem with alignment with the first June Return following publication of the final WRMP. The Annual Review Guidance sets out that it is possible:

- in the first and subsequent years for water companies to submit their Annual Review early (the statutory requirement is “no later than” the anniversary of publication);
- to minimise the duplication of data requirements by using the June Return data set as the information base for both processes, and writing a single commentary to cover both – although the WRMP commentary has to be sent to Defra or Welsh Assembly Government Ministers.

Given that these points are all made in the Guidance already, the basis for water companies’ confusion is not entirely clear. There is no rationale for substantive changes but there is a case for the regulators and industry to discuss what, if anything, could be done to make the current text clearer.

The second – and, in water companies’ view, more fundamental – concern relates to the cases where a company’s final WRMP is inconsistent with Ofwat’s FD (see section 5.7.2 for an exploration of how this may arise). Such companies are concerned that, when they report progress on delivery of annual outputs in the Annual Review / June Return process, in some cases “this is likely to be very different to what external stakeholders might expect to see on the basis of what was included in the companies’ original WRMPs”. Water UK commented that “many stakeholders will not be familiar with the lack of alignment in the two processes and as such they may have expectations for outputs which have not been funded”. Defra and the Environment Agency were relatively relaxed on this point – Defra’s expectation would be for a high-level explanation of where funding decisions had impacted on progress; the Agency’s aspiration was that “changes arising can be explained and accommodated by working towards what is needed for the next Plan”.

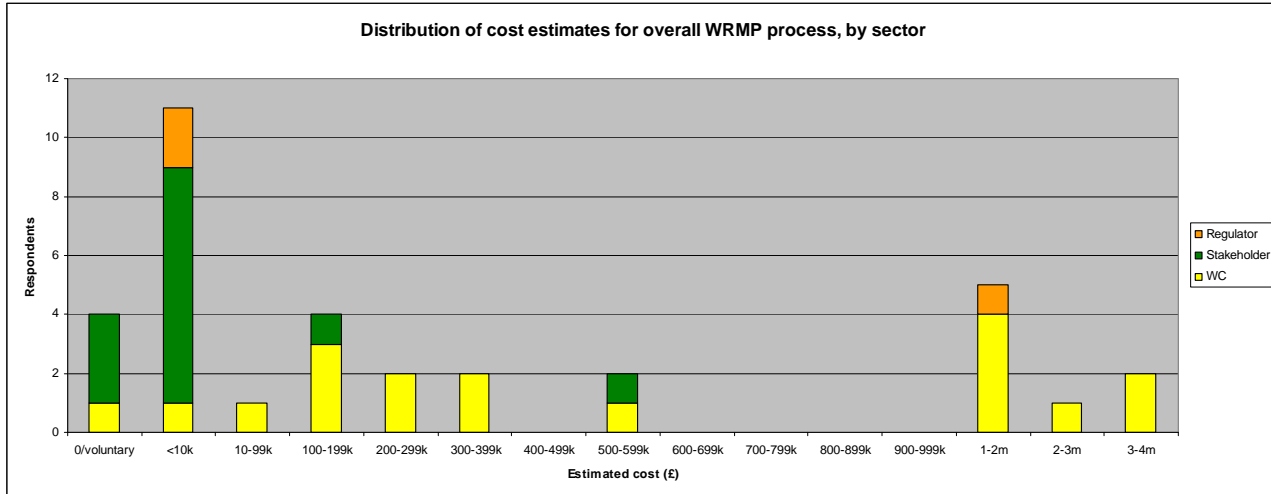
There were no substantive observations from statutory consultees – indeed the only two which commented (Kent County Council and Natural England) noted that they had yet to engage with the Annual Review process. There do however appear to be expectations among Public Inquiry contributors – two of these highlighted the importance of the Annual Review stage for South East Water’s Plan and expressed concern that Review documents were not published or open to them. The Guidance underlines the fact that the statutory purpose of the Annual Review is to provide a report to Ministers; there is no requirement to publish it. However on this point Defra commented that it would be good practice to make it available.

5.4 Costs

Respondents were invited to provide information on the estimated costs of the overall WRMP process – and the Public Inquiry stage, if relevant – to their organisation. Thirty

three chose to do so, comprising 18 water companies, 13 stakeholders including Natural England and two Public Inquiry respondents, supplemented by information from all the regulators. Their estimated costs are shown in chart 11.

Chart 11



The cost data are of limited value for the following reasons:

- They were calculated on inconsistent basis, including some or all of the following:
 - Staff time (and overheads);
 - Consultancy costs;
 - Specialist forecasting (e.g. for property and population), and
 - Legal representation (for Public Inquiries).
- Most of the costs given cover work that would have been done anyway under the former, non-statutory, system and overlapped with what was required for the BP (one water company described costs as being “a little higher” than for the BP alone) and, thus, the estimates do not provide additional costs .

Estimates of overall costs vary widely, ranging from virtually nothing to around £3-4m.

Estimated costs for water companies fell into two broad clusters - £200-400k, and £1-4m. Of the seven larger companies in the latter category, only two had been involved in a Public Inquiry; the others were Severn Trent Water, Southern Water, Wessex Water, Anglian Water and Veolia Central Water.

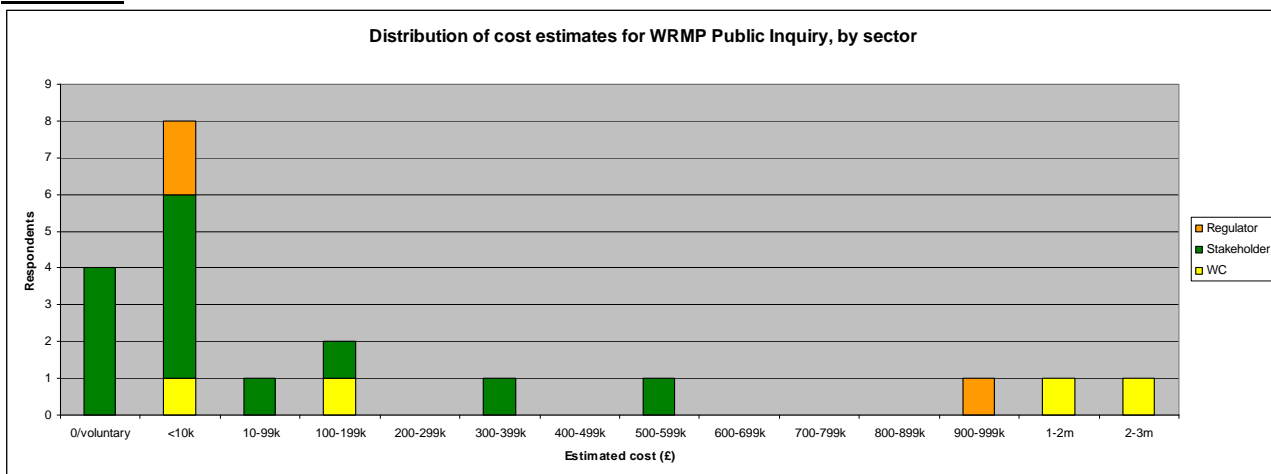
Several water companies provided an estimate of the additional costs of carrying out a statutory WRMP process. For example, one company estimated that an additional £100,000-130,000 (i.e. one third of the total cost) was required to produce a WRMP compared to a BP, while staff costs were approximately double. Southern Water also estimated that around one third of its total cost of producing a WRMP of £1.5m was additional. These costs were generally associated with the requirement to consult publicly.

Smaller companies also noted that the costs (one quoted around £100,000 for the WRMP and £10,000 for the Annual Review), were higher than would have been the case to produce the BP alone. South Staffordshire Water estimated that both staff costs (2-3 Full Time Equivalents – FTEs – for one year) and consultancy costs were incurred and noted that “although a proportion of this would have to have been spent anyway for the BP, this represents a significant amount of money for a small water company with no supply/demand deficit”.

As regards the regulators, comments on overall costs were provided by the Environment Agency and Ofwat. The Environment Agency (Head Office) commented that managing the process had required a substantial resource, primarily staff time in regional and Head Office teams. However, with the exception of its input to Public Inquiries, this input was not significantly greater than it had been under the non-statutory process and it was considered part of its core business. Ofwat also commented that would also have been involved in some way in the review of WRMPs, regardless of the statutory requirement for companies to consult and regarded it as part of its normal business.

Of the stakeholders and statutory consultees that responded, Natural England estimated that the cost associated with the process was around 0.8 FTE at medium to senior grade. However, further staff costs (0.4 FTE) and substantial legal costs were associated with the two Public Inquiries. Most other stakeholders reported costs of less than £10,000, or regarded them as part of routine business. In contrast, it was reported that pressure group, GARD (the Group against Reservoir Development), had spent around £580,000 (mainly on the Public Inquiry).

Chart 12



As chart 12 shows, in addition to the business as usual costs associated with the WRMP process, all three regulators and the affected water companies incurred significant costs in relation to the two Public Inquiries. The Environment Agency estimated that they had cost the organisation around £880,000, of which £450,000 had been spent on barristers and consultants and the remainder on staff costs. In addition, an estimated £100,000 had been spent on the aborted Portsmouth Water Public Inquiry. Ofwat estimated preparation and involvement in the Inquiries had required five weeks of a senior analyst’s time (around £3,500 gross). Defra estimated that the cost of using the Planning Inspectorate had been

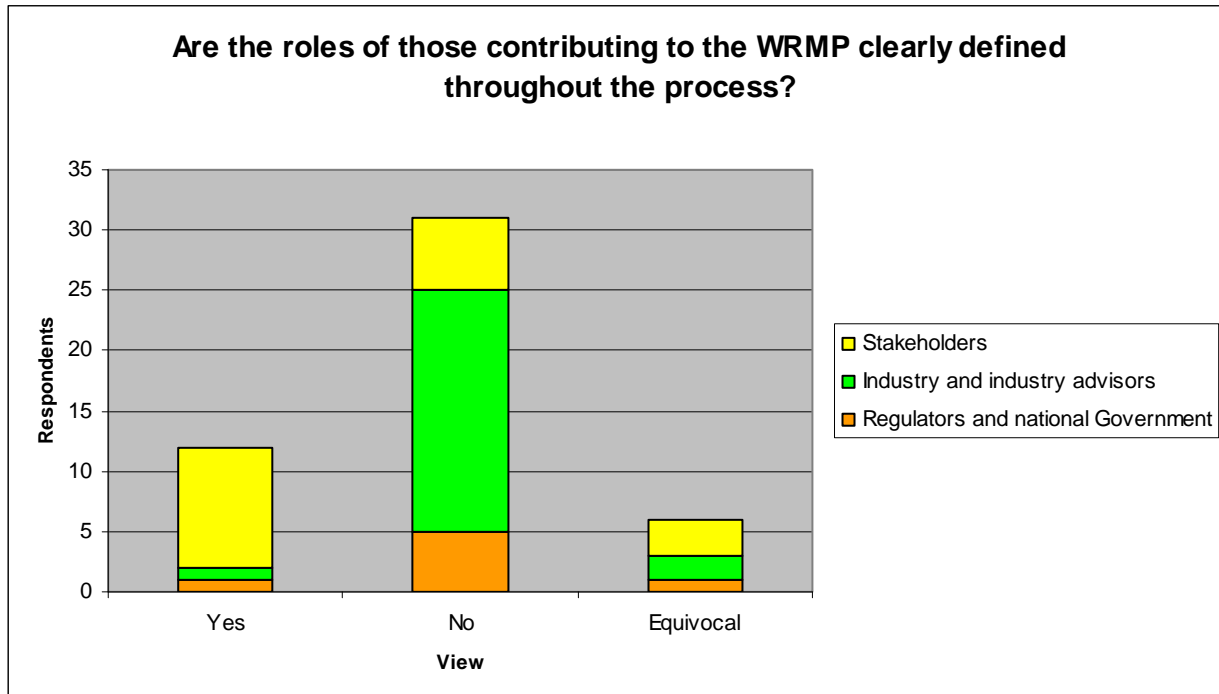
around £300,000, with some of this being paid for by the water companies concerned (and therefore double-counted in water company estimates) and some by Defra. Thames Water's costs were £2.3m, South East Water estimated its costs at £1.2m, and Portsmouth Water stated that it had spent over £100,000, including staff time, on preparations for an Inquiry.

In conclusion, there were some additional costs associated with the statutory WRMP process, largely due to the need for water companies to consult publicly. These varied with the size of company but were estimated to be around one third higher than those required to produce a BP by some companies. However, significant additional costs were incurred by all parties – water companies, regulators and some statutory consultees and stakeholders – involved in Public Inquiries. These were in excess of £1m for some companies and regulators and one pressure group spent £500,000.

5.5 Regulatory roles and relationships

5.5.1 Overarching issues

Chart 13



There was broad consensus across the industry and among regulators (chart 13) that regulatory roles and responsibilities relating to the WRMP process were in general poorly defined and in particular that the roles of the Environment Agency and Ofwat were not always clearly distinguished. Most of the confusion related to the Environment Agency's dual roles of environmental regulator and technical advisor to the SofS. Ofwat's role was less problematic, although not clear to all, particularly statutory consultees and NGOs. Most of the comments relating to Defra were that it lacked visibility in the process and that it needed to play stronger role (a view shared by Defra contributors themselves). Defra and Ofwat each felt that, while their own role was clear to them, it was not always well understood externally. Stakeholders were generally less concerned about the definition of roles – over half of them were satisfied with the *status quo*.

5.5.2 Defra's role

As noted above, the Review provided clear and consistent messages to Defra that it needs to play a stronger role in the WRMP process. Contributors' suggestions for how the Department might achieve this are set out in full in section 6.3.3. They focus on:

- Demonstrating clearer ownership of the process and providing a clearer policy framework;
- Providing greater clarity as to the purpose of the process and the roles of the three regulators, and

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- Taking responsibility for ensuring more effective alignment between the WRMP and PR processes.

Water companies, the Environment Agency and Public Inquiry contributors raised a variety of concerns relating to perceptions about the appropriate balance of Defra, Environment Agency and Ofwat roles in the process, which were effectively summed up by a Public Inquiry contributor who noted that Defra “stood back from the process”. Defra themselves acknowledged this, noting that they had “a more hands off approach” but in part because the Department does not have the technical expertise to engage closely, which is the Agency’s role.

Several statutory consultees, including Natural England, CCWater, CPRE Sussex and Drayton Parish Council, wanted Defra to make every effort to avoid water companies’ Plans being sent to Public Inquiry given the high cost attached. They may not have been aware that Defra gave eight companies the opportunity to provide further evidence in support of their SoR prior to the SoS’s decision as they would otherwise have been called to hearing or inquiry. Defra was clear that, for the two Plans which were subject to an Inquiry, this process was the only way to obtain an impartial view of the evidence on significant and intractable issues of public concern.

Finally, three expert respondents (one industry advisor, and two Public Inquiry contributors) had concerns about Defra’s technical abilities in relation to WRMPs and its lack of experience in relation to Public Inquiries. One felt that Defra should acquire more technical abilities for assessing water company schemes (so as to avoid the Agency playing “judge and jury on many technical decisions because Defra relies on their advice”).

5.5.3 The Environment Agency’s role

As already noted, most of the confusion around regulatory roles centred on the Environment Agency’s dual roles – which the Agency respondents themselves acknowledged to be “confusing”. Some respondents identified further roles played by the Agency which they perceived to be distinct from those of environmental regulator and technical advisor – for example “advisor to companies”, “opponent to companies at Inquiry”, “lobby group” and “campaigner on water issues”.

The Agency’s dual or multiple roles caused three sets of problems:

- Previously open discussion between individual water companies and the Environment Agency was inhibited by the formality of the statutory process – a problem clearly identified by water companies, statutory consultees and Public Inquiry contributors, as well as by the Agency themselves. However it should be noted that the voluntary process also had limitations in this respect, as “open discussion” was limited to water companies and the Agency, with no input from stakeholders;
- Water companies disagreed with the principle that the Agency should be given more than one “bite at the cherry”, i.e. to be a consultee and then to provide technical advice to the SofS, as they perceived a conflict between the two roles, especially where they were undertaken by the same individuals (it was water companies’ understanding that Environment Agency Head Office had a ruling hand over the Agency’s representations

to companies as part of the consultation process, as well as taking responsibility for production of the technical advice report on the SoR). The fact that the Environment Agency had structures in place to separate the two roles, with the Defra advisory role a “rigorous national process informed by regional assistance”, was not clearly understood, and

- At least a third of water companies perceived that the Agency lacked impartiality in its role as technical advisor to the SofS – each cited evidence that the Agency’s technical advice had focused on its own concerns and had “ignored” the views of other consultees.

On this last point, **Annex E** sets out the process followed by Environment Agency national and regional teams in producing an advice report for the SofS, together with two examples of how it works in practice.

The Environment Agency explained that, in considering third party representations, assessment focuses on the significance of the issue raised to the supply-demand balance:

- Where issues raised have no significant implications for the supply-demand balance, these are not mentioned in the advice report.
- Where the water company has provided evidence in response to representations made, again these do not feature in the advice report – as this focuses on improvements and recommendations in relation to the final Plan.
- Where concern has been raised by more than one party, the report highlights only the issue not the respondents expressing the concern – as the report is written as a summary of the major issues that the SofS should consider.

So, in the example given of Severn Trent Water, although both CCWater and the Environment Agency had separately highlighted concerns about trialling and communicating proposed compulsory metering, the advice did not attribute the comment.

The information provided by the Environment Agency demonstrates that a robust process was in place to facilitate a balanced consideration of representations; from the limited examples available, it is difficult to judge the extent to which that worked in practice.

The main stumbling block regarding open dialogue was that the Agency refrained from formal dialogue once it commenced its technical advisor role, and Defra then advised the regulator not to pursue discussion with the water companies for which a Public Inquiry was in prospect, to avoid the perception that the Agency was seeking to exert influence outside of the public process. The result was that, at least where Environment Agency regions observed the advice on dialogue to the letter (see the section below for a commentary on inconsistencies between regions), it was more difficult to address specific problems early in the process (although the Agency felt that this would have been eased had water companies undertaken pre-consultation according to guidance).

One water company noted that:

“The process is far less communicative than it has been in the past where companies and the Agency would debate and agree many issues, by compromise, before production of

the draft plan. The Agency would not comment to companies on the content of the draft plan prior to it going out for consultation as they believed this would compromise their role as advisor to Defra. This was frustrating for companies and costly in time and money as draft plans did not accord with Agency policies and desires, many of which were unknown to the companies.”

The Environment Agency took issue with this water company’s perspective – the process for company-Agency dialogue had not been perfect under the voluntary WRMP process, and the Agency did set out high level aspirations in a 2007 letter issued as part of the pre-consultation process. Moreover it was not correct that the Agency would not comment on the content of draft Plans prior to their publication.

While the water company’s views are strongly held, they must be seen in the context of water companies’ equally strongly held, but contradictory, view that it was inappropriate for the Agency to have multiple “bites at the cherry”. As Defra commented, “the primary role of the Agency is to advise the Minister. So every step beyond that can only be advice or guidance and may be perceived as a second bite”.

The industry separately raised concerns about the consistency of the Agency’s approach across regions and between the regional structure and Head Office. One industry advisor who worked with a number of water companies observed different approaches taken by different Agency regions in their relationships with water companies – “some providing informal advice with others sticking to the more formal routes”. Some water companies reported that informal meetings “helped to iron out problems”.

It was also clear from not unrelated feedback from water companies that the quality of individual relationships between the Environment Agency and companies varied according to personnel, and that a good personal relationship was a helpful – maybe even a key – factor helping to address Agency concerns and thereby smooth the process of WRMP development. A number of companies including South Staffordshire Water reported favourably on their “good” and “informal” relationship with their Environment Agency team. By contrast, the interviewee representing Essex and Suffolk Water and Northumbrian Water felt that the first statutory process had seen a worsening of their dialogue with the Environment Agency.

The Environment Agency for its part recognised the concerns, noting that its Head Office input was designed to ensure that a consistent approach was taken across plans, but stressing that there were tensions between having a “branch in every town” – with the advantages of very local engagement – on the one hand, and maintaining a completely level playing field on the other.

On a separate track one Public Inquiry contributor expressed concerns about the Agency’s level of technical expertise. He felt that “technical expertise is lacking in the process due to staff turnover in the EA. In particular, the EA are ignoring previous research reports produced by the National Rivers Authority”. The Agency felt that this could simply reflect that it had not found the document in question or had reached a different conclusion.

5.5.4 Ofwat's role

Partly as a result of the confusion around the sequencing of decision-making, the extent and clarity of Ofwat's role and responsibilities in the WRMP process were not evident to all.

While some water companies were content that they understood the regulator's role in the process, others, and some statutory consultees, felt that it could be made clearer. Companies had significant concerns about Ofwat's role in relation to funding (addressed fully in section 5.7.2 below): they appeared not to have expected that the regulator would, in its FD, be able to decline to fund aspects of the agreed WRMP. This may be linked to a lack of clarity in guidance as to the status of a final WRMP – see section 5.8.1.

Statutory consultees also saw a need to raise awareness of Ofwat's important independent role in deciding on funding. Ofwat itself acknowledged that, while its role was clear internally, to the outside world it might be less so.

Among water companies there was also a general perception that the regulator did not fully engage with all stages of the WRMP process, particularly at pre-consultation stage, although Ofwat felt that, while there was some room for improvement, it had engaged effectively (see section 5.3.2). Thames Water, while acknowledging that Ofwat had attended pre-consultation meetings, felt that the regulator viewed the WRMP process as being secondary to the PR and therefore had not engaged fully. Even a company which described Ofwat as having been helpful in supporting the company's request for funding for metering, conceded that "they could perhaps have a bigger role in the whole process". Defra also agreed that Ofwat needed to be more integrated into the process, for example by Defra seeking economic advice from them.

Public Inquiry contributors also had concerns about Ofwat's engagement with the process. Those who had been involved with the Thames Water Inquiry were disappointed by the regulator's absence (see section 5.3.5). One contributor added that they felt that Ofwat communicated poorly with the public.

There were individual instances of more fundamental concerns about Ofwat's capabilities. One water company felt that Ofwat lacked the technical skills and expertise to understand water resources management and to know whether what was included in the WRMP was actually needed. A Public Inquiry contributor also commented that Ofwat "lacks technical expertise" to understand a WRMP yet "holds the purse strings". However, Ofwat felt that it had the necessary skills, and commented that it drew upon third party expertise where this was needed. For example, it drew upon engineering advice from its reporters, and it maintained a dialogue with the Environment Agency.

5.5.5 Consistency between the positions of the Environment Agency and Ofwat

The key concern regarding consistency was aptly summarised by Wessex Water: "ultimately, the process's effectiveness was blunted by a lack of coherence between the regulators". There were two points here – perceived differences between Ofwat and the Agency's standpoint, and the impression that the two regulators did not liaise sufficiently.

Different objectives

First, water companies perceived that Ofwat and the Environment Agency had different objectives. The companies felt that this led to “often contradictory” views on key planning assumptions which could result in the regulators taking “contradictory stances” in guidance and risked the result that “conflicting decisions” were imposed, either within the WRMP process, or between the WRMP process and Ofwat’s FD.

Water companies expressed particular concern where the Agency seemed to support an option it considered to be environmentally beneficial, while Ofwat then appeared to challenge it – in dialogue as part of the WRMP process, and then through the PR process - because there was insufficient economic justification. The implication – put forward by respondents, including water companies, statutory consultees and Public Inquiry contributors – was that Ofwat was not giving sufficient weight to the environmental / sustainability drivers for investment.

The main areas where disagreement was evidenced by water companies were the degree of progress sought on metering penetration and on leakage reduction, and the approach to climate change:

- On **metering**, Southern Water had adopted a policy to meter all their consumers, having secured support for this policy from Defra and the EA as confirmed through granting of permission to publish the company’s final WRMP. However, when it came to approving their BP, Ofwat took the different view that funds for metering were justified for only 92 per cent of the company’s customers.
- The discrepancy on **leakage reduction** was singled out by one company “with EA stating that leakage should be reduced whatever the cost and circumstances and Ofwat stating that it would only fund leakage reduction measures if there was a supply/demand deficit”. The company recognised that EA had not considered the economics of this, whereas Ofwat did.
- The **approach to climate change** caused many companies difficulties: Thames Water recounted that “Ofwat elected not to fund climate change driven investment whilst Government and the Environment Agency pushed for consideration of climate change in long-term [water resources management] planning”; Severn Trent Water noted that “the Guideline required us to include the impacts of climate change on our [water resources management] strategy, while Ofwat had stated that climate change driven investment would not be allowed for in the determination of price limits”, and a further water company explained that “the Guideline required climate change impacts to be assumed and modelled from Year 1 of the WRMP and suggested the use of UKCP02 projections. In contrast, Ofwat refused to consider any requests for funding in relation to UKCP02 data, requiring only the most up-to-date data to be used. However, as UKCP09 projections were not yet available, companies took different approaches to climate change in their plans.”

Other areas of disagreement were:

-
- **Planning for sustainability reductions:** for example Veolia Central reported that “Expenditure to fund Sustainability Reductions at two sources were not included in our Draft or Final Determination by Ofwat because Ofwat considered that we would be able to claim compensation from the Environment Agency. This was despite written confirmation from the EA that they would not fund these reductions.” (see also section 5.8.1).
 - **Water efficiency measures** more generally, where the Environment Agency was felt by one water company to be concerned with water efficiency measures to work towards a reduction in individual consumer annual consumption, whereas Ofwat’s view was that additional regulatory funding for the introduction of water efficiency measures would not be provided if there was no supply-demand deficit.

The Environment Agency and Ofwat felt that there was an explanation for many, if not most, of the “differences” and that these did not represent radically opposing policies.

For example, the Environment Agency acknowledged that “the delay in the UKCP09 climate change data was unhelpful to water companies”. The Agency explained that it had already been made clear to companies in the Guideline that they should work on the basis of the UKCP02 figures – subject to any later alterations: “The difficulty was that the delay meant the information was not available in time for companies to use it in their final Plans as we had originally planned, and we did then agree with Ofwat that it would not be appropriate to fund major investment ahead of understanding the new information. This led to the biggest differences between Ofwat funding and WRMPs.”

Contrary to companies’ claims, Ofwat’s policy on climate change, as set out in its published letter to all companies (PR09/27) in February 2009 [14] allowed for ‘modest’ investment driven by the UKCP02 scenarios, but required UKCP09 scenarios to support ‘significant’ investment. In recognition of this policy and the differences between WRMP and FD that it could lead to, Ofwat has the interim determination mechanism (known as IDOK) which allows companies to demonstrate the need for such ‘significant’ investment, evidenced by UKCP09 data, before the next PR.

On leakage reduction the Agency clarified that their position was not to reduce leakage at all costs, but that companies could often do more to reduce leakage (depending on how they calculated their Economic Level of Leakage and other factors). The Agency felt that the issue here was that companies did not provide information on costs and benefits to demonstrate why they had not considered reducing leakage further.

On water efficiency measures, the Environment Agency acknowledged that there was an issue regarding action for the long term that had short term costs attached. The challenge was to give a monetary value to a potential “policy” decision. While Ofwat currently base their decisions on cost-benefit analysis, the Agency felt that there might be a case for a different system.

There was also one key instance where Defra and the Agency’s positions appeared to many water companies to be out of alignment – Defra’s aspiration for *per capita* consumption to reduce to 130 litres per person per day by 2030. In the eyes of many

water companies, this became a target that they thought the Agency wanted companies to have achieved in their Plan.

Defra commented that the reduction in *per capita* consumption was clearly an aspiration for the Department: Defra and the Agency expected water companies to acknowledge this in their Plans and show how they expected to work towards it. The Agency confirmed that this was how it was outlined in all its representations, although it had pushed companies hard on moving towards the Defra aspiration and the term “target” may have been mistakenly used on occasion. This being the case, it indicates a misunderstanding between water companies and the regulators – one which may have been fuelled by discrepancies in presentation.

Lack of liaison

Second, water companies, backed by statutory consultees including Waterwise, considered that the Agency and Ofwat had not liaised closely enough during the WRMP process. This was challenged by the Environment Agency and Ofwat who felt that they had shared views throughout the process, albeit not in a formal way, although the regulators did agree that there was scope to improve the way they presented to water companies and stakeholders how they engaged behind the scenes.

Separately, there were some concerns about conflicting advice on abstraction from the Environment Agency and Natural England, owing to the (perceived) overlap in these roles. South Staffordshire Water highlighted a conflict between the Agency and Natural England over the environmental impacts of abstraction. The company characterised this as “Natural England come up with a list and the Agency investigates. However, there are differences between the Agency and Natural England on whether to sign off the sites as OK”. South West Water cited “contradictory views” from the two organisations on the visual impact of boreholes which they had found “unhelpful”.

5.6 Overarching process

5.6.1 Overview

In gathering evidence for the Review, respondents were asked for their views on the frequency and time period for the Plan, the potential to streamline and process, and the effectiveness of the Guideline. The sections below explore the findings on each of these points.

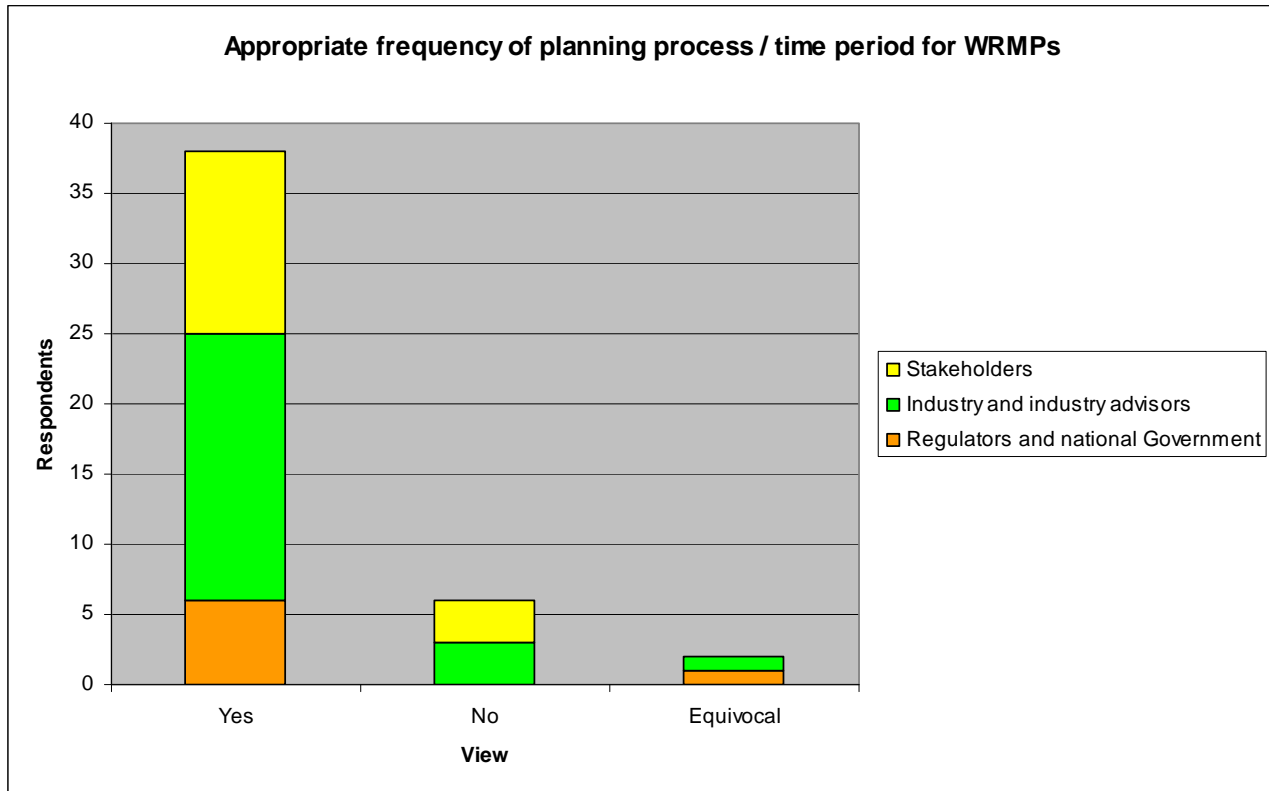
5.6.2 Frequency of WRMP process and time period for Plan

As chart 14 shows, the vast majority of respondents from all sectors felt that the frequency of the WRMP planning process, and the overall time period for WRMPs, were “about right”.

Comments were made mainly by the water companies, with a few from regulators and stakeholders. Many of these qualified their positive response to the question, and three

key messages emerged, regarding appreciation of uncertainty in the process, the case for a longer-term forward look, and the frequency of the planning process.

Chart 14



Uncertainty

First, the need to acknowledge and make clear to stakeholders the “considerable uncertainties underlying assumptions on supply and demand in the longer term” (Southern Water) and address this in the way that the WRMP is structured. (See also section 5.8.1.)

Longer-term forward look

Second, while in general the 25-year overall time period for the WRMP was felt to be about right, some water companies and two Environment Agency regions advocated extending it, or adding a high-level longer-term forward look. The rationale for such a forward look is explored in section 6.5.2.

Frequency of the planning process

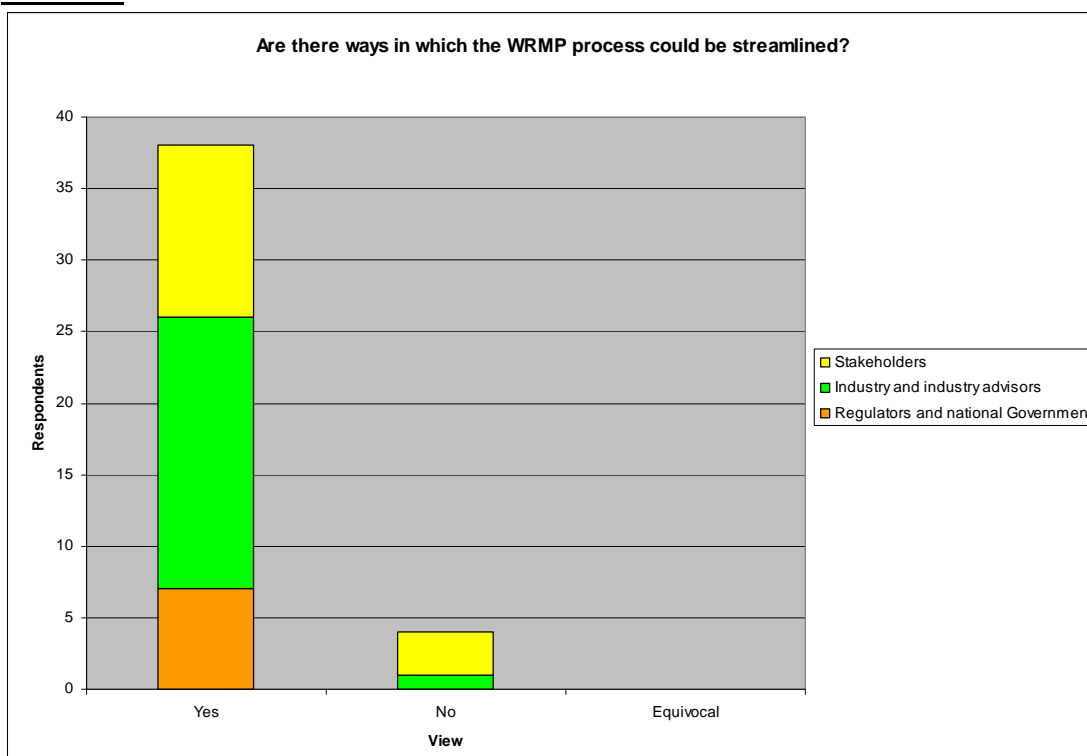
Third, while most felt that the frequency of five years was about right, a few were concerned that it was too frequent. Defra thought that water companies might consider the burden flowing from a five-year WRMP cycle, within which there was a 2-3 year timeframe to complete the process, to be too great, but expected familiarity to speed the process up in future iterations (the Environment Agency agreed). South West Water felt that 8-yearly would be sufficient; a couple of water companies and one Environment

Agency region advocated exploring the idea of a 10-year cycle with a simpler update at the 5-year point. Notwithstanding these comments, though, almost all acknowledged that the WRMP process needed to align with the timing of the PR so, while a five-year cycle was acceptable, the WRMP process would need to follow any changes to the PR cycle.

5.6.3 Potential to streamline the process

As chart 15 below shows, there was almost universal agreement among the industry and regulators that the WRMP process could be streamlined and improved. Statutory consultees and NGOs had more mixed views. For example, CCWater felt that the process had worked pretty well, and Natural England felt that it could not be streamlined.

Chart 15



Other respondents saw scope for streamlining and improving the WRMP process in seven areas, many of which are picked up in other sections of the findings:

- Alignment with the PR process: findings addressed in section 5.7.2;
- Improvement of specific stages in the WRMP process – namely pre-consultation, SoR and public inquiry. Findings are set out in full in sections 5.3.2, 5.3.4 and 5.3.5 respectively;
- Accessibility of consultation and simplification of the resulting WRMP: as noted in section 5.3.3, many stakeholders struggled with the complexity and technical nature of the documentation;
- Increase in the level and effectiveness of engagement between the Environment Agency and water companies, particularly at early stages in the process: the issues are set out in full in section 5.5.3; the key point summarised neatly by one water

company “Full and frank discussions about what changes could be made to a plan to make it acceptable to the Environment Agency might have helped streamline the process.”;

- Integration and timeliness of guidance: many companies struggled with the timing of updated guidance, requirements and policy statements as set out in full in section 5.4.4.

Some water companies additionally suggested that the process could be made more proportionate to the degree of challenge faced by individual companies (see also section 5.6.4 below). Cholderton and District Water Company noted that the Guideline made “no allowance” for a company as small as theirs, for whom some sections were “largely irrelevant or served no practical purpose”. Veolia Water East found that the process had “little benefit for a company of their size, given their robust supply / demand balance, but at the same time cost a lot of money”. Revising the demand forecasts was the most expensive part of the process, and the company did not consider the degree of detail required to be justified in their circumstances. Work to update the Deployable Output for a particular reservoir was considered poor value as it had produced figures which were virtually identical to those produced five years earlier. The requirement to produce options analysis was felt to be excessive when no supply / demand shortfall was foreseen.

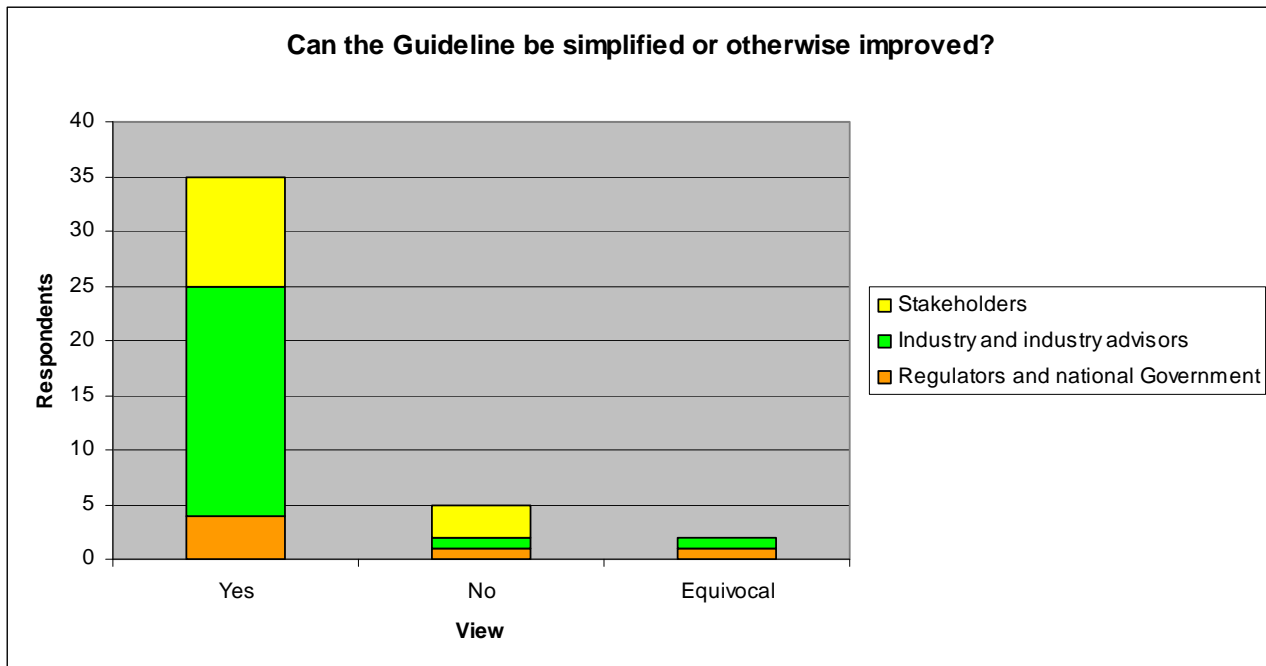
However there is evidently a balance to be struck between minimising burdens and ensuring that sufficient evidence is available at company level to demonstrate that water resources management planning is robust and sustainable at a regional and national level – Ofwat commented that options analysis made inter-company connections easier to identify, thereby addressing the concerns of stakeholders about inconsistencies between Plans (section 5.3.3) and a lack of collaboration between neighbouring water companies (sections 5.8.1 and 5.8.2). The Environment Agency expressed separate concerns about establishing a two-tier system.

A small number of companies and industry advisors felt that there was scope to improve methodologies. Points made included questioning the rationale for each company developing its own methodologies and the scope to speed up the agreement of these. One water company raised concerns that the current process relies on one prediction (“almost a policy aspiration”) of the future, on which a large amount of sensitivity analysis is undertaken. However, this may not be the ‘right’ prediction, for example there is some doubt among water companies that consumption can be reduced to 130 litres per person per day.

5.6.4 Guideline effectiveness

Chart 16 indicates strong consensus on the potential to simplify or otherwise improve the Guideline. Water companies and industry advisors generally welcomed the document and thought it was “pitched about right” although in need of “some updating and sharpening in consultation with industry”. Regulators agreed on the scope for improvement and acknowledged the need to ensure earlier consultation on guidance with water companies. Stakeholders made fewer comments; while some were satisfied, others felt that the Guideline was quite complex and technical requiring translation for the consumer; RSPB suggested a “simplified version” for stakeholders.

Chart 16



The industry made three key requests, for:

- **greater clarity on the level of prescription**, recognising the validity of alternative approaches and acknowledging that it was the responsibility of water companies to justify any alternative approach taken. Eight companies commented on these points. While no specific examples were given, the feedback was that the Guideline was “excessively prescriptive” and / or “too detailed” and that the Agency had a tendency to “interpret too rigidly” and not to recognise the flexibility to deviate; as a result it had criticised companies for pursuing what the companies took to be legitimate alternative approaches (Thames Water, Portsmouth Water and Anglian Water were among the companies which felt that the Agency had failed to recognise alternative approaches). The Environment Agency for their part accepted the need to decide with Defra on the appropriate level of prescription and to make this clear in the Guideline;
- guidance to be **accessible and published in good time**: water companies expressed concerns regarding the lateness of guidance e.g. on national security and on sustainability reductions. Portsmouth Water said that guidance needed to be published early enough to inform the [year of] technical work that precedes the plan. Veolia Water Central felt that its consultation process had been undermined because its draft plan had been based on “an incorrect starting position in relation to baseline availability of water resource” as a result of the notification of significant sustainability reductions by the Environment Agency on the last day of its consultation period;
- guidance to be **consistent and integrated** across the three regulators, ironing out the contradictions identified in section 5.4.4 (the Environment Agency acknowledged the need to “iron out” ambiguities). Water companies were particularly keen to find a way to integrate Defra’s statutory Directions with the Guideline.

There was a further list of specific areas where the industry and regulators felt greater clarity was needed in the Guideline:

The **industry** identified a need to clarify:

- the extent of the statutory requirement: are companies obliged to implement as well as to prepare a WRMP (see section 5.8.1 for consideration of this concern);
- all relevant targets, and distinguish between aspirations and targets;
- aspects of specific stages in the process, namely: the purpose and expectations of the pre-consultation stage, the depth and breadth of requirement for public consultation, and the steps between SoR and final WRMP, including if and when a revised draft was required;
- how climate change projections should be included in WRMPs;
- use of scenarios: Thames Water commented that “the Guideline refers to the use of scenarios and then companies are not permitted to utilise scenarios in determining the preferred programme. This is inconsistent and needs to be reviewed”;
- security advice: as well as being late, this was felt to be impractical, thereby raising questions about the value of consultation;
- the need for a Strategic Environmental Assessment and/or Habitat Regulations Assessment (HRA) to be undertaken: companies also sought guidance as to how these could be integrated into the WRMP process rather than being stand-alone (see also section 5.7.3).

Smaller companies, and those with little or no supply-demand deficit, were keen for the Guideline to facilitate a reduction of the regulatory burden (see also section 5.6.3 above).

Thames Water additionally recommended a review of the “further technical areas” considered at their Public Inquiry (such as the preparation of environmental and social costs), with corresponding updates to the Guideline.

The **Environment Agency** concurred with most of these and additionally suggested:

- that the Guideline could be made more user-friendly (Environment Agency Head Office), including greater use of plain English and examples of, or links to, best practice, to give water companies a clearer view of what they were expected to produce;
- making timescales for each of the stages clearer including more certainty about when Defra responses will be received: this could include instructing companies to be more consistent with plan content and process followed (i.e. standardise consultation period / start dates);
- further technical guidance on option appraisal, to ensure consistency across companies (some statutory consultees and environmental NGOs also commented in detail on this);
- ensuring automation of tables is correct with clear instructions on how to populate and allowing more data checking in tables to allow companies to self-audit.

Statutory consultees and other stakeholders further highlighted the:

- need for guidance to drive greater integration of water resources and waste water planning (also suggested by several Environment Agency regions);
- helpfulness of including definitions of common terminology to aid the lay reader;
- value of defining key information to be included in a WRMP, to facilitate comparison across different companies, and
- potential to improve options appraisal methodology and cost benefit analysis (touched on as above by the Environment Agency).

The full range of technical improvements suggested by contributors is considered in section 6.5 and **Annex F**.

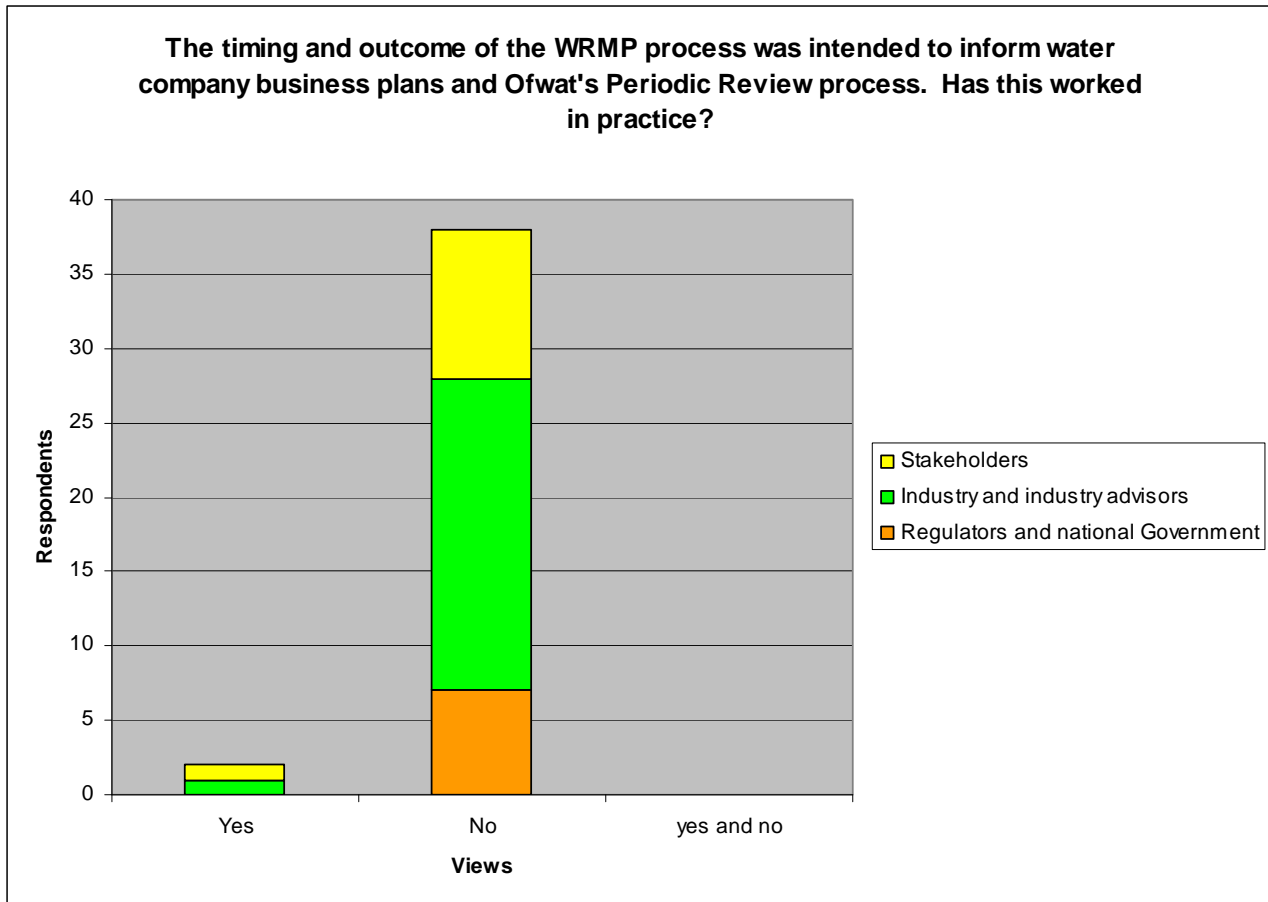
5.7 Alignment between WRMP and other processes

5.7.1 Overview

A central difficulty in the smooth functioning of the WRMP process was that its intended alignment with the PR process failed to work as planned. There were also concerns about the lack of alignment between the WRMP and other processes.

5.7.2 Alignment between processes for WRMP and PR

Chart 17



As indicated by chart 17, there was almost universal consensus among all parties, including the three regulators, that the alignment between the WRMP and PR processes had not worked as had been intended.

There were two main reasons for this. First, failures in alignment of timing at specific stages in the process. Second, a lack of clarity as to the sequencing of decision-making between the two processes. As explored elsewhere, one particular missed opportunity for closer alignment was between the WRMP pre-consultation stage and the PR's SDS.

There was also insufficient alignment at a technical level leading to duplication between the two processes – notably in requiring the same or similar data in slightly different formats, and in auditing elements common to both processes twice.

Some of the issues encountered were symptomatic of this having been the first run for the new statutory process, and are not expected to recur. Others remain in need of resolution.

Misalignment of timing of stages of the process

A few companies, including Anglian Water and United Utilities, managed to align the two processes (though Anglian noted the “considerable effort” this cost them). However, most companies experienced difficulties caused by delays at certain stages in the WRMP process which led to misalignment of timing with the PR. Delays in the WRMP process and consequent misalignment with the PR process were notably associated with:

- resolution of issues of national security and commercial confidentiality prior to consultation on draft plans;
- the SoR stage when many, if not most, water companies were uncertain as to what was required of them (and Defra allowed a three-month extension), and
- the Public Inquiry stage for those companies affected.

The result for some companies was that their final WRMP was not published until after the final BP (indeed, two companies have yet to publish their final WRMP). In some instances this caused technical misalignment (e.g. differences in data) between the two documents. A couple of companies questioned the point of publishing the final WRMP once the FD had been announced: one said it had been difficult to motivate colleagues to produce the final WRMP as, after the FD, it felt like a “tedious public relations exercise”.

There was some dissatisfaction with the timing of publication of the draft WRMP, four months ahead of publication of the draft BP. Concerned contributors felt that this risked limiting confidence in the WRMP’s proposed set of options to address any supply-demand deficit, because the full range of the business’s investment requirements (developed through the BP) was not yet known. Waterwise noted specifically that publication of the draft WRMP ahead of the draft BP made it “difficult for both the companies themselves and their stakeholders and regulators to have confidence in what is produced”. Severn Trent Water felt that they could not be fully confident that “the strategy consulted on in the draft WRMP represented the true, least cost investment plan”. Wessex Water’s evidence bears this out: their BP development process identified a different optimal solution which had to be incorporated into the draft WRMP at a very late stage leading to some difficulties: Wessex had to extend the public consultation phase until the draft BP was published to ensure they could make available all the relevant information consultees needed.

However publication of the draft WRMP ahead of the draft BP was not seen as a problem by all respondents. While Ofwat sympathised with the water company view on the limitations imposed by consulting on the draft WRMP ahead of the draft BP, the regulator felt that compromises had to be made somewhere in the timeline and that the later BP provided an opportunity to capture synergies with other parts of the business. For example the need to maintain infrastructure could reduce leakage and lead to a reduction in the supply-demand balance and therefore reduce the amount of work required. Alternatively, the need to reduce leakage could lead to a reduced requirement for maintenance.

Sequencing of decision-making

A key concern of water companies, echoed by some statutory consultees and acknowledged by the three regulators, was that it was unclear which process took precedence – the WRMP or the PR.

The practical effect of this was that, in some cases, preferred options within final WRMPs – which were consulted on publicly and approved by the SofS for Environment, Food and Rural Affairs (SofS) – were not funded, or only partially funded, by Ofwat as part of its FD of BPs. Affected companies ended up with a final WRMP that was inconsistent with their FD: in at least two cases, this led to a significant financial penalty for the water company under Ofwat's Capital Incentive Scheme.

In Ofwat's view, there was broad alignment between the final WRMPs and its FDs. On climate change, Ofwat explicitly recognised that its FDs would differ from companies' WRMPs in some instances, and introduced a mechanism to bring the two processes back into line as soon as companies' analysis of the impact of climate change was sufficiently robust. This mechanism made updated evidence on the impact of climate change a "Notified Item", which could be used to trigger an interim determination of a company's price limits. Defra and the Environment Agency supported this approach.

On metering, Ofwat has noted that, across England and Wales, its FDs assumed that household meter penetration would increase to 50 per cent by 2014-15, while water companies' proposals assumed that penetration would increase to 52 per cent. Ofwat required companies to demonstrate that their metering proposals were cost beneficial where there was no supply demand deficit to address, taking into account wider costs and benefits. It explained that it would accept proposals where there was a reasonable prospect that unquantified net benefits would bridge any shortfall of quantified benefits compared with quantified costs.

IHPR has explored four examples of misalignment in liaison with Defra, Ofwat and the relevant water companies – details set out in **Annex G**. Three of these (Veolia Water Central, Wessex Water and Veolia Water East) relate to selective metering programmes proposed in the companies' WRMP. As one company explained, the principle behind the inclusion of proposed metering programmes was to enable their continuation on the basis that it would be harder to catch up later to help to address expected (but unconfirmed) future losses of abstraction licences through the Environment Agency's Sustainable Abstraction Programme. However in the event they were not funded by Ofwat because the regulator was not satisfied that they were cost beneficial:

- Wessex Water reported that its proposed metering programme was not raised as an issue during the WRMP process; Ofwat's concerns had only emerged to them in engagement on the BP;
- Veolia Water Central was not able to demonstrate to Ofwat's satisfaction the wider benefits of its metering programme;
- Veolia Water East felt that the regulators had not given a clear signal on the likely prospects of its metering programme.

The fourth example (Sutton and East Surrey Water) relates to the climate change driven element of the company's proposal for upgrading a treatment works – the proposal was

included in full in the final WRMP approved for publication by the SofS, but amended in discussion with Ofwat following the DD.

From the water companies' perspective, the key issues were that they were not getting a clear enough message (or a unified message) from the regulators, and / or that while their standard of evidence was sufficient for proposals to be accepted in a final WRMP, it was not sufficient to be considered for inclusion in price limits. In these instances, it looked as if the WRMP and PR processes had applied different criteria to reach decisions on the proposals in question.

In each of the specific cases described above, Ofwat feels it gave fair warning of its position as evidenced in formal documentation, and that companies had ample opportunity to revise their draft BPs and WRMPs in the light of its comments.

Ofwat observed that, in principle, pre-selection of enhanced metering programmes was one example of an area where misalignment between the WRMP and PR processes could occur as a result of water companies failing to follow the Guideline. The regulator said that a number of companies had proposed such programmes, without justifying their selections by comparison of the costs and benefits of enhanced metering alongside the costs and benefits of other schemes to balance supply and demand. In this respect, those companies failed to comply with both the WRMP Guideline and the Secretary of State's Water Resource Management Plan (No.2) Direction⁷.

Ofwat also expressed some concerns about how best to ensure that water companies delivered on the proposals in their SoR, once permission to publish had on this basis been granted by the SofS. In at least one case, a water company's failure to implement proposals had meant that Ofwat was not able to fund certain elements of the WRMP – for which the company had subsequently criticised it.

The issues for resolution therefore appear to be:

- How to set out more clearly for water companies how the goals of the WRMP and criteria for WRMP approval differ from those of the BP, as well as the need to demonstrate, and the approach to be adopted for, cost benefit for the latter;
- How to enable Ofwat to identify and share concerns with the company at an early stage in the WRMP process (noting that this did happen in at least some of the instances described above);
- What further guidance might be provided / how could methodologies be improved to enable water companies to quantify wider benefits;
- How to ensure that the technical advice to the SofS is more explicit about funding issues attached to particular proposals;
- How best to ensure that water companies deliver on the proposals in their SoRs (a pre-requisite for inclusion in the FD), and

⁷ Ofwat also drew attention to another example of an area where a number of companies had failed to follow the Guideline by assuming too much risk in their planning forecasts and failing to set out the basis of their Levels of Service assumptions.

- Whether there is a substantive ongoing weakness in the PR process regarding proposals with short-term costs that deliver long-term benefits to which it is difficult to attach a monetary value.

This Review has not examined Ofwat’s Capital Incentive Scheme so is not able to comment on the question of one-sided or two-sided adjustments.

Duplication and overlap between the two processes

Chart 18

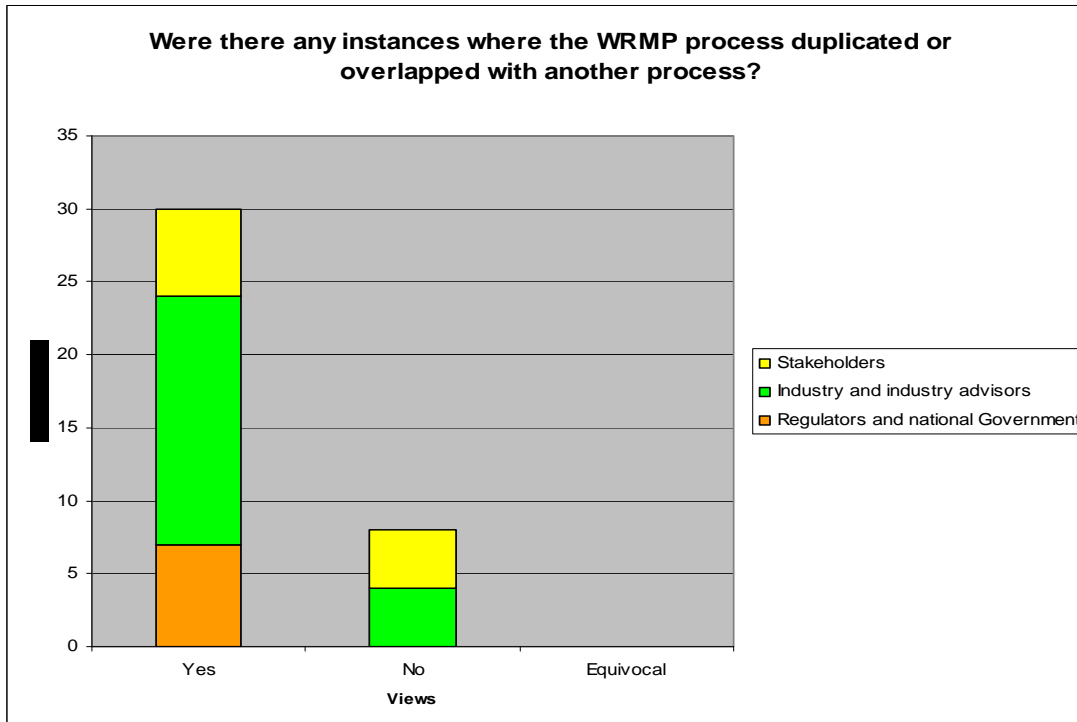


Chart 18 indicates that a substantial majority of respondents felt that there was duplication or overlap between the WRMP process and other processes. Most of the instances cited concerned duplication and overlap caused by the lack of alignment between the WRMP and PR processes. A few concerned duplication and overlap with other processes; these are set out in section 5.7.3 below.

Duplication occurred in three key ways.

- The two processes required the same data in slightly different formats. Companies were asked to produce two supply-demand balances and plans, one for the WRMP and one as part of BP. These not only included duplication, but also required the same data to be handled in different ways and were produced at only slightly different times.
- Water companies felt strongly that the WRMP Annual Review duplicated and overlapped with the June Return for Ofwat (but see section 5.3.7 for an exploration of this point: the Guideline sets out how water companies may avoid duplication).

- Both the Environment Agency and the water companies recognised that there was duplication by the regulators in vetting and auditing plans – notably, as identified by Southern Water, regarding the water balance section in the BP which was effectively a summary of the WRMP, and was audited twice; once by the Agency, and once by the companies’ “Ofwat reporters”. One company found that the Environment Agency and Ofwat audits resulted in “different assessments of the suitability and adequacy of plans to secure long term supply demand balance”.

5.7.3 Alignment between WRMP and other processes

Respondents identified some duplication and significant scope to align WRMPs better with other processes. These are summarised below, and explored fully in **Annex H**, which also sets out the background on current statutory requirements and practice.

A number of water companies, Natural England and Waterwise identified **drought planning** as involving the same people and some of the same outputs, and suggested that they should be more formally linked. The two statutory consultees noted that WRMPs have a key role in building drought resilience and shaping drought response and suggested that, if the two processes were effectively linked, variable tariffs could be used to manage peak demand and reduce dependency on drought permits at the expense of the environment.

As well as wanting clearer guidance on whether a **SEA / HRA was required**, the industry, together with one Environment Agency regional grouping, were concerned by the potential duplication or contradiction (e.g. in options appraisal and public consultation) between the SEA and HRA processes, if undertaken, and the WRMP process. For example, one industry advisor commented that “there is duplication and mismatch between the procedures for WRMPs under the Water Industry Act 1991 and the procedures for SEA under the Environmental Assessment of Plans and Programmes Regulations 2004” [15]. One water company noted that “the accompanying SEA was unnecessarily complex and duplicated much of the work that was done for the WRMP. The draft SEA was published alongside the draft WRMP, but received only two consultee responses and added little value to the development of the WRMP”. The Environment Agency respondent highlighted the inconsistency between “the options appraisal expectations” of the Guideline and the SEA. Natural England also felt that there needed to be a stronger link between the SEA and the WRMP, noting that it was “not always clear how SEA actually influenced the WRMP options appraisal process, e.g. where the most environmentally damaging options become adopted as the preferred options”.

Natural England was disappointed by the failure to integrate WRMP and **waste water planning**. One Environment Agency region also picked this up, suggesting that the development of a Waste Water Management Plan should be considered in the longer term. This would cover appropriate issues for water quality investment and improvements and could be combined with the WRMP to form a Strategic Water Management Plan bringing together all public water supply and waste water issues (as in BPs). This would help consistency and join up activities better, thereby improving efficiency.

The Environment Agency and several others wondered whether the WRMP process could be linked to **River Basin Management Planning (RBMP)** under the Water Framework Directive (WFD) [16]: one region wondered whether there was “any way of making water companies do more in terms of interpreting the results and testing the scenarios” and suggested asking water companies to account for RBMP matters. The Broads Authority also pointed out the lack of integration with WFD water body assessments; they felt that an “understanding of which water bodies are under stress due to quantity and quality issues would have been helpful in evaluating supply / demand options”.

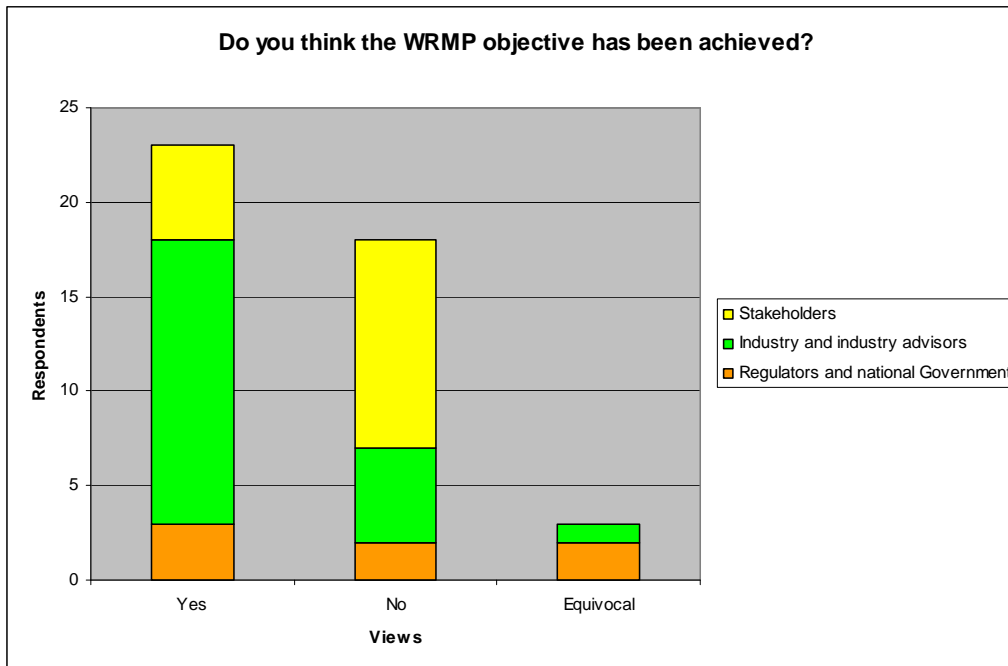
Finally, both the Environment Agency and Natural England drew attention to links with **local development planning** including water cycle studies (carried out by local authorities to work out what significant local development there will be in future and the implications for water resources). Natural England felt that the strategic and long-term nature of WRMPs meant that today’s preferred options might not in future prove to be the most appropriate or sustainable. This had implications for the way WRMPs are used in the preparation of local development plan document and the weight given to WRMP preferred solutions in planning terms. It was suggested that further guidance was needed for local authorities on the use of WRMPs in local development planning.

There are evident potential benefits in closer alignment between planning processes where genuine synergies can be achieved, but Defra feels that the goal should not necessarily be full alignment across all the processes as there is a risk that this might create an unwieldy plan which is too big to be practically manageable. Clearly there is need to achieve a balance which secures appropriate alignment without unreasonably impacting on the regulatory burden.

5.8 Achievement of overall objective

5.8.1 Overview

Chart 19



Respondents' views, illustrated in chart 19, were very mixed as to whether the WRMP process had achieved its overarching objective to “look ahead 25 years and describe how each water company aims to secure a sustainable supply-demand balance for the supply of water taking into account the implications of climate change and assessing the impact of each option in terms of greenhouse gas emissions”.

Although around three quarters of water companies agreed that the overarching objective had been met, many qualified their response. Regulators' opinions were substantially less positive: split almost equally between “yes”, “no” and “equivocal”. Only Defra and Environment Agency Head Office answered with an unqualified “yes”. Statutory consultees and other stakeholders were by far the most critical: a majority (over two thirds) felt that the process had failed to meet its overarching objective.

There were two key concerns: uncertainty as to the WRMP's purpose and status, and evidence of weaknesses in the plans' long-term sustainability.

On the first, there was some uncertainty in water companies' minds as to the extent of the statutory duty, perhaps fuelled by a lack of clarity in the Guideline. While the requirement to prepare a WRMP is clearly enshrined in primary legislation (Section 37A of the Water Industry Act 1991 as amended), there is no equivalent provision requiring the implementation of those Plans. However the Guideline (section 1.2) refers to a statutory duty to “prepare and maintain” a WRMP, and goes on to state that “This is the first time that water resources plans will be statutory.”

Water companies also felt that stakeholders and the public had unrealistic expectations of the WRMP process, and that there was a need to improve public understanding of the “highly provisional and uncertain nature of longer term elements of the plan” (see also section 5.6.2). It needed to be made clear that this was not a substitute for land-use planning decisions, which would come later.

A lack of clarity about WRMP objectives was shared by the regulators. The Environment Agency commented that achievement “depends on the purpose” of WRMPs: other Agency colleagues noted a lack of clarity on what was meant by “sustainable”; they felt that if it was about secure supply / demand balance, then the objective was achieved. But if it was about wider environmental sustainability, then it probably was not. Ofwat felt that the uncertainty over WRMPs’ performance extended to their economic and social sustainability.

Respondents drew attention to evidence of specific weaknesses in the plans’ long-term sustainability in several areas:

- Impacts of climate change not adequately addressed (as explored in section 5.5.5): industry advisors drew attention to the “divergent approaches” taken to climate change, due to the lateness of the UKCP09 data. Many statutory consultees felt that 25 years was too short a period to take proper account of climate change;
- The risks posed by the Water Framework Directive and the Environment Agency’s Restoring Sustainable Abstraction programme were not included. Severn Trent Water commented “The quantity of deployable output at risk from these two drivers is significant, and can be more readily quantified than the highly uncertain climate change related supply risks. However, the Agency’s Guideline instructs companies to exclude these supply risks from the long term strategy. Therefore, we believe that the current plans underestimate the risks to long term security of supply and do not fully quantify the costs of maintaining sustainable supplies in the future.”
- Lack of alignment with related processes (e.g. RBMP process; drought planning) – see section 5.7.3 for full details;
- Options for sharing water supplies not consistently considered: the Cotswold Canal Trust pointed out that each WRMP was based on the needs and solutions of each water company within its own geographical area, and felt that a nationwide approach was needed. Natural England also identified a lack of collaboration between neighbouring water company resource planning where resources were shared or where better outcomes could be delivered for the consumer and the environment if resources were shared. This particularly affected Portsmouth Water and Southern Water, and Severn Trent Water and South Staffordshire Water. Concerns expressed by these and other stakeholders are further explored in section 5.8.2 below.

Natural England raised further detailed concerns:

- Some WRMPs continued to advocate preferred options that are environmentally the most damaging;
- A lack of progress on demand management; Natural England and several others felt that WRMPs were too supply-side orientated and that more work was needed to promote demand-side options in plans (although Ofwat observed to the contrary that the first statutory WRMPs and the accompanying FD’s solutions to restore and maintain the supply-demand balance assumed more savings from demand management than additional water from new sources);
- Mixed awareness and response to issues around population growth and development;

-
- Little action planned to address over-abstraction affecting non-Natura 2000 water bodies (it is unclear whether Natural England was aware that the lack of action reflected guidance from the Environment Agency that such sites could not be included unless definite reduction requirements were known);
 - Only 2 plans appear to propose a reduction in carbon footprint and greenhouse gas emissions and most plans propose an increase in greenhouse gas emissions over the longer term – at odds with *Future Water*. The Environment Agency agreed that this aspect of planning was poorly examined by all sides. Natural England felt that there was a “real need for company plans to ensure the full range of alternative sustainable measures that will reduce future carbon footprint and greenhouse gas emissions have been explored and incorporated into their planning, including a greater emphasis on demand management and source protection”.

A number of expert stakeholders expressed a more general lack of confidence in the quality of the analysis in water resources management planning. Their concerns – which may partly be attributed to the Guideline, and partly to water companies’ implementation of the Guideline - covered:

- the robustness of assumptions (Waterwise: “The assumptions made in the plans are, in many cases, not scientifically robust ... [we have] concerns over the assumptions used to estimate the water savings from demand management interventions”);
- inadequate analysis (CCWater: “...inadequate analysis of consumer impacts of compulsory metering programmes in cost-benefit assessments in WRMPs and absence of any examination of potential affordability issues”);
- deficiencies in options appraisal methodologies (Natural England);
- lack of detail (Waterwise: several companies did not present their plans in sufficient detail to include water efficiency.).

5.8.2 More fundamental sustainability concerns

Beyond the specific examples cited above where respondents felt that the WRMP process was failing to deliver sustainable plans, some more fundamental concerns were expressed about tensions between economic and environmental goals in water resources management planning, leading this Review to reflect on how well the combined WRMP and PR processes are equipped to deliver sustainable long-term water resources management.

The main manifestation of perceived tensions between the regulators’ economic and environmental objectives, explored in section 5.5.5 above, was in the apparently conflicting advice given to some water companies by the Environment Agency and Ofwat.

At a local level, such differences of opinion led to practical difficulties for individual water companies. Systemically, the tensions hinted at the potential for a bias in the PR process towards commercial rather than environmental benefit. Evidence (see below) was gathered from around 10 respondents – mainly statutory consultees, NGOs and Public Inquiry contributors, as well as a couple of Environment Agency regional representatives.

Several of these respondents set their reflections in the context of even broader systemic and strategic concerns as to the extent to which the current framework for water resources management in England supports sustainable long-term water resources management. Factors driving such concerns were:

- privately-owned water companies are motivated by the need to secure a return on investment (already the subject of Ofwat consideration in advance of PR14);
- there are separate environmental and economic regulators (the latter with complementary environmental and sustainable development duties, and a duty to protect the interests of consumers; the former with an environmental brief but no consumer-focused duty);
- the 25-year water resources management planning framework is not yet optimally integrated with other relevant planning processes nor necessarily underpinned by the most effective option appraisal and is reliant for funding on a five-year economically focused process.

Key questions raised by the evidence were:

- **Do the combined WRMP and PR processes enable fair consideration of demand management programmes (e.g. leakage reduction, metering)?**

Natural England noted that progress on demand management had been slow, with a continued over-reliance on the development of new resources even in areas of serious water stress and wastewater pressure (although see Ofwat's observation in 5.8.1 above).

Key suggestions as to why the processes might not adequately support demand management programmes, drawn from views expressed by several respondents were:

- The commercial imperative: CPRE Kent asked: "Has the imperative for water companies to come up with optimal schemes that are commercially beneficial, provide profit and capital investment led to a proliferation of large-scale schemes such as reservoirs rather than looking more deeply at forecasts for demand growth and issues such as climate change?"
 - The PR's five-year frame for investment decisions based on supply-demand balance and economic justification, although Ofwat has pointed out that it required companies to base their option selection over a much longer time frame.
 - Uncertainty. Colin Fenn's report for the WWF Itchen Initiative [17] considers that uncertainty regarding the longevity and scale of savings may have prejudiced adoption of demand side measures. Natural England identified the "difficulties water companies had in translating the long term sustainability merits of early demand management intervention into economic terms that Ofwat could assimilate".
- **Do the combined WRMP and PR processes enable water resources management planning at the optimal geographic scale?**

Kent County Council and the Whitewater Valley Preservation Society questioned whether WRMPs amounted to a sustainable approach across a larger area than covered by a single water company. Kent County Council noted “it was only after a considerable amount of work cross-referencing WRMPs that we identified that one company was planning to move significant volumes of water from the SW of Kent to the NE, whilst another was planning major investments to transfer water in the opposite direction”. Statutory consultees and Public Inquiry contributors in the Thames region drew attention to water sharing possibilities that they felt had been unjustifiably sidelined. The WWF Itchen Initiative paper suggested that inter-company transfers were limited because water resources management planning was designed to meet the needs of customers and stakeholders ahead of regional or national efficiency. The Environment Agency also felt that the benefits to a water company of developing its own resources acted as a disincentive to sharing resources across companies.

The role of Ofwat is pivotal to answering the questions above and prompted this Review to test the extent to which:

- Ofwat fulfils its statutory environmental and sustainable development duties alongside its economic duties;
- whether these, or their implementation, might need to be strengthened, and
- how Ofwat might be able to better support sustainable water resources management at regional or inter-regional scale, where this is environmentally justified.

The paragraphs below bring together possible questions about Ofwat’s performance, with evidence from the regulator which responds to these.

Analysis of the relevant elements of Defra’s statutory guidance to Ofwat on its environmental and sustainable development duties [18] suggests that the available evidence may be used to challenge Ofwat’s effectiveness in achieving a reasonable balance between its economic duties on the one hand, and its environmental and sustainable development duties on the other (quotes in italics drawn from the guidance):

- *“Ofwat is expected to work in partnership with other organisations – including ... Natural England ...”*. To what extent is Ofwat aware of Natural England’s position on demand-side measures, and how has it addressed its concerns?
- Ofwat’s primary statutory duties include a requirement to *“protect the interests of consumers”*. In so doing, what evidence is there that consumers’ long-term environmental / sustainable development interests are being balanced alongside their economic interests?
- Another primary statutory duty is to ensure that *“statutory functions of [water companies] are properly carried out and that they are able to finance their functions, in particular by securing a reasonable rate of return on their capital”*. Is this always compatible with achievement of long-term sustainability objectives?
- *“...sustainable development should be treated as a framework within which Ofwat’s activities take place. Putting this into practice means developing approaches which deliver, and encourage companies to deliver, integrated solutions which generate*

effective economic outcomes that minimise costs, while maximising multiple social and environmental benefits and minimising negative social and environmental impacts.” Based on the evidence above, not all respondents to this Review would agree that Ofwat has achieved an appropriate balance, especially as regards demand management / resource sharing vs. capital schemes.

- “... *the balance between water supply and demand to be carefully considered, with opportunities for water savings and water efficiency more fully examined in the first instance...*”. Stakeholders’ feedback suggests they do not believe Ofwat has achieved this.
- “...*Ofwat should, within the water resources management planning process and in partnership with the EA, encourage more economical and efficient use of water resources by companies through consideration of the need for bulk transfers of water and other shared resources.*” A number of respondents questioned whether Ofwat adequately addressed this.

In response to the reflections above, Ofwat stated that it believes that it takes its environmental and sustainable development duties very seriously. Examples of policy developments reflecting this for PR09 included:

- Extensive clarification of its guidance on the wider (quantifiable and unquantifiable) benefits that companies should associate with metering when developing any proposals for the WRMP / BP. In addition Ofwat took the policy stance that where the costs of proposed metering programmes were less than the quantified benefits, these would be included in price limits where there was a reasonable chance that the gap could be bridged by un-quantified benefits; and
- Amendment of the approach to setting leakage targets to encourage companies to achieve the ‘sustainable economic level of leakage’ by taking into account the wider benefits (and costs to) environment and society of leakage, as well as recognising the value placed by customers on reducing leakage.

In addition, Ofwat’s price limits at PR09 included more than 99 per cent of the quality schemes included in the current National Environment Programme.

Looking forward, Ofwat reports that it is proactively working to improve how it complies with its environmental and sustainable development duties in a number of projects. For example, it is looking at:

- Ways to incentivise companies to trade excess supplies through cross border transfers;
- How to reflect externalities, such as the impact of abstracting water in environmentally sensitive areas, in the assessment of options to balance supply and demand (for example through a shadow price of water);
- Improving its understanding of the UKCP09 climate change scenarios and working in partnership with industry stakeholders such as the Environment Agency, UKWIR (UK Water Industry Research) and Thames Water.

6. ANALYSIS OF KEY ISSUES AND POTENTIAL SOLUTIONS

6.1 Introduction

Four key messages emerge from the findings:

- Action is needed to ensure **improvements to alignment of timing and process**, coupled with **effective sequencing of decision-making** between the WRMP and PR processes and streamlining of data requirements and regulatory auditing.
- Action is needed to **clarify regulatory roles** and ensure that each is clearly distinguished from the others. There is scope to improve (and better communicate) systems to ensure effective liaison between regulators throughout the process.
- There is scope for a **more optimal dialogue and information exchange** between the regulators and water companies, and for water companies improve the quality of their engagement with the statutory consultees and wider public.
- There are significant opportunities to **streamline and improve the operation of the WRMP process to deliver more efficient and effective planning**, and there is scope for regulators and water companies to take action to further improve the **quality and sustainability of the resulting Plans**.

Each of these is underpinned by several sub-issues.

Chapter 6 takes each issue in turn and explores the scope for action incorporating a range of suggestions put forward by contributors to this Review. In each case, it reaches a conclusion on the most sensible way forward and links this to the relevant recommendation(s) in chapter 7. For clarity, cross-cutting issues are addressed in one place only, and cross-referenced elsewhere.

While the balance of responsibility for addressing each issue will vary, if the WRMP process is to be improved it will require action both from the regulators – improving the effectiveness of the framework and tools to assist delivery – and from water companies – taking responsibility for driving a robust and inclusive planning process.

6.2 Alignment of the WRMP and PR processes

6.2.1 Key findings and issues to be addressed

The evidence gathered by this Review makes a strong case for **action to ensure improvements to alignment of timing and process, coupled with effective sequencing of decision-making between the WRMP and PR processes and streamlining of data requirements and regulatory auditing**. It is however accepted that a “perfect” alignment is unlikely to be possible and that compromises will be necessary to ensure that the processes are workable.

In particular there is insufficient alignment between the SDS and pre-consultation; publication of the draft WRMP ahead of the draft BP risks limiting confidence in the WRMP, and perceived duplication between the WRMP Annual Review and Ofwat June Return. A few companies have ended up with inconsistencies between their final WRMP and their final BP / FD, as explored in section 5.5.5 and evidenced in **Annex G**. While most of these were small, a few larger differences were mostly concerned with significant investment driven by climate change – and Ofwat introduced a mechanism to bring the two processes back into line as soon as companies’ analysis of the impact of climate change was sufficiently robust.

For many companies, misalignment was intensified by delays caused by resolution of issues concerning commercial confidentiality and national security prior to publication of draft WRMPs and the amount of work required at SoR stage. For those companies whose draft Plans were called to a Public Inquiry, this also caused unavoidable delays. For others it seems that misalignment arose from a failure to follow guidance.

The Review also found overlapping data requirements and duplication of vetting and auditing.

The following sections explore potential solutions based on the current PR process, as the best available information at the time of writing. It is acknowledged that as a consequence of Ofwat’s ongoing review of the PR process, significant changes may be introduced to PR14. It will plainly be important to ensure that all those affected (including Defra, the Environment Agency and water companies) are involved in the development of any such changes and that these take account of the WRMP process.

6.2.2 Sequencing of decision-making and alignment of timing and process

Water companies were very keen for Defra to work with the EA and Ofwat to agree where what they described as the “primacy of decision-making” should lie between the WRMP and PR processes. The regulators agreed that this was a top priority, although they preferred the term “sequencing of decision-making”.

Regulators, water companies and statutory consultees also agreed on the need for what some EA regional representatives described as a “hierarchy” and “line of sight” between the WRMP and PR processes. As part of this, contributors from all three sectors felt it was important to clarify the role of the WRMP in the context of the SDS and BP – including whether Ofwat should treat the WRMP as a strategic plan in its own right, or simply as a contributing element to the BP – and to integrate WRMP pre-consultation more closely with the SDS (see section 6.4.4). Natural England and Waterwise also wanted to see greater clarity as to the relative purpose of the WRMP and BP. (See section 6.5.2 for other aspects of uncertainties regarding the WRMP’s purpose.)

Water UK set out the two main options for better sequenced decision making in a discussion paper prepared by their Task and Finish Group in late 2010 (at **Annex I**). Option 1 would see the SofS’s final decision on the WRMP informed by, or co-ordinated with, the FD. They felt that this option reflected the reality that water companies can only

implement funded programmes. However it had the disadvantage that the SofS's requirements would need to be consistent with Ofwat's funding decisions; this could reduce the SofS's ability to respond to other consultees' comments in deciding whether to approve or direct changes to the WRMP. Option 2, which is line with the original intentions for the first statutory process as set out in the current Guideline, would provide for the SofS's final decision on the WRMP at the same time as Ofwat's Draft Determination (DD). However this would have the disadvantage (for Ofwat) that it assumes Ofwat would have to include the activities within the approved Plan in price limits in the FD.

The water companies' preference was for option 2, and they felt that there should be a consequent assumption that the proposals in a final WRMP would be supported by Ofwat "if approved by the SofS" unless "a clearly reasoned argument is given to the alternative". Severn Trent Water noted that if Ofwat were not "required to allow for these costs, then it limits the value of the public consultation process because there is no certainty that the agreed strategy will be delivered".

The regulators were also broadly in favour of option 2, with the WRMP acting as a building block for the BP. However while they felt that it would be desirable for the FD to align fully with the final WRMP (and that this would be more likely if the WRMP provided the information Ofwat needed to see), this was not an automatic assumption. The regulators were clear that there were circumstances in which Ofwat would not be able to agree to fund certain proposals (e.g. where the cost-benefit case had not been made by the water company). Ofwat felt that the pragmatic solution was to aim for broad alignment between the final WRMP and final BP/FD. The regulators agreed that Ofwat should commit to articulating the justification for any differences between WRMPs and their DD and FD: this might be done at WRMP stage or at FD, depending on the conclusions of Ofwat's ongoing work on future price limits.

Ofwat commented specifically on the importance it attached to retaining its independence on decision making on costs in the BP process. The regulator underlined that its role was to protect consumers from monopolies and that, in this context, its challenge on costs was right and appropriate. Binding Ofwat more closely to the final WRMP would inhibit its ability to challenge on consumers' behalf.

Whichever way the decisions were sequenced, water companies identified the draft WRMP / draft BP stage as a crucial one in ensuring alignment between the two processes, and wondered if the two documents could be published at the same time (noting that consultation on the draft BP is not a formal requirement). The Water UK paper argued that "synchronisation of the draft BP and draft WRMP allows a full reflection of all supply demand issues in the WRMP and therefore a more informed consultation process on the WRMP".

Ofwat, on the other hand, while agreeing that it would be attractive to publish the draft WRMP at the same time as the draft BP, felt that it would not be feasible to bring the draft BP that far forward, assuming that future PRs follow a process similar to that for PR09. Their preference would be for the WRMP to be final, or almost final, at draft BP stage, so that the scope of the problem to be addressed was clear. However, Ofwat would expect

both Plans to take account of any synergies between investment required to balance supply and demand, and investment in other areas, for example to maintain assets.

The Environment Agency was interested in whether better alignment could be achieved by bringing forward the WRMP process by 6-12 months so that the draft BP was informed by the final WRMP. The Water UK paper also identified this option. However the Agency felt that it would not be feasible at least for the next WRMP process because it would mean the process starting in June 2011, which would not give companies sufficient time to carry out the necessary analyses. In addition, as Ofwat pointed out, the earlier the WRMP is finalised, the greater is the chance of new information coming to light prior to FD. It should also be noted that publishing the draft WRMP even further ahead of the draft BP could further reduce the level of confidence in the draft WRMP (see section 5.7.2).

Water companies and the Environment Agency gave almost universal support to ensuring that the Annual Review and June Return were effectively aligned. Given that this is already the regulators' stated intention (see section 5.3.7), the task here is to clarify existing guidance to the water companies to ensure they understand that there is flexibility for them to combine the two processes if they choose. One alternative approach suggested by the Environment Agency was to remove the Agency's current data requirements from the June Return and ask companies to submit the information in a combined Annual Review to Defra.

There was also appetite in the Environment Agency for stronger encouragement to water companies to adopt standard timescales, e.g. for public consultation, for publication of final WRMPs. Defra commented that its usual approach would be to offer flexibility but if the industry agreed that a standard timetable for all or part of the process was better, it would reconsider. The regulators also all noted that there was currently no "space" for a Public Inquiry in the WRMP process, and wondered if some headroom could be introduced to accommodate such risks to alignment with the PR process, for example by starting the process earlier).

Regulators and water companies were clear that improved sequencing would only be effective if all the regulators played a full part at all stages in the WRMP process. Water companies wanted to see closer liaison between Ofwat and the Environment Agency. The two regulators for their part felt that they had shared views throughout the process, albeit not in a formal way. They agreed that there was scope to formalise their discussions and to make more transparent to the water companies and others how they engaged behind the scenes. In particular, Environment Agency Head Office noted the potential to "work together more closely on a shared regulatory view of the plans and perhaps each lead on specific areas to reduce duplication". These issues are explored more fully in section 6.3.

Effective implementation of improved sequencing would, in the water companies' view, also be dependent on the regulators setting out a clear view as to the purpose and requirements of each stage in the WRMP process, and in particular what water companies should expect from the Environment Agency and Ofwat in terms of engagement and requirements at each stage. The Environment Agency and Ofwat acknowledged the water companies' wish for certainty and the earliest possible clarity; their aspiration was to

provide this, while accepting that they would not be able to provide early clarity in all areas. These issues are explored more fully in Section 6.4.2.

In particular, water companies felt it was crucial for Ofwat to provide the SofS with as much clarity as possible at SoR as to the cost implications of the draft WRMP. Ofwat commented that in order to do this it would require more information from the WRMP at this stage – a point acknowledged by the Environment Agency, which noted that the cost information in the current Plans was not sufficiently detailed; this was something on which the two regulators needed to work together.

In conclusion, there is strong evidence of the need to ensure a clear line of sight between the WRMP and PR processes, including through closer alignment between the SDS and WRMP pre-consultation, and the need to explore improvements to the timeline that would give effect to the regulators' original intention that the WRMP should inform the BP.

It is not feasible for Ofwat to be bound by the WRMP – not least given the regulator's independent status, the possibility that new information will come to light between finalisation of the WRMP and the point at which the FD is issued, and the possibility that the water company's final published Plan will not have delivered the commitments in its SoR as might have been expected. On a practical point, in some instances (e.g. where the Secretary of State requests further information, or a draft WRMP is referred to Public Inquiry) the final WRMP may not be published until after Ofwat's FD. This notwithstanding, where there is a final WRMP, Ofwat should justify any differences in the FD.

There may be a case for standardised timescales for elements of the WRMP process – this is for the industry to consider. For more effective process alignment to work, regulatory roles, responsibilities and liaison, as well as the purpose and requirements of each stage, must be clearly understood. (See recommendations 1, 2, 3 and 7.)

6.2.3 Overlapping data requirements

Water companies made simple suggestions to address overlapping data requirements, particularly regarding supply-demand balances. There was felt to be scope to better align the data tables for WRMP and BP, potentially adopting the same formats to avoid time-wasting with two regulators vetting two similar sets of data. While it would be feasible and practical to use the same data for both plans if the timelines for production of both Plans were aligned (see section 6.2.2 above), if production of the draft WRMP remains, as now, ahead of the draft BP, Ofwat pointed out that “the information, especially on costs, would be out of date for the BP process”. South West Water suggested going one step further, and producing “one WRMP which contains all the information that Ofwat and the EA require”.

The regulators were open to the idea of better aligning data requirements; Ofwat suggested that this could best be achieved through their ongoing review of future price limits (since wider decisions in the review might have a bearing on relative data requirements for the WRMP and BP processes).

One Environment Agency region suggested adopting a “once only” approach to demand forecasting for the WRMP and PR processes; this is addressed in section 6.5.5 and **Annex F**.

In conclusion, it is evident that there is some scope to better align data requirements – for the Environment Agency and Ofwat to address jointly. (See recommendation 1.)

6.2.4 Duplication of vetting and auditing

While the problem of dual auditing by the Environment Agency and Ofwat was widely identified by water companies, few suggestions were put forward barring a proposal from the regulators for the audit roles of the Ofwat reporter and the Environment Agency to be streamlined.

Ofwat’s ongoing review of future price limits may help to design out some duplication or overlap, although continuing statutory requirements or obligations may pose an obstacle to this. IHPR considers that process mapping may also help the regulators to streamline their contributions to the WRMP process. (See recommendation 1.)

6.3 Clear regulatory roles and transparent arrangements for liaison between regulators

6.3.1 Key findings and issues to be addressed

Contributors to this Review provided a strong message that **action is needed to clarify regulatory roles and ensure that each is clearly distinguished from the others**. There was also evidence that **systems needed to be improved (and better communicated) to ensure effective liaison between regulators throughout the process**.

There were two key points:

- **Regulatory roles with the WRMP process were generally perceived to be inadequately defined**; in particular there was **not always a clear distinction between the roles of the Environment Agency and Ofwat**, and
- Water companies felt strongly that **Environment Agency and Ofwat** (and on occasion, the Environment Agency and Natural England) **did not liaise closely enough** during the process (the regulators felt that this was more a matter of perception – the Agency felt that there were some matters that needed to be discussed in private and water companies should acknowledge this).

6.3.2 Variable understanding of regulatory roles

Water companies made clear that, for the WRMP process to work, “all regulators need to participate fully” and their roles need to be better defined. The regulators acknowledged the need for improved guidance on these points and agreed that one solution would be to improve and expand the Environment Agency’s “Role of the Environment Agency in the WRMP Process” document [19].

Isolated comments about individual regulators' technical expertise, and comments from Ofwat and the Environment Agency themselves, suggest the need for a more detailed look at what the optimal division of responsibilities between the two regulators might be. Two water companies recommended that better use could be made of the relevant regulators' skills across the WRMP and PR processes if the Agency concentrated on giving technical advice, with Ofwat's role focusing on efficiency and Ks (degree of price rises), reaching funding decisions based on the agreed set of options. The Environment Agency commented that the cross-cutting nature of WRMPs – which often required input from both regulators to reach decisions – could limit the potential for greater division of roles.

There is a clear steer for better definition of roles and clarity as to regulators' responsibilities within the WRMP process; this could usefully be set out in a single document agreed by the regulators. While the Environment Agency and Ofwat did not comment specifically on water companies' views about how their roles could be split, Ofwat had concerns that if roles were too sharply split, there would be a new task to bring together separate pieces of analysis for different parts of the process. Defra and the Agency were interested in the potential for the regulators to work more closely together on their core regulatory roles. IHPR considers that process mapping (see also section 6.2.4) could help the Agency and Ofwat to streamline their engagement with the WRMP process. (See recommendations 1 and 2.)

6.3.3 Defra's role

Top among the ways in which Defra could do more, suggested consistently by the industry, other regulators and Ofwat, was to provide greater clarity as to the purpose of the process. Water companies and the Environment Agency also consistently said that Defra should:

- demonstrate clearer ownership of the process;
- provide greater clarity on the roles of the three regulators and its expectations of each of them and of itself;
- provide clearer policy statements, and
- take responsibility for ensuring more effective alignment between the WRMP process and Periodic Review (also mentioned by Ofwat).

Specifics requested by stakeholders included “a more strategic approach” (Cotswold Canals Trust), and more clarity about the purpose of the WRMP process (Drayton Parish Council).

Water companies wanted Defra to be “more a part of the process”: taking a more active role in considering WRMPs and in weighing up concerns expressed by different stakeholders (e.g. CCWater's arguments for proportionate planning on the grounds that it is the customer who pays for it) rather than leaving the task to water companies.

The Environment Agency and Ofwat also felt that Defra could take a “more proactive approach” with water companies while making clear which decisions were for the Department and which for the Agency.

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Defra for their part acknowledged the need to be more proactive and hands-on.

In conclusion, IHPR feels that the suggestions above could effectively be dealt with if Defra were to work with the Environment Agency and Ofwat to develop a high-level published document setting out the purpose and requirements of the WRMP, its linkages to other processes, and the specific roles and responsibilities of different regulators in the WRMP process. (See recommendation 2.)

6.3.4 Environment Agency's role

Water companies wanted to see more evidence of the Chinese wall in place between the Environment Agency's regulatory and technical advisory roles. They also wanted to have the opportunity to engage with the Environment Agency during the preparation of the technical advice report to the SofS, to answer questions that arose from the SoR and clarify issues of concern. Although providing water companies with the opportunity to comment on the technical advice report in draft could extend the length of this stage of the process, particularly if companies disagreed with the draft advice, it may – at least in water companies' eyes – help to ensure that the SofS receives accurate advice.

Water companies' preferred solution to the perceived conflict of interest between the Agency's regulatory and advisory roles was for their advisory role to be taken on by an independent third party. Potential sources of independent advice were: expert consultants (but could their neutrality be guaranteed?); Planning Inspectors (lacking in technical expertise but perhaps it was an advantage to be baggage-free); in-house Defra technical staff, and an expansion to the Ofwat Reporter role. A side-benefit of this would be continued open dialogue with the Agency and Ofwat through the SoR period, which should shorten the overall process and thereby save money. But it could also increase costs, and would not necessarily enable problems to be addressed.

The Environment Agency and Defra were clear – although the industry would not agree - that water companies' concerns about the impartiality and separateness of the Agency's technical advice role were matters of perception rather than matters of fact (as explored in section 5.5.3 and **Annex E**) – and acknowledged the need to address those perceptions. The Agency explained that, while local teams were instrumental in delivering the environmental regulator role, the technical advice role was Head Office led, starting with a moderation exercise to ensure a level playing field across Agency regions and to put each company's draft Plan in the wider context.

Defra highlighted the significant practical difficulties in using independent experts or third parties and in amending the Agency's roles. It was felt that the solution was to give greater clarity to the different roles the Agency plays throughout the WRMP process and to give visibility to the existing process by which the Agency manages its dual roles to ensure that advice to the SofS is clearly based on an overview of the Plan, all representations, and the SoR. The Environment Agency agreed that there was scope to provide clearer evidence of how its evidence was derived. This could also address concerns from some stakeholders including Natural England at the absence of an opportunity to influence the

WRMP process after the SoR “regardless of whether consultees felt that the [document] adequately dealt with the issues raised”.

Water UK felt that its Task and Finish Group (which already brings together representatives of water companies and the Environment Agency, with contributions from Defra, Ofwat and CCWater) could in future help by acting as a focal point to address issues arising between the Agency and the industry, such as discrepancies between the approach taken by different Agency regions. The Agency offered additionally to “strengthen internal guidance where appropriate to clarify areas of concern and build on lessons from the first round of plans”; substantial discrepancies, “if not stopped at source by clear training” would be picked up during national review and consistency checks. It felt that open meetings between individual water companies and the Environment Agency (see section 6.4.2), as well as joint regional meetings between the Agency and relevant water companies, could also help.

In conclusion, it is vital that the Agency and Defra ensure that water companies understand how the separation of the Agency’s dual roles is effected, and that the process by which technical advice is derived, and then how that is used by Defra to underpin effective decision-making by the SofS, is transparent. It may be beneficial to give water companies the opportunity to engage with the Environment Agency during the preparation of the technical advice report. It is also important for the Agency to ensure maximum consistency of approach across its regional network. (See recommendation 2.)

6.3.5 Ofwat’s role

The key message outlined in section 5.5.4 was that, as Defra put it, “Ofwat needs to be further integrated”. As noted in the same section, one option could be for Defra to formally seek economic advice from them as part of the WRMP process. Water companies made a particular suggestion for Ofwat to engage effectively at consultation stage on the cost implications of the draft WRMP (acknowledging that this might have implications for data requirements). As far as water companies were concerned, the main benefit of Ofwat’s closer involvement would be to reduce the risk of mismatches between final WRMPs and Ofwat’s FD.

For its part, Ofwat felt that it had attempted to engage effectively at all stages, although it did acknowledge water companies’ view that there was scope to make pre-consultation work better. At Public Inquiry stage, the regulator’s intention had been to make the best use of limited resources by not duplicating the Environment Agency’s input where the two bodies held the same view.

Improving the practical alignment of the WRMP and PR processes and ensuring effective joint articulation of the different regulators’ roles and responsibilities in the WRMP process should of itself improve Ofwat’s engagement in the WRMP process. Further concrete suggestions relating to the regulator’s involvement at specific stages in the process are dealt with in section 6.4. (See recommendation 2.)

6.3.6 Lack of transparency in regulatory liaison

Water companies gave a clear message that they wanted to see the Environment Agency and Ofwat maintaining a close liaison throughout the process.

Ofwat and the Agency felt that they had shared views throughout the process, albeit not in a formal way. They felt that they should: make clearer to water companies and others how they engaged behind the scenes; formalise a timetable for their discussions, and allow for the Agency-led technical advice process to include Ofwat's formal agreement to the reporting of their views (e.g. flagging up ongoing Ofwat concerns regarding elements of draft WRMPs).

To resolve conflicting views from the Environment Agency and Natural England regarding the environmental impacts of abstraction, Natural England suggested that the two bodies should work together to agree a common position of principle that should be included in the Guideline, and should have a process in place to address any tensions arising in respect of an individual water company's proposals.

In conclusion, the task here is for the regulators to ensure (in partnership with statutory consultees where needed) that their behind-the-scenes liaison is understood by water companies and others and that transparent processes are in place to address any tensions arising. (See recommendation 2.)

6.4 Engagement, dialogue and information exchange between regulators and water companies, and between water companies and stakeholders

6.4.1 Key findings and issues to be addressed

While the increased transparency and openness provided for in the statutory WRMP process were widely welcomed and regarded as an improvement on the previous arrangements, contributors to this Review considered that there was scope for a **more optimal dialogue and information exchange between the regulators and water companies**, and for **water companies improve the quality of their engagement with the statutory consultees and wider public**.

Two key opportunities were identified:

- Scope to **improve regulator-water company dialogue at a strategic and local level** and through **improvements to the Guideline**;
- Specific steps to **improve the effectiveness of different stages in the WRMP process** to help water companies **improve their engagement with other players** in the process.

6.4.2 Improving regulator-water company dialogue

Not only did all parties – water companies, regulators and stakeholders – have uncertainties about aspects of the WRMP process, but it also appears that there were no processes in place to ensure that such uncertainties were acknowledged and managed. This suggests that there is a gap in the WRMP process for strategic-level, ongoing, open dialogue and issue resolution across all sectors.

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This conclusion is supported by the regulators' acknowledgement of the scope to improve the transparency of the process particularly with regard to the underlying principles and at SoR stage. Potential solutions recommended – beyond the opportunity to improve transparency through the updated Guideline – were for an “open forum” at the start of the process⁸, and for Water UK's Task and Finish Group to help by acting as a “focal point to address issues between the industry and the Agency as these arose”.

The Water UK Task and Finish Group has provisionally endorsed the suggestion that a National Water Resources Management Forum should be established to promote open dialogue and issue resolution at national level (i.e. relating to process and principle and not addressing company-specific matters) throughout the WRMP process to help manage change as the WRMP and PR processes proceed in parallel. The Task and Finish Group suggested that it could provide a steering group for the wider Forum to shape its discussions and to fulfil an issue resolution and decision-making role. The Group also felt that it would be important to subject the Forum to regular review to ensure its continued relevance.

The Environment Agency noted that this was not completely new – the early stages of the first statutory process had included a liaison panel. The success of the new National Forum would be dependent on availability of resources and buy-in from all participants.

The scope to improve dialogue between the regulators (particularly the Environment Agency) and individual water companies was amply evidenced by feedback from both sides that dialogue in the first statutory process was not consistently continuous, open and frank, with particular confusion as to when and how the Agency should refrain from dialogue in order to avoid compromising its position as technical advisor to the SofS.

Specific suggestions to improve local dialogue – acknowledging that this should be a two-way process, with proactive engagement from both regulators and water companies - included:

- water companies, the Environment Agency and Defra agreed on the need for a clear statement of the principle that dialogue should be open and continuous (this was recognised as a pre-requisite for effective planning) up until the submission of the SoR. Defra and the Agency suggested the adoption of a formal “Query Process” beyond that point, putting substantive exchanges between the water company and other parties into the public domain to avoid the risk of perceptions of a “stitch-up”. This would build on the formal Query Process already used as an effective communication tool in the PR process. Another potential solution would be to hold open meetings between the water company and the Agency, enabling other stakeholders to attend and pose questions;
- Ofwat and the Environment Agency acknowledged the potential to streamline their engagement with the process (i.e. one regulator taking the lead putting forward an

⁸ Cholderton and District Water Company suggested that an open forum hosted by Defra and attended by the water companies together with the five key regulatory bodies - i.e. EA, Ofwat, DWI, Natural England, and CCWater - would give clarity and direction at the start of the process. The company felt that it could also serve to shorten the pre-consultation period and reduce the chance of conflicting messages.

agreed position for both). In the first statutory process, this happened in the submission of technical advice and at Public Inquiry stage. Given water companies' and stakeholders' lack of understanding that this was what was happening, there is a clear parallel need for such streamlining to be made transparent;

- As per section 6.3.5 above, water companies and the regulators agreed on the need for Ofwat to “engage effectively” at pre-consultation and consultation stages. Ofwat explained that their aspiration would be to “give water companies as much certainty as possible about what could be funded, as well as greater certainty about the degree of uncertainty” – recognising that the regulator would not be practically able to clarify its policy position on every topic by WRMP consultation stage, and that funding approval would be contingent upon presentation of sufficient evidence;
- Water companies suggested building on the “quadripartite group” model already used by companies as part of the PR process. Their intention was that this group would bring the water company together with the Environment Agency, Ofwat, CCWater and Natural England (so, given five participants, perhaps a “joint” rather than “quadripartite” group) to enable a transparent discussion on options and issues and with the potential to agree positions. For their part, the Agency and Ofwat were concerned about the resource implications if such meetings were made a requirement at key stages in the process – their preferred model would be to be available for discussion, particularly in cases where there were perceived inconsistencies in position. Such meetings would need to be held in a way that did not hold either regulator to firm commitments at an early stage where there were legitimate reasons why their views might change (e.g. Ofwat’s need to see the evidence base for investment, Agency technical advice might be influenced by representations from other consultees).

During the nine-month period between pre-consultation and publication of the draft WRMP there will be ongoing informal dialogue between regulators and water companies. The pre-consultation is too early, and at too high a level, for the regulators to influence the detail of WRMP development, while once the draft WRMP is published, substantive changes are more difficult, time consuming and costly to make. There therefore seems to be a case for re-emphasising the potential value of tripartite discussion between the water company, Environment Agency and Ofwat once Plan preparation is under way, to enable regulators to influence its development and to bottom out emerging inconsistencies. This should not constitute an additional burden since it should help to ensure an earlier shared position; it may reduce the burden of addressing concerns at a later stage.

The final area where there is scope to improve expectations for dialogue is following permission to publish: some water companies do not appear to have understood (despite this being set out in their letter from Defra) that there remained unresolved issues on which the Environment Agency would engage with them, nor whether such issues needed to be resolved prior to publication. Companies with discrepancies between their WRMP and BP were also uncertain as to what the Annual Review would involve. Both of these points may be addressed through the new Guideline. Ofwat suggested (see also section 6.4.6) that clarity about dialogue beyond permission to publish could be improved if the SofS set out in a Direction (following the model of the Direction to South East Water following Public Inquiry) what a company should do in order to publish its final Plan.

In conclusion, the case is made for a number of actions to improve water company-regulator dialogue. Principle among these are the creation of a National Forum for open dialogue on matters of process, and a clear explanation of the expectation of continuous open dialogue at local level supplemented by a formal Query Process where necessary. The Quadripartite Group approach is an example of good practice as to how this might be achieved. Open discussion may be enhanced at the crucial stage in the process while water companies' Plans are forming, through a formal discussion between the water company and regulators between pre-consultation and publication of the draft Plan – or it should at least be made clear to water companies that the regulators are ready to engage at the water company's request. It is also important to ensure there is a clear understanding between water companies and regulators as to the framework and scope for further dialogue about improvements to the Plan once permission to publish has been given, and to be clear about how discrepancies between the final WRMP and FD will be handled at Annual Review. (See recommendations 2, 3 and 4.)

6.4.3 Improving the Guideline

Although the Guideline was generally welcomed by water companies as being on the right lines, they felt there was scope to sharpen and update it and to highlight best practice. They wanted to see guidance being issued in a timely fashion and tackling a lack of integration and consistency across the three regulators. They also wanted clarity as to the degree of prescription. Stakeholders struggled with the complexities of the Guideline.

This section addresses issues of principle regarding the Guideline – suggestions for improvements to its technical content are covered in section 6.5.

The main solution put forward by the water companies was for there to be “one integrated set of guidance for WRMPs covering input from all three regulators”, with clarity on specific targets and requirements that water companies should address, and a shared regulatory view particularly on the issues that caused difficulties during first statutory process (e.g. metering and leakage). At least three water companies (South Staffordshire Water, South West Water, Wessex Water) felt that the new Guideline should also incorporate Defra Directions. The Environment Agency acknowledged the potential to make the document more “user friendly” e.g. more plain English, inclusion of best practice. On the other hand, Ofwat observed that some aspects of the Guideline would need to be more detailed (and therefore perhaps more complex), for example to enable fuller engagement and feedback on cost implications by Ofwat.

In discussion, all three regulators supported the case for the Guideline to be presented as a joint document and to include explanatory notes or similar on Defra's statutory Directions. They felt that policy requirements should be set out separately, with consideration given to the possibility of producing a single document covering policy requirements for both the WRMP and PR processes.

On the matter of prescription, water companies felt that the Agency interpreted the Guideline too rigidly, and their preference was for as much flexibility as possible. The Agency acknowledged that the level of prescription was one that needed to be addressed. In discussion, the regulators clarified that the Guideline used “must” to reflect a statutory

requirement, and “should” to recommend good practice. Beyond this, the assumption was that there was flexibility for water companies, to be explored in dialogue at individual water company level – although, as Ofwat noted, the onus would still be on companies to persuade the regulators of the robustness of their Plans.

Water companies also stressed the need for the Guideline to be published in time to inform the technical work that precedes the draft Plan. They felt that, if the regulators’ requirements could not be clarified at the outset, then in consultation on draft WRMPs, companies should be permitted to flag those aspects that were subject to regulators’ later decisions, in particular where they were dependent on Ofwat agreeing funding. This was echoed by some statutory consultees, who had not fully appreciated that the first five years of the WRMP’s delivery was dependent on Ofwat’s FD.

Both the industry and the Environment Agency identified the need to deal with issues that “crop up” through the process and how supplementary and updated guidance should be consolidated to ensure its accessibility to water companies.

Some water companies, including South East Water and Portsmouth Water, expressed an active interest in securing collaborative preparation of the updated Guideline. It is understood that the Environment Agency has this in hand, building on the industry’s active involvement in development of the Guideline for the first statutory process. The Agency will lead production with input from Government, Ofwat, and other regulators plus the water industry. There will be an Agency-industry working group, and the Agency is also involved jointly in steering groups for UKWIR research projects that will help underpin technical method improvements should deliver shared outcomes to feed into the Guideline. There will also be formal consultation prior to finalisation and publication of the new document. The Agency underlined the need for the process to be two-way, with companies providing input when requested.

To address stakeholder concerns about the complexity of the Guideline, the RSPB suggested a “simplified version” for stakeholders. The Environment Agency felt that this was feasible if underpinned by broad support from stakeholders, if a very clear distinction could be made between this non-technical document and the technical Guideline that companies are expected to follow. It might be possible to build on the “Guide to the Guideline” which the Agency prepared for the NAVs (micro water supply companies) [20], another alternative base would be the Agency’s *Factsheet on Water Resources Management Plans* [21] published in advance of the first statutory WRMP process to help promote public interest (although that in its current form is probably too simple to be of use to informed stakeholders wanting to engage with draft Plans in detail). However rather than publishing a further separate document, the regulators’ preference was to ensure that the introduction to the Guideline summarised in non-technical terms the purpose and requirements of each stage in the WRMP process and where stakeholders could expect to be involved.

In conclusion, the principal mechanisms for improving the Guideline are to make it a joint regulatory document and to clarify the balance between prescription and flexibility. The Environment Agency has arrangements in hand to ensure all relevant parties, including the water companies, are able to contribute to development of the new Guideline. This will

need to be published in good time with a clear process for dealing with late or supplementary material. To address stakeholder concerns, it will be important for the regulators to ensure that the content of the Guideline is summarised in non-technical language – perhaps in the introduction to the Guideline rather than in a separate document. (See recommendation 3.)

6.4.4 Improving effectiveness of pre-consultation stage

The main issues with pre-consultation were that it was neither well understood nor used effectively, and so did not deliver its full potential for added value.

A few water companies felt that the pre-consultation stage should simply be removed from the process – and this was supported by one statutory consultee, who questioned the merits of having two rounds of consultation “when the first round lacks detail”. However most water companies – and those regulators which commented - felt that it could be made to work effectively if action were taken in two areas.

First, it was suggested that the PR process’s SDS should be aligned more closely – or even merged - with pre-consultation (although it should be noted that the Ofwat PR process is under review and that this might have implications for the SDS). Water companies felt that a stronger strategic alignment between the WRMP and PR processes could be achieved if Ofwat were to take the SDS “more seriously” (the implication was that Ofwat needed to look harder beyond the first five years), and if the SDS were to be used by all parties more effectively (e.g. making it the subject of quadripartite / joint dialogue between regulators, the water company and stakeholders - see section 6.4.2 above). The regulators agreed that it would be helpful for the SDS to be used for parties in the WRMP process to share an understanding of each other’s perspectives in the context of each water company’s aspirations. Recommending as good practice publication of the SDS just ahead of pre-consultation would help the regulators to feed in more informed views. As set out in section 6.4.2 above, one water company suggested an “open forum” to mark the start of the process.

Second, water companies suggested that the Guideline should provide greater clarity as to what pre-consultation was “intended to achieve, and what is expected from stakeholders”. They wanted the regulators to use the stage to “clearly define their requirements” for each company’s WRMP (to settle the requirement on issues such as compulsory metering which might subsequently cause difficulties) and made a particular request for Ofwat to engage more substantively to make their views clear.

A number of Environment Agency regions made specific suggestions as to what the definition should cover, including a “list of technical packages” to be provided (e.g. per capita consumption, outage, deployable output) to allow the Agency to “input and steer the technical elements of the WRMP at an earlier stage in the process”.

Few stakeholders offered suggestions on this score (not least because most were not substantively involved at pre-consultation), but Natural England wanted guidance to underline the benefit of investing time in pre-consultation engagement and Ringmer Parish Council suggested that “more informal engagement” would be helpful. Two Environment

Agency regions acknowledged the need for Government to provide clearer policy statements on specific areas at this stage, and to ensure that guidance was complete and clear in advance.

In conclusion, contributors make a clear case for aligning pre-consultation better with the SDS, although it will be important to ensure that the enhanced quadripartite / joint dialogue proposed for the pre-consultation stage informs companies' approach alongside (and not in place of) appropriate engagement with other stakeholders. This is one stage whose purpose and requirements need to be set out clearly in the Guideline both for water companies and (perhaps, as suggested, in the introduction to the Guideline) for statutory consultees and others who may be involved by virtue of their interest in the water company's Plan. (See recommendations 1 and 3.)

6.4.5 Improving effectiveness of public consultation stage

The main challenge to be addressed at public consultation stage, identified by the full range of contributors to this Review, was how to make public consultation sufficiently accessible to all stakeholders. To a certain extent, the difficulties experienced in making the public consultation truly effective were caused by this being the first time the water companies had attempted such a process in water resources planning. If the experience of Portsmouth Water is anything to go by (in their recent re-consultation on their draft WRMP, they adopted a more proactive approach which has generated an improved response), then each water company can be expected to learn from its experiences and improve its consultation approach next time round.

Contributors to this Review put forward a range of ideas to help make the public consultation stage more accessible and effective. Top among these, independently suggested by the industry, regulators and statutory consultees, was the suggestion for an easy to understand, non-technical public version of the draft WRMP.

Comments made by water companies, the Environment Agency and CCWater suggest some differences of opinion as to how far public consultation on the WRMP should seek to engage individual members of the public as opposed to representative bodies (and, as noted in section 5.3.3, individuals who did engage with the first statutory process felt that it was aimed at organisations rather than at them). Some water companies reflected that it was not crucial to secure engagement with individual members of the public in the consultation process and that consultation should concentrate on engaging stakeholder representative groups there to represent the public's views: so public consultation should take place "at a strategic level" with detailed consultation more appropriate for the statutory consultees. One Environment Agency region also flagged the need for greater clarity as to the role of public consultation.

Four sets of concerns and ideas should feed into the development of better guidance on the role of public consultation and how to consult effectively (sought by all parties to the WRMP process):

- The need for consistency in the depth of material placed in the public domain for consultation, and consistent access for all consultees to relevant material (including

that made available at pre-consultation) should they wish to see it (a suggestion coming from stakeholders and water companies);

- How to help and ensure water companies target their approach to public consultation to the right individuals and organisations, which feeds into ...
- A suggestion from the Environment Agency for guidance on the minimum level of engagement, and
- Concern by water companies and the Environment Agency about the relevance of many consultation responses from the wider public. Two relevant suggestions were made: CCWater saw a need “to provide companies with clearer guidance on issues to be highlighted in consultation and should include those which are likely to have a more immediate or widespread effect on consumers so there is more likelihood of engaging the public in the process” and the Environment Agency suggested that water companies, in consulting, should provide “greater clarity as to the scope of the Plans” to help increase the effectiveness of consultation responses. A simple non-technical resume of the Guideline should also help.

Picking up on the concerns of Public Inquiry respondents that the relevant water companies were not consulting genuinely, there is perhaps a need for improved guidance to water companies on increasing their stakeholders’ confidence that the consultation process is genuine.

Other specific mechanisms suggested to enable improved public engagement were:

- A standard set of questions to consultees (Environment Agency);
- A single WRMP consultation website (Environment Agency);
- Facilitating posting of representations on the website, and allowing anonymised representations (ditto);
- Increasing transparency by putting submitted representations on the website as a matter of course (subject to the consultee’s agreement) to enable other potential respondents to see others’ comments;
- Providing “more links or resources to support the less technically competent or those further from the processes, but who have a valid input to water resource management issues” (the Broads Authority), and
- As suggested by water companies and the Environment Agency, the potential to integrate WRMP consultation with the PR “willingness to pay” surveys and make more use of focus groups.

To help consultees wishing to compare different companies’ Plans, there is also a need to improve their comparability – this is addressed in section 6.5.4.

In conclusion, there is a strong case for the Guideline to encourage water companies to produce a readable, non-technical version of the draft WRMP as part of enhanced guidance on effective consultation which should be supported by good practice examples. The Guideline might also usefully explore how water companies can integrate all customer engagement for the WRMP and PR processes. The proposed high level document needs to clarify the intended purpose and scope of public consultation aimed at representative bodies and the general public. (See recommendations 2 and 3.)

On a separate matter, water companies expressed genuine frustration at the difficulties in engaging with the general public (as explained by them, because public interest tends to be issues based; when the service is working, customers have no interest in supply-demand matters). There is a question as to whether and, if so, how, the WRMP process could play a role in wider efforts, as Cholderton and District Water Company put it, to “get the public to take a keener interest in water resources issues”. This is a matter that might be considered by the new proposed National Forum (recommendation 4).

Finally, there is a clear need to remedy the limited statutory consultee engagement with the WRMP process so far – as evidenced both by the representations received by water companies as part of the consultation process, and the difficulties experienced in securing views from statutory consultees as part of this Review. This will be addressed in a number of ways suggested elsewhere – including through the proposed high-level document (recommendation 2), improvements to the Guideline (recommendation 3) and water companies’ adoption of good practice (recommendation 5). There is a case for inviting the regulators to consider, with key stakeholders (e.g. RSPB), whether these efforts will be sufficient to ensure appropriate awareness of the WRMP process among statutory consultees and other stakeholder bodies, to improve the information available to them and better manage their expectations of the process, or whether further strategic-level national engagement is required (recommendation 5).

6.4.6 Improving effectiveness of Statement of Response stage

There are three issues to address at SoR stage. First, water companies’ lack of clarity as to how to address adequately through the SoR the comments made on their Plans, and their particular uncertainty regarding the need for a revised draft Plan. Second, how best to ensure that water companies implement the proposals in their SoRs. Third, stakeholders’ view that the SoR output was complex and confusing, and that it ignored or dismissed comments. The Environment Agency’s operation of its technical advice role is separately considered in section 6.3.4.

The first challenge resulted at least in part from what Southern Water described as “lack of familiarity with what was required”, which suggests that the experience of the first statutory process should help water companies to manage this stage better the second time round.

That said, the fact that a number of water companies felt this stage to be “unnecessary” or that it “adds no value”, whether perception or reality, points to the need for the Guideline to provide clearer guidance on the purpose and requirements of the SoR stage, as requested by most water companies. The Environment Agency, Defra and one industry expert flagged concerns regarding the lack of consistency between water companies’ SoRs. The Agency wanted to see guidance targeted to improve consistency. This would aid the technical advice process and would also – in the expert’s eyes – help to ensure a level playing field thereby removing the risk that different approaches could influence the Agency’s advice to the SofS. Defra had some concerns about being too specific, acknowledging that different approaches might suit different companies.

The clarified guidance should address a number of concerns from water companies and industry experts, namely:

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- “The SoR is lacking in end value”: need to demonstrate how the approach to dealing with and responding to comments is proportionate to need;
 - “Insufficient time allowed”: need to demonstrate that the requirements (for the six month public consultation and SoR stages combined) may reasonably be achieved in the timeframe (this was a particular concern for water companies with a substantial number of issues to address);
 - A number of water company worries about not being able to take all comments on board, handling the risk that “organised lobby groups skew” the process because supporters are “less likely to make a representation”, and the relative weighting to be accorded to regulatory and other responses.

While the potential value of a revised draft WRMP was recognised, there was little appetite on the part either of water companies or regulators to make this a formal requirement: water companies saw the need for one where substantive issues remain; the Environment Agency and Defra suggested that a revised draft should be considered good practice in these circumstances.

Given water companies’ lack of clarity as to the role of, and potential for, dialogue with regulators and other key consultees during preparation of the SoR, revised guidance should also address this. The Environment Agency and Ofwat felt that it should be good practice for water companies to seek a dialogue (but that the onus should be on the water company to initiate it).

On the second point (holding water companies to the proposals in their SoRs), Ofwat felt that the solution was to ensure that the Environment Agency’s technical advice to the SofS identifies elements of the SoR (e.g. cost-benefit analysis) which must be delivered in order for the regulator to be able to consider them for inclusion in its FD. That would better inform any SofS Direction to the water company and should contribute to minimising the risk of discrepancies between the final WRMP and FD.

The third point is that the format of the SoR, while effective as an audit tool for the Environment Agency, may not be sufficiently clear or accessible to act as the company’s public response to its consultation exercise. There is then a question for the regulators: can guidance help water companies to make the existing format more transparent and useful for stakeholders, or is there a case to implement the RSPB’s suggestion of a “simplified document clearly showing how comments were addressed”? An alternative approach would be to rely on a revised draft Plan to demonstrate how substantive comments were addressed.

In conclusion, the new joint Guideline needs to provide greater clarity on the purpose and requirements of the SoR document and explain where a revised draft WRMP may be justified. There is an opportunity to improve the technical advice process so that any Direction from the SofS ensures that water companies are held to proposals in their SoR which are crucial to the inclusion of particular schemes in Ofwat’s FD. There is also a case for the regulators and industry to consider whether it would be appropriate to encourage improved consistency of approach between water companies at SoR stage, perhaps by including a pro forma or simple checklist in the Guideline (or potentially two

versions, for Plans with or without substantive representations to address). Finally, the regulators should consider (perhaps with key stakeholders such as the RSPB) what advice may be given to water companies to help them to ensure that the SoR serves effectively as the company's public response to the consultation exercise. (See recommendations 2, 3, 5 and 7.)

6.4.7 Improving effectiveness of independent review / Public Inquiry stage

The key finding here was that – consistent with the current Guideline – contributors felt it was highly desirable to keep Public Inquiry as the option of last resort. The two Inquiries that took place were widely felt to be overly costly, time-consuming, adversarial, disproportionate and discouraging to stakeholders. There was also evidence that stakeholders did not fully understand how the Public Inquiry process applied to WRMPs and therefore to what extent (or not) an Inquiry might influence water resources management planning in a given company.

The solutions suggested by contributors to this Review were twofold: to safeguard continuous open discussion so as to avoid recourse to an Inquiry, and in the event that independent review was needed, where possible to deploy a more conciliatory alternative to an Inquiry.

The proposed approaches to continuous open discussion between water companies and regulators, and to ensure better engagement between water companies and stakeholders, are set out in sections 6.4.2 and 6.4.4-5 above. If this does not entirely avoid recourse to Public Inquiry or an alternative, at the very least, in Water UK's words, it should help to "narrow the Inspector's brief".

The main suggested alternative to the Public Inquiry format, backed by water companies, statutory consultees and other stakeholders and the Environment Agency, was an Examination in Public (EiP). A handful of water companies and stakeholders also suggested a mediation approach.

The Agency noted that, to be effective, an EiP would need to be chaired by an independent Inspector with an in-depth knowledge of the area and excellent facilitation and conflict resolution skills. It should be a "building process" rather than a confrontational one. An industry expert supported this, suggesting that an EiP would be shorter, more appropriate and more effective; stakeholders felt the advantage of this "less legalistic approach" was to enable discussion of plans in a way that was more accessible to the lay person. Both an industry expert and a Public Inquiry contributor suggested that it would help if the chair were a water resources expert or at least knowledgeable about environmental issues.

Defra felt that the Planning Inspectorate offered an impartial service and was ready to explore what other alternative services – such as EiP – it could provide. The Department was also prepared to work where possible to exert a greater influence over the Inspectorate's decision whether to opt for a hearing or inquiry.

The search for a fit for purpose more conciliatory alternative to the Inquiry format should take into account the following issues:

- Public Inquiry contributors were frustrated at not being able to cross-examine the Environment Agency and Ofwat: one Public Inquiry contributor suggested that “both the Agency and Ofwat should be required to attend and answer questions”. How could an alternative format enable dialogue between stakeholders and regulators?
- The format chosen needs to facilitate informed technical debate (the optimal basis for decision-making) – water companies’ preference was for a “team technical discussion” as per the Statement of Common Ground process;
- Water companies’ concerns that the Inquiry format did not take into account the provisional nature of the longer-term planning in the WRMP (i.e. the options being debated were not (yet) planning applications);
- Given the success of the Statement of Common Ground process in resolving many issues before the Inquiry proper, how could an alternative approach make use of this formal type of dialogue as a potential way to avoid escalating the process?

This Review found that the EiP approach is being used successfully in the formal examination by Planning Inspectors of the ‘soundness’ of local authority Development Plan Documents (DPDs), which are key elements of Local Development Frameworks, introduced by the Planning and Compulsory Purchase Act 2004 [22].

DPDs are part of the statutory development plan and directly influence planning decisions so the process for producing them is governed by Regulations. The key stages can be summarised as:

- Preparation and public involvement in ‘issues and options’ seeking representations from statutory stakeholders, governmental bodies and utilities and where appropriate residents and businesses. Evidence is gathered.
- Publication stage, where local authorities set out their proposed draft DPD for comment by local people and businesses
- Submission to the SofS and an examination in public by an appointed planning inspector to test the soundness of the DPD.
- Adoption by the local authority following the issue of a fact-checked report by the Planning Inspectorate, if the DPD is ‘sound’.

The EiP approach was adopted in 2004 as a cheaper and more efficient alternative to the Public Inquiry process, which had proved costly, time-consuming and highly adversarial. This reasoning was explained as follows in the 2002 Planning Green Paper [23]:

“Under the present system, everyone has the right to make objections to draft local plans and for these to be heard, usually in a public local inquiry. Unfortunately, this approach often proves time-consuming and adversarial. We need to find a better way to test the new Local Development Frameworks and would welcome your views on options. These might include wide public participation followed by adoption by the Council; an examination before an independent chair to test the adequacy of the plan and its preparation process; or a public informal hearing of representations before an inspector. Under the latter two options we envisage that

the report of the independent chair or inspector would be binding on the local authority.”

Detailed guidance on the procedure for examining DPDs, including the hearing process, prepared by the Planning Inspectorate is attached at **Annex J**. As stated in the Guidance, its essential features are set out below.

“The Inspector takes control of the examination process from start to finish. He/she will be proactive from the time of appointment, in order to see if there are problems with the document which can be identified at an early stage. This may necessitate holding an exploratory meeting. The Inspector will define the matters and issues which will provide the focus for the hearings. For Inspectors, frontloading effectively means that by the time the hearing sessions start, they must be thoroughly familiar with the document, how it was prepared and the issues it raises.

“Hearing sessions are based on the Inspector’s definition of matters and issues, and are not driven by the representations. The sessions will be inquisitorial, with the Inspector probing the issues as opposed to an adversarial approach. Those who have sought changes to the DPD and signalled a wish to be heard must be invited to the hearings. If essential, additional parties who did not ask to attend, may be invited by the Inspector to contribute specialist expertise and knowledge.

“Inspectors will draft reports on the premise that they should aim to be brief, avoiding direct reference to ‘representations’ as far as possible. They will provide clear conclusions in relation to legal compliance and the soundness tests. Inspectors will be mindful that the DPD is the local authority’s document and will start from the assumption that the LPA has submitted what it considers to be a sound plan.”

Another feature of the process is the significant effort that local authorities put into engaging with stakeholders. Guidance states that local authorities must notify the consultation bodies specified in Regulations of the subject of a DPD which they propose to prepare, and invite representations about what a DPD with that subject ought to contain. Local authorities must also consider whether it is appropriate to invite representations from residents and/or businesses in their area. If a local authority decides that it is appropriate to invite representations, they must take these into account.

If a new scaled approach is established, involving dialogue, followed by a conciliatory form of engagement before resorting to public hearing or inquiry, it will be important for Defra to set out very clearly for all parties the purpose of each stage in the process, its scope (addressing water company concerns that Public Inquiries raised issues of national rather than just local concern) and what it is expected to achieve (i.e. that it is not part of the planning process and therefore does not facilitate objections to a particular scheme) and how. This should help to manage stakeholder expectations of the process and justify the effort and cost (both to the taxpayer and to individual water company customers).

There were some suggestions as to how to improve a future public inquiry or hearing. Defra acknowledged that “liaison with the Planning Inspectorate could have been better” –

including to clarify the process and timeframes at the outset of the WRMP process to ensure certainty and optimal targeting of time and effort for all parties in the event that an Inquiry was called.

To conclude, there is a strong case for considering a more conciliatory alternative to the Public Inquiry route for WRMPs and Defra should explore further the possibility of adopting the EiP approach that is currently being used successfully for the examination of DPDs. (See recommendation 11.)

6.4.8 Improving effectiveness of Annual Review

Issues to do with the timing of Annual Reviews and duplication with the June Return are addressed in section 6.2.2.

A small number of stakeholders commented that they would wish to have access to Annual Review documents (including several participants in the South East Water Public Inquiry, who felt that the company's first Annual Review of its WRMP would be critical in addressing some of the Inquiry concerns.) Waterwise expressed the point most succinctly: "it is very difficult for external stakeholders to follow the progress towards achieving the aims set out in WRMPs during the five years between Plans. Progress updates during the five-year period would be helpful and would help to raise the profile of the Plans".

While there is no statutory requirement to involve stakeholders, given that part of the goal of the WRMP process is to increase transparency in water resources planning, and given the logic that continuing engagement with interested stakeholders in between five-year reviews should enable more effective dialogue at the five-year review point, there is a good case for the Guideline to recommend that it is good practice to make Annual Review documents – or a user-friendly summary - publicly available for information purposes. Defra agreed on this point. Depending on individual companies' circumstances, they might wish to involve their quadripartite / joint group (recommendation 3) in discussion about the key issues raised by the Review. (See recommendation 6.)

6.5 Streamlining and improving the WRMP processes to improve quality and sustainability of resulting plans

6.5.1 Key findings and issues to be addressed

Contributors to this Review put forward a range of ideas for **streamlining and further improving the operation of the WRMP process** to deliver more efficient and effective planning. There was also evidence of the scope for regulators and water companies to take action to further improve the **quality and sustainability of the resulting Plans**.

Six broad areas for action were identified:

- Further **clarifying the purpose of WRMPs** and the scope of what they can offer to better to manage stakeholder expectations, and exploring possible steps to **tailor the structure of the WRMP** more closely to what can reasonably be planned for;

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- **Streamlining and improving the WRMP process** to ensure that all water companies are equipped to deliver high quality, robust and sustainable long-term water resources planning;
 - Exploring the potential to improve the process so that it **manages possible tensions between economic and environmental drivers for action more effectively**, and so that the resulting Plans are more sustainable;
 - **Aligning the WRMP process with other related processes**, and
 - **Technical improvements to the Guideline** in support of the first three areas for action.
 - On the basis of the improvements outlined above, water companies must take **responsibility for improving the quality of analysis** that supports their Plans. This would be consistent with water companies' preference for the Guideline to give companies greater flexibility.

6.5.2 Purpose, expectations and timeframe for WRMP

According to the evidence from contributors to this Review, the purpose and scope of WRMPs are not fully understood by all – particularly the wider stakeholder community. Key aspects that need further clarification are the increasing uncertainty of proposed options over the planning period, and the requirement for any infrastructure proposals included in the Plans, if realised, to be subject to the land-use planning process.

A couple of water companies, backed by an industry advisor, suggested that the inherent uncertainties in longer term water resources management planning could be addressed by treating short and medium term planning (i.e. 5-10 years) separately from longer term planning (10-25 years plus). Southern Water's Plan models an approach which treats the immediate 5 years, the period 5-10 years ahead, and the final 15-year period as three distinct periods for planning purposes. The industry advisor clarified that the final 15 years should be "more of a strategic overview". This could highlight major issues where advance analysis and planning are required.

Suggestions for highlighting the level of uncertainty, and the distinct separation of water resources management planning from land use planning, came from both water companies and stakeholders. Southern Water emphasised the importance of "educating the public on the considerable uncertainties underlying assumptions on supply and demand in the longer term". Another water company added "it is very important to communicate to stakeholders that WRMP are strategic Plans, and not planning applications for specific schemes". Drayton Parish Council clearly understood this, as it also called for "more clarity about the WRMP process, e.g. making clear that WRMPs were not about specific reservoir proposals".

Natural England felt that guidance on WRMPs and land use planning also needed to be targeted at local planning authorities. The consultee noted that the fact that current preferred options may not prove appropriate in the longer term has "ramifications for the way WRMPs are used in preparation of local development plan documents and the weight given to WRMP-preferred solutions in planning terms".

The proposed high-level document would provide greater clarity on the purpose and scope of WRMPs including in the context of land use planning. To help consultees to understand the status of proposals in the latter half of plans, there is also a case for the regulators to consider encouraging water companies to treat the WRMP as two distinct planning periods – with more emphasis on the short term and a more strategic overview of the longer term (the position of the boundary between the two will depend on the company’s precise circumstances). The regulators acknowledged the logic in this approach but had some concerns about the implications for proposals which fell between the short-medium and longer term: further thought would be necessary. (See recommendation 8.)

The second area to be addressed follows on from the proposal to separate the WRMP into distinct shorter and longer term planning periods. While the 25 year period for the WRMP was generally felt to be about right, some water companies and statutory consultees and the Environment Agency suggested that a longer term forward look might be worthwhile.

The rationale for such a forward look was summed up by Thames Water “as the WRMP is considering the provision of water resource assets which can have a longer time span than 25 years, the time period over which some of the assessments are undertaken should be extended to reflect this”. Portsmouth Water backed this, citing the example of their proposed large winter storage reservoir which would look to “manage water in the much longer term over the next 200 years or so”.

The idea was also supported by four statutory consultees, including RSPB and Kent County Council, who were concerned that the science and understanding of climate change impacts and their management might expose companies to risks in balancing supply and demand and that 25 years might not be a sufficient time frame to consider impacts.

The regulators’ view was that, while a longer-term forward look could help strengthen the cost-benefit case for some options, this might be offset by the significant level of uncertainty, thereby limiting the net value of the additional effort involved in preparing the forward look. Ofwat commented that “the standard of evidence required to justify investment in the short term to resolve a problem forecast for the longer term (beyond 25 years) would be very high”.

This notwithstanding, it is not entirely clear why the 25-year time period was chosen in the first place, given that the PR process runs over only 5 years, and anything beyond 10-15 years is uncertain. It would seem appropriate for Defra to assure itself that the timeframe for the WRMP process is aligned with policy on adaptation to climate change, and whether a longer term forward look would be justified depending on individual water companies’ circumstances, and provide guidance accordingly. It would plainly be important that effort expended by water companies in the development of a longer term perspective was proportionate to the benefits to be gained. (See recommendation 9.)

6.5.3 Streamlining the WRMP process

Many of the key streamlining issues are addressed elsewhere, namely:

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- Improved alignment with the PR process (section 6.2.2);
 - Improved operation of specific stages in the WRMP process (section 6.4);
 - Better targeted public consultation (section 6.4.5);
 - More effective dialogue between the regulators and water companies (section 6.4.2);
 - Integrated and more timely guidance (section 6.4.3).

Others brought together in this section are the scope to:

- Make the process more proportionate to the degree of challenge faced by individual companies;
- Streamline methodological approaches;
- Reach agreement on “building blocks” for Plans as early as possible;
- Streamline and increase transparency in the process for submission of representations, and
- Reduce timescales and align timing of processes between water companies.

More proportionate process

It seems a reasonable argument that, for water companies with a limited or non-existent supply-demand deficit, there should be scope to make the WRMP process more proportionate to the degree of challenge faced – and, the second time round, more proportionate to the degree of change from the existing Plan. South Staffordshire Water suggested a “less onerous, more streamlined process” for such companies.

It also seems reasonable that there should be scope for a more streamlined process for the smallest companies – although it is not clear whether this is already achieved by the Environment Agency’s Guideline navigation tool or whether there is scope for further action. A simpler process could take into account the degree of detail justified (e.g. in revising demand forecasts, conducting option appraisal where no deficit foreseen) and whether updating was really required (e.g. for Deployable Output).

However in considering how a more proportionate approach might be achieved, it will be vital to ensure that this does not undermine the need for every company to develop a high quality, robust Plan including through effective dialogue with stakeholders, and to enable consistent, sustainable and collaborative planning at regional and national level. For example Ofwat suggested that companies with a supply-demand surplus should be required to identify and appraise options for exporting water to other companies. (See recommendation 10.)

Streamlined methodological processes and agreement of “building blocks”

A number of water companies and Environment Agency regions had ambitions to reduce the overall burden of the WRMP process by streamlining methodological approaches, and increasing certainty / reducing the risk of later problems by signing off “building blocks” for WRMPs at an early stage.

Specific suggestions made by water companies were:

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- To “speed up agreement” of the required methodologies (e.g. demand forecasting, deployable output, PCC target, etc.) and to “avoid arguments about facts” by reaching agreement between the regulators and an individual water company at an early stage (e.g. on population and property figures), or, more radically
 - To make the process more consistent, efficient and cost effective by adopting a national methodological approach (e.g. a standard method for arriving at the allowances needing to be made for climate change) where possible, and commissioning joint property and population analysis and forecasts on behalf of the regulators and water companies.

One water company and one Environment Agency region were thinking along the same lines in proposing what the Agency termed a “building block” approach – breaking technical aspects of the WRMP out into “building block” items to be discussed and agreed so that the development of the Plan would then proceed from agreed foundations. The water company thought that elements of the planning process could thereby be signed off as they were completed “starting with the demand forecast, deployable outputs, sustainability reductions, headroom, allowances for climate change, and the available options for meeting any deficit in the supply-demand balance”.

While there are potential advantages to the approaches described above, the degree of prescription does not sit comfortably with the water companies’ and regulators’ stated preference for maximum flexibility. It is also not clear that the required intensity of engagement between water companies and the Environment Agency would be feasible within current resources. Statutory consultees and other stakeholders might also perceive this approach as one which would exclude them from debate and challenge that should take place during the consultation period.

Streamlining the submission of representations

A few suggestions were put forward to address the administrative burden placed on Defra in taking receipt of representations and passing them on to companies. The rationale for this requirement is understood to be that the regulators need to know what representations have been received to understand the interests and to enable effective consideration of companies’ Statements of Response, and this route for submission is set down in secondary legislation.

The fact remains, however, that this cannot be the most cost-effective way to manage the submission of representations. Water companies wondered whether a more efficient solution would be for consultees to send their submissions directly to water companies. This view was shared by the Environment Agency – which additionally suggested that transparency could be assured by requiring the companies to log and publish representations.

Defra remained concerned that it would be unworkable because representations fell outside the scope of the Freedom of Information Act, although the Department was willing to consider further in light of any FOI or data protection issues. It is not clear why the usual approach to written representations on public consultations could be followed, which

would allow representations to be published unless the consultee specifically requested confidentiality, in which they could either be anonymised prior to publication, or sent separately to Defra.

It seems reasonable, therefore, to suggest that Defra should explore the feasibility (including FoI and data protection implications) of asking consultees to submit representations directly to water companies and to oblige water companies to place all representations on their website – although it would require a change to primary legislation in the shape of Section 37B(4) of the Water Industry Act 1991 as amended. (See recommendation 6.)

Reduced timescales and better alignment between company Plans

Contributors to this Review felt that there was scope both to reduce timescales at particular stages in the WRMP process and to adopt standard timings across all water companies.

Suggestions were put forward to:

- Reduce the length of the pre-consultation stage (Ofwat) (although this may be not be feasible in light of the general ambition to make this stage more substantive);
- Shorten the consultation period within the six months allowed for consultation and SoR (Defra, Ofwat and an industry expert) on the grounds that “most respondents will be interested in one company, and should be able to examine the Plan, and provide comments, within a period shorter than 12 weeks”. This could help water companies, particularly those facing large number of representations, to meet the deadline for the SoR. But stakeholders (particularly those trying to comment on several Plans) welcomed the “generous time window” and Water UK commented that the plan was a difficult document for consultees to respond to, so the consultation period could not be shortened too much (although this might be more feasible if there had been better interaction with consultees earlier in the process). Moreover, there would not be an obvious trade-off between the two stages for all companies: consultees are likely to need longer to respond to more controversial Plans, and more controversial Plans are likely to require a more complex SoR (and so potentially need longer than 6 months overall);
- Speed up Defra’s responses to the SoR (water companies) or at least require an estimate of how long the review process will take. (Environment Agency)

There is a clear appetite for Defra to accompany the proposed new integrated timeline for the WRMP and PR processes with an explanation as to the length of time allowed at each stage in the WRMP process (including the length of time Defra is allowing for decision-making at SoR stage). This could help to increase all parties’ confidence in the achievability of the WRMP process within the overall timeframe. (See recommendation 1.)

6.5.4 Improving Plan sustainability

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The question here is how, if at all, the WRMP process may be improved to address identified shortcomings in the sustainability of WRMPs.

The potential for action falls into four categories:

- Achieving a shared understanding of what is meant by “sustainable supply-demand balance” – sustainable in the sense of secure, or in the sense of wider environmental sustainability, or in the achievement of a balance between social, economic and environmental imperatives;
- Linked to this, how to address water companies’ concerns that the Environment Agency and Ofwat have different objectives which risk imposing conflicting decisions on water companies and the relationship between these and discrepancies between the final WRMP and FD;
- Specific omissions / concerns regarding the Guideline which are believed to have undermined the sustainability of the resulting Plans, and
- How to achieve sustainability beyond the confines of an individual water company area, for example by ensuring that options for sharing water supplies are considered consistently, and that there is optimal alignment between the WRMP process and other relevant processes.

A large number of suggestions were also made for technical improvements to methodologies and approaches that could help to improve the sustainability of WRMPs. These are dealt with in section 6.5.5 below.

Sustainable supply-demand balance

The first of these – achieving a shared understanding of what is meant by “sustainable supply-demand balance” - may best be dealt with through the high level document.

Tensions between regulators’ objectives

Addressing water companies’ perception that the Environment Agency and Ofwat have different objectives which risk imposing conflicting decisions on water companies is more challenging.

The water companies provided a wealth of examples where they felt this had been the case – and how some felt that the lack of a common regulatory position led to discrepancies between the final WRMP and Ofwat’s FD. However in practice, many if not most of the discrepancies were minor and could easily be explained. In general, they appeared to be the result of tensions between the two regulators’ legitimately different objectives.

The solutions, therefore, lie largely in:

- Clarifying the regulators’ respective roles (and note that differences in viewpoint are legitimate) (recommendation 2 for a high-level document);

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- Enshrining in the proposed high level document and new joint Guideline shared strategic objectives for the WRMP process as well as setting expectations for how tensions between the regulators' positions will be acknowledged and addressed (recommendations 2 and 3).

However there may be further scope to take action to help increase confidence in the Plans' long-term sustainability. For example, some contributors to this review felt that Ofwat did not demonstrate clearly enough how it fulfils its wider duties on sustainability alongside its economic responsibilities (as explored in section 5.8.2). There is therefore a case for Ofwat to clarify how it applies its sustainability duties in the WRMP and PR processes.

Waterwise made the suggestion that “both the PR and the WRMP processes should look over a 25-year period in tune with the need for a sustainable approach to water resource management”. One water company suggested that it would help if Ofwat publicly acknowledged the potential for a “premium for long-term sustainability” (i.e. to fund non-least-cost measures now on the basis of a longer term return). This would build on the SDS, introduced to the PR in PR09. The corollary would be for water companies to improve the quality of the evidence they provide to support such investment.

Ofwat has pointed out that it already expects companies to be able to demonstrate that their investment proposals provide best value for customers and the environment over the long term. The regulator assesses costs and benefits over forty years, and considers that, in the first statutory process, it worked hard to explain to companies how to evaluate wider benefits (e.g. of metering proposals) and put forward a case that could demonstrate the worth of such investment proposals. So it might be that Ofwat needs to communicate its position more clearly.

In conclusion, it would be helpful for to the regulators – in dialogue with others as necessary - to consider what action can be taken to help increase confidence in Plans' long-term sustainability. This might include Ofwat setting out how it observes its sustainability duties in the context of the PR and WRMP processes and setting out more transparently how the PR process ensures fair consideration of proposed measures whose main rationale is longer-term sustainability. The new Guideline could also enhance the advice it offers on how water companies can best provide robust evidence of cost and wider benefits of proposals whose cost benefit stacks up over a period longer than 5 years. (See recommendations 3 and 13.)

Guideline omissions affecting sustainability

Judging by stakeholders' and water companies' comments, it would have been easier to make the case for the wider benefits of proposed measures in the first round of statutory planning had it been possible to make allowances for climate change and for sustainability reductions beyond 2015 in forecasts. The difficulties around climate change impacts were time-based and so should not recur. The fact that sustainability reductions beyond 2015 were not taken into account caused anxiety among many water companies and stakeholders.

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While it is understood that they were excluded on the grounds that specific reductions were still “under investigation”, there appears to be confidence at individual water company level and in Natural England that some reductions will occur and that it would be better to make some estimate of the risk rather than none (because the alternative is for estimates of supply levels to be artificially high). Both water companies and stakeholders (including Natural England) wanted to see greater clarity in time for the next round of planning. Natural England’s ambition was to “see a ‘strategic’ figure provided for all potential sustainability reductions by the Environment Agency”. The Agency commented that the difficulty here was that, in allowing companies to include risks in their planning, they might secure funding that did not prove necessary, or might be funded to take action which subsequently proved more costly in the long term.

The conclusion is, therefore, that it would be helpful for the Environment Agency and Natural England to work together to identify a way to take longer term (unconfirmed) sustainability reductions into account in the WRMP process while minimising the risks of doing so. (See recommendation 13.)

Achieving a sustainable supply-demand balance across a wider geographic area

The final question is what might be done to improve the sustainability of water resources management planning beyond the confines of an individual water company area, for example by ensuring that options for sharing water supplies are considered consistently, and that there is optimal alignment between the WRMP process and other relevant processes.

Two sets of points were made regarding inter-company planning. Evidence was provided, that indicated, first, that options for sharing water supplies were not consistently considered and, second, that the variety of formats adopted by water companies made it difficult for stakeholders to compare different companies’ plans (and so to challenge and contribute to their improved sustainability).

Waterwise suggested that inter-company comparison would be facilitated by a “standard required format and presentation of data and information, as well as broad content”.

There were no substantive suggestions as to how more comprehensive and transparent assessment of options for sharing water supplies could be built in to the WRMP process, but IHPR considers that there are three complementary questions that merit further exploration, perhaps through the proposed new National Forum (recommendation 4).

- How water companies can be encouraged to work more closely together - for example by improving the operation of the Water Resources in the South East (WRSE) group and improve its ability to feed in to the WRMP process (the group has already begun a work programme with this objective); to consider whether this model should be adopted elsewhere in England; and how the new joint Guideline could be strengthened to encourage more water companies to consider inter-company water exchanges as a mechanism for addressing supply-demand imbalances (e.g. because the consequent

cost and environmental impact could be lower). Ofwat reported that its ongoing work on market reform and future price limits aims to incentivise companies to consider inter-company transfers;

- Whether there is scope for the Environment Agency and Ofwat to improve their scrutiny of the extent to which water companies' proposals have adequately considered all the available options for water sharing, or whether it is a question of improving the transparency of existing scrutiny. Ofwat wondered whether there would be scope for a SofS Direction requiring water companies to consider feasible cross-border supplies where a supply-demand balance deficit exists, and
- Whether standardising the format of WRMPs would help to facilitate scrutiny of options for inter-company sharing (by regulators and consultees) or how else this could be achieved.

(See recommendation 13.)

6.5.5 Scope to align the WRMP process with other processes

Respondents identified some duplication and significant scope to align WRMPs better with several other processes. These are discussed below and further background is given in **Annex H**.

- **Water company drought plans**

A number of water companies, Natural England and Waterwise identified drought planning as involving the same people and some of the same outputs, and suggested that they should be more formally linked. Two statutory consultees noted that WRMPs have a key role in building drought resilience and shaping drought response, with Natural England suggesting that, if the two processes were effectively linked, variable tariffs could be used to manage peak demand and reduce dependency on drought permits at the expense of the environment.

In contrast, in further discussions with Defra and the Environment Agency, they felt that the two plans were clearly distinct: drought plans are short term operational activity plans, for flexible implementation if and when needed, whereas WRMPs are long term strategic plans, ultimately underpinning potentially costly investment decisions. They pointed to the linkages already highlighted in the Guidelines and saw no need to align the plans further, noting that they were generally prepared by different people and that closer alignment might impose additional workload burdens on regulators, the industry and other stakeholders. However, they did see merit in moving to a five year planning cycle for drought plans, with the WRMP being produced the year before the drought plan and therefore informing its preparation.

In conclusion, although the plans are produced for different purposes, there are clear linkages in terms of information requirements and the plans follow a very similar production process. It could also be argued that drought plans are at one end of the spectrum (albeit at the extreme end) of supply and demand management. There certainly appears merit in aligning the plans more closely in terms of timing by moving drought

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planning to a five-year cycle. It may also be worth exploring the merits of producing drought plans as part of the WRMP process if in doing so it were possible to reconcile the different natures of the two plans. (See Recommendation 12)

- **River Basin Management Plans (RBMPs)**

The Environment Agency and several others queried whether the WRMP process could be linked to RBMPs. In further discussion with Defra and the Environment Agency, it was acknowledged that there were linkages between RBMPs and WRMPs, but that further work was needed to understand them fully and that, as part of this, stronger liaison arrangements were being set up between the relevant parts of the Environment Agency. It was also felt that because of the two-way relationship between WRMPs and RBMPs, timing was always an issue.

It is clear that further work is needed to assess the linkages and dependencies between the WRMP and RBMP processes before any serious consideration can be given to greater alignment. This has already begun and will be helped by the strengthened liaison arrangements within the Environment Agency. However Water UK felt that phase 2 of the RBMP process would have to be very different to phase 1 for closer alignment to be worthwhile: in phase 1 there was insufficient consideration of water resources and other long term issues to justify modification of the WRMP timelines, and subsequent detachment from the BP process. Overall, Water UK considered the links to the BP process to be more critical to delivery of outcomes than the RBMP process.

One area that could be considered in the immediate future as part of the wider discussions on the WRMP/PR is the possibility of changing the planning period to six years in line with the RBMP process, starting the next planning period (i.e. PR15 instead of PR14). The relationship between WFD, water resource management planning and business planning could also be set out in the SDS and in the high-level document.

(See Recommendations 2 and 12)

- **Waste Water Planning**

Natural England was disappointed by the failure to integrate WRMP and waste water planning (particularly for water only companies), noting that in areas of significant water quality pressure this could influence the weight given to demand side options. One Environment Agency region also picked this up, suggesting that the development of a Waste Water Management Plan should be considered in the longer term. This would cover appropriate issues for water quality investment and improvements and could be combined with the WRMP to form a Strategic Water Management Plan bringing together all public water supply and waste water issues (as in BPs). This would help consistency and join up activities better, thereby improving efficiency.

In further discussion with Defra and the Environment Agency, it was acknowledged there was scope for better integration within and between water companies on assessing current and future housing/population numbers across water supply and sewerage service

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companies. There was also scope for managing the hydrological cycle better and a new project by UKWIR was underway to investigate the relationship between wastewater flows and reductions in *per capita* consumption of water.

Linking water and waste water management and combining them to form a Strategic Water Management Plan has some clear benefits in terms of managing the water cycle more efficiently. Closer alignment and integration of processes – including with the WFD – is also highly beneficial in terms of better regulation and, therefore, this is something that Defra may want to consider further.

(See Recommendation 16)

- **Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment**

As well as wanting clearer guidance on whether a SEA / HRA was required, the industry, together with one Environment Agency regional grouping, were concerned by the potential duplication or contradiction (e.g. in options appraisal and public consultation) between the SEA and HRA processes, if undertaken, and the WRMP process. Natural England and water companies in particular felt that guidance was needed on how these could be integrated more fully into the WRMP process rather than seeming to be stand-alone exercises.

It is clear that there is still considerable confusion among water companies about the need to carry out an SEA and/or an HRA and, if undertaken, about how to integrate them more fully within the WRMP process so that they clearly inform the process (e.g. options appraisal) rather than being carried out as a necessary but completely separate activity. Guidance is also needed on how to manage the consultation processes better. This needs to be addressed in the Guideline. The Environment Agency noted that it is already looking at the possibility of incorporating SEA and/or HRA requirements as an annex to the WRMP, should it prove possible to overcome legislative barriers.

(See Recommendation 3.)

- **Local Development Planning**

Both the Environment Agency and Natural England drew attention to links with local development planning including water cycle studies (carried out by local authorities to work out what significant local development there will be in future and the implications for water resources). Natural England felt that the strategic and long-term nature of WRMPs meant that today's preferred options might not in future prove to be the most appropriate or sustainable. This had implications for the way WRMPs are used in the preparation of local development plan document and the weight given to WRMP preferred solutions in planning terms. Natural England suggested that further guidance was needed for local authorities on the use of WRMPs in local development planning.

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DCLG are currently considering the effect of localism on the WRMPs, as when the next plans are developed they will be highly dependent on the efforts local planning authorities make to communicate with them and respond to information requests. New guidance to water companies will be needed to make clear what they need to do to engage with local authorities and this needs to be included in the Guideline. Encouragement and guidance to local planning authorities will also be needed to ensure that they engage with water companies early and in line with water companies' planning timetables. This also needs to include guidance on the status of WRMPs.

(See Recommendation 3.)

6.5.6 Technical improvements to methodologies and to the Guideline

Contributors put forward a wide range of technical suggestions designed to improve WRMP process methodologies and their presentation in the Guideline, to improve the quality and sustainability of the resulting Plans. These are recorded in full in **Annex F**. Key contributors were Natural England, English Heritage, the Environment Agency, Waterwise, CCWater, and Colin Fenn's discussion paper for WWF's Itchen Initiative. The suggestions fall into four categories:

- Measures to improve consistency between water companies' plans to facilitate improved auditing and easier comparison of plans by consultees;
- Evidence, scenarios and forecasting;
- Options appraisal and cost benefit analysis including the balance between consideration of supply- and demand-side measures;
- Stand-alone issues: improving the achievement of biodiversity objectives and improved consideration of historic environment issues, and the potential for a more pragmatic approach to national security concerns.

IHPR does not have appropriate technical expertise to assess their merits: this is a task for the Environment Agency and Ofwat, in partnership with Defra, DCLG and other stakeholders as appropriate. However, the weight of evidence suggests that the following should definitely be considered:

- The scope for a bigger role for scenario planning and less reliance on a single planning assumption, with proposals for funded action informed by the degree of short-term impact;
- Linked to this, the scope more closely to align demand forecasting across the WRMP and BP: one approach would be for Defra, working with DCLG, to lead discussion on what sort of demand forecast(s) can best underpin short- to medium-term planning, and the longer-term strategic view (linked to recommendation 12);
- Whether there is a case to promote more strongly the consideration of demand management options (Natural England led arguments in favour of this);
- The scope in cost benefit analysis to give stronger weight to social and environmental costs that are not easily monetised, and to marginal economic costs and benefits (again, Natural England led these suggestions), and

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- The scope to create a more level playing field in the appraisal of demand vs. supply measures through improved methodological approaches (e.g. in the estimation of Deployable Output and the measurement of Water Available For Use gains) (suggestions from the WWF discussion paper).

(See recommendation 14.)

6.5.7 Water companies to take responsibility for their plans

The regulators all expressed concern that many companies' Plans fail to demonstrate clearly how their preferred options will deliver the best outcomes for water customers and the environment. The Inspectors in the two Public Inquiries echoed those concerns. Improvements to the Guideline will help to address this issue. Water companies will also need to play their part, focusing their efforts on satisfying the overall objectives of the planning process, rather than satisfying the letter of the Guideline. (This point is reflected in a number of recommendations.)

7. RECOMMENDATIONS

7.1 Introduction

The previous chapter analysed the scope for action to address four key findings. Chapter 7 distils those potential solutions into 14 recommendations across the four areas. Key recommendations include:

- Building on existing work to explore improvements to the timeline to enable the best possible alignment between the WRMP and PR processes;
- A high-level document setting out the purpose, scope and expectations of the WRMP process and the roles and responsibilities of the different parties involved;
- A new joint Guideline endorsed by all the regulators;
- Regulators and water companies working harder to communicate with each other and with stakeholders, including through a new National Forum bringing together key players to enable an open dialogue throughout the WRMP process, and
- A series of opportunities for action to improve the quality and long-term sustainability of WRMPs.

Most of the recommendations involve joint working – between the regulators and between the regulators and the water companies. Self-evidently, it will not be sufficient to prepare new documentation and set up new frameworks for dialogue.

For real improvements to be achieved, all parties will need to commit to implementation. The three regulators will have particular responsibilities. It will be equally important for the water companies to take on board the new, improved Guideline, to make best use of dialogue with the regulators, and on the basis of their experiences during the first statutory process, as well as improved guidance, to devise and manage more effective public consultation processes. It will be critical that water companies take responsibility for demonstrating that their proposals will deliver the best long-term outcomes for water customers and the environment. Regulators and water companies will all need to play a role in raising the profile of – and improving access to - the WRMP process to enable the right range of statutory consultees, other stakeholders and members of the public to make a full contribution.

7.2 WRMP and PR process alignment

Recommendation 1: The regulators and water companies should build on existing work to explore how the timeline for the WRMP and PR processes could be improved to enable the best possible alignment between the two, and support this with better aligned requirements for data and data formatting.

The timeline for the first statutory process was intended to achieve the best possible alignment between the two processes but was thrown off course by a number of factors.

The purpose of this joint work will be to identify which factors were a feature of the learning process and have already been satisfactorily addressed, and which are more fundamental problems that remain to be tackled.

In seeking to improve the timeline, it must be accepted that a “perfect” alignment is unlikely to be achievable. It is also noted that effective alignment will be dependent on water companies contributing to discussions on improvement and then implementing the conclusions. The joint discussions will need to take account of potential changes to be introduced in PR14, and should include consideration of:

- How best to give effect to the existing principle that the WRMP should be a building block for the BP, with a clear line of sight between the two processes starting with optimal alignment of SDS / pre-consultation stage, and finishing with a clear articulation from Ofwat as to the justification for any differences in either the DD or the FD compared with a water company’s final WRMP;
- How the design of the timeline can be made sufficiently flexible to accommodate risks to alignment (e.g. including reasonable headroom for issues resolution prior to publication of draft plans and for response to requests for further information following SoR). It is recognised that where a Plan is, exceptionally, referred for independent review, this will impact on alignment;
- The relative merits of:
 - preparing the WRMP further in advance of the BP - a longer time frame, but the WRMP fully informs the BP - versus
 - consulting on the two draft documents at the same time (noting that consultation on the draft BP is not a formal requirement) - increased confidence in a WRMP that is placed in the context of the full range of the business’s investment requirements, but potential workload issues for water companies, regulators and stakeholders;
- Other action that might be taken by water companies or regulators to help ensure the schedule runs as planned.

The timeline should be accompanied by a brief commentary explaining the rationale for the time allowed for each stage and indicate likely turnaround times where a regulatory response is required.

Ofwat’s consideration of potential changes to PR14 should take account of the WRMP process and ensure that any changes do not impede achievement of the objectives of the WRMP process.

Discussion on data and data format alignment could be part of Ofwat’s ongoing review of future price limits, which will have implications for the relative data requirements for the WRMP and BP, as well as the preparation of the new Guideline.

7.3 Expectations and requirements regarding roles and process

Recommendation 2: Defra should work with the Environment Agency and Ofwat to develop and publish a high-level document setting out the purpose, scope and

expectations of the WRMP process and the roles and responsibilities of the different parties involved. Policy requirements should be set out separately.

The high-level document could be called e.g. “The WRMP process: purpose, process and roles”, and should build on the Environment Agency’s existing document “Role of the Environment Agency in the WRMP process”. The document should be referenced in the new joint Guideline (see recommendation 3 below). Discussion and engagement with key industry and stakeholder players during the preparation of the document will help to ensure it is tailored as closely as possible to the needs of its audience.

The regulators should consider undertaking process mapping of their respective roles to inform development of the high-level document. This should help to identify how to deploy resources most efficiently across the WRMP and PR processes while safeguarding fulfilment of each body’s statutory duties (this may be affected by decisions in Ofwat’s review of future price limits).

The resulting document should:

- Explain how the WRMP process is aligned with the PR process (including how the WRMP relates to the BP and how the FD will take the WRMP into account) and with other processes such as WFD/RBMPs;
- Explain how the process will strike a balance between economic and environmental drivers for action (including what is meant by a “sustainable supply-demand balance”);
- Explain the basis on which water companies’ proposals will be assessed (including specific criteria where possible) for the purposes of SofS approval and how this differs (if at all) from the criteria used by Ofwat in reaching decisions on price limits, and therefore how proposals should be underpinned by relevant evidence (e.g. cost-benefit analysis). It will be important to state the need for strong evidence of the wider case for any proposal which is not least cost over the funding period (see also recommendation 3 on providing further advice in the Guideline);
- Set out the principles concerning regulators’ roles and responsibilities in the process, including how each adds value, what technical skills are required, and what optimal engagement will look like at each stage in the process (e.g. as open and transparent as possible, as early as possible);
- Give clarity to the arrangements in place to ensure the separation of the Agency’s dual roles and improve the transparency of the technical advice process (providing a description of the processes for developing and submitting advice and for reaching decisions and more information on the underpinning evidence). (The regulators should test this approach with the industry and key stakeholders to ensure it meets the aim of giving them full confidence in the process and, if not, what further steps could be taken.);
- Explain the action taken by the Environment Agency to help ensure a consistent approach to engagement with water companies across different Agency regions. This should include a review of internal guidance on relationships with water companies throughout the WRMP process and steps to ensure effective

arrangements are in place to monitor for, and address, any discrepancies (the proposed National Forum - recommendation 4 – may be able to play a role here);

- Describe the Environment Agency and Ofwat’s arrangements and timetable for discussions on matters of principle and the substance of individual WRMPs, with the aim of reaching a shared regulatory view. This should include how Ofwat will contribute to development of the technical advice report and how the Agency will reflect Ofwat’s views in the report (e.g. regarding the affordability of draft WRMPs, and where a company needs explicitly to be held to a commitment in their SoR);
- Define the respective roles of the Environment Agency and Natural England with reference to policy on abstraction, and the process for reaching a shared view in individual cases (development of this text will involve joint working between the two bodies);
- Clarify the expectation of continuous open dialogue between the water company and regulators up until submission of the SoR;
- Set out clearly the intended purpose and scope of pre-consultation and public consultation (e.g. expectations for engagement with statutory consultees and the general public) and give examples of good practice.

Regulators will need to consider whether it is more appropriate for policy requirements for the WRMP and PR processes to be set out in a single document or in two separate documents. The solution adopted should, where possible, incorporate policy requirements from key statutory consultees (e.g. Natural England on environmental needs, English Heritage on how to ensure cultural heritage is taken fully into account).

Recommendation 3: On behalf of all three regulators, the Environment Agency should develop a single joint Guideline to replace the current Guideline.

The new Guideline should be prepared in collaboration with water companies and should be published in good time to inform companies’ preparations. It should signpost where guidance is expected to be late and advise water companies on the approach to follow in the meantime; as well as how late / unanticipated guidance will be integrated. The new Guideline will only be fully effective if regulators and the industry work together on its development and the document is used to support the preparation of plans.

In support of the new integrated timeline, the new Guideline should provide greater clarity for water companies on the purpose and requirements of, and good practice at, specific stages in the process, notably:

- The potential to better integrate engagement with customers on all matters to do with water supply-demand balance (e.g. how to make most effective use of Willingness to Pay surveys, customer focus groups and other possible customer research activities to inform both the PR and WRMP processes);
- For pre-consultation to be aligned effectively with SDS and for dialogue at this stage to be meaningful and to engage interested parties. The Guideline should suggest that companies adopt the “quadripartite group” approach (bringing together the water company, Environment Agency, Ofwat, CCWater and Natural England – so perhaps “joint group” given five participants not four) already modelled by the PR process and

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give examples of good practice. Such a Group would be established by a water company at the start of the process to consider and give feedback on the SDS's implications for the WRMP and PR processes and agree how dialogue and engagement will work between the regulators, key statutory consultees and water company throughout the process. Quadripartite / joint dialogue should provide an additional mechanism to inform companies' approach alongside appropriate engagement with the full range of stakeholders;

- That water company-regulator dialogue should be a continuous process; this might include tripartite meetings at either side's request between pre-consultation and publication of the draft Plan, particularly where the Agency and Ofwat may have different perspectives (such early meetings should enable the regulators to indicate clearly where they are obliged to reserve judgement);
- Introducing a formal Query Process, drawing on the model already used in the PR process, where open dialogue is necessarily constrained (e.g. after submission of SoR) to enable transparent recording of significant exchanges between the water company and other parties;
- How to conduct effective public consultation, with active encouragement to produce a readable, non-technical version of the draft WRMP, with a suggested standard format/checklist and a clear line of sight back to the SDS. This should incorporate good practice examples and might need to be supported by national architecture, such as a single web portal for the WRMP public consultation. There should also be guidance on how to manage the consultation process effectively on WRMPs alongside those on SEA and HRA;
- What is required of the SoR document and the potential value in publishing a revised draft WRMP where there is a need to articulate substantive changes to the Plan;
- How the SoR document may be made more transparent and useful to stakeholders;
- Make clear the regulators' expectations for ongoing dialogue between the Environment Agency and water companies following permission to publish the final WRMP, to achieve further improvements to the Plan, including in what circumstances these should delay publication or delay the launch of a particular scheme;
- (Subject to anticipated significant change to Ofwat's June Return process) make clear that it is good practice to integrate the WRMP Annual Review with the Ofwat June Return, perhaps assisted by a worked example illustrating how the first Annual Review may be integrated with the next June Return so that the combined document covers the same time period. Water companies will still need to ensure that their commentary meets Annual Review statutory requirements, and will need to submit a copy to Defra;
- Set out how discrepancies between the final WRMP and FD will be addressed at Annual Review;
- Encourage more water companies to consider inter-company water exchanges (see also recommendation 13), and
- Provide further guidance on the integration of SEA and HRA into the WRMP process (e.g. options appraisal).

To supplement the high-level document and help stakeholders to understand what the Guideline requires water companies to do, the introduction to the Guideline should

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summarise in non-technical terms the purpose and requirements of each stage in the process, and where stakeholders can expect to be involved.

7.4 Dialogue and engagement

Recommendation 4: A National Water Resources Management Forum should be established to promote open dialogue and issue resolution at a national level throughout the WRMP process, with a particular focus on managing change as the WRMP and PR processes proceed in parallel.

Membership should include water companies, regulators and other key statutory consultees such as CCWater and Natural England. The Forum might formally launch the five-year review process at the start of the pre-consultation stage. The Forum should consider issues of national interest and should not be used to address company-specific matters. To be successful, the Forum will need to have proactive support from all its members, and its members will need to be confident that its conclusions will be respected.

This recommendation is provisionally supported by Water UK's Task and Finish Group on the understanding that it is subject to regular review to ensure its continued relevance. It is suggested that the Task and Finish Group could provide a steering group for the wider Forum to shape its discussions and to fulfil an issue resolution and decision-making role.

One issue the Forum could usefully address would be whether and, if so, how, the WRMP process's dialogue with customers could play a role in wider efforts to raise the level of public interest in water supply-demand issues. Another could be how to ensure that companies consider inter-company connections for the next round of Plans.

Recommendation 5: Effective dialogue is critical to the preparation of robust, high quality Plans and should thereby help avoid recourse to a Public Inquiry or other independent review mechanism. To make it work:

- ***the regulators and water companies should work together at company level to improve their own dialogue throughout the WRMP process;***
- ***to enable effective engagement with stakeholders, water companies should adopt the good practice recommended in the new Guideline, and***
- ***water companies' efforts should be underpinned by strategic-level dialogue between the regulators and key stakeholders.***

This should be achieved through:

- provision of clear guidance in the Guideline (see recommendation 3) on expectations for water company-regulator dialogue and on how water companies may engage effectively with statutory consultees, and
- water companies observing the Guideline and adopting good practice in dialogue with regulators and engagement with stakeholders so that all companies perform to the standard demonstrated by the best in the first statutory process.

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The regulators should consider with key stakeholders (e.g. RSPB) whether these efforts, and the proposals to communicate the purpose and requirements of the WRMP clearly and simply in the high-level document (recommendation 2) and in the introduction to the Guideline (recommendation 3), will be sufficient to ensure appropriate awareness of the WRMP process among statutory consultees and other stakeholder bodies and to improve the information available to them and better manage their expectations of the process, or whether further strategic-level national engagement is required.

Recommendation 6: Defra, with the Environment Agency, Ofwat and Water UK, should explore the potential to make the WRMP process more transparent by requiring publication of representations and encouraging water companies to publish the Annual Review document on their website.

At present, representations are submitted to Defra for transmission to water companies. Defra should explore the potential to ask consultees to submit their representations directly to water companies and to oblige water companies to place representations (with consultees' permission) on their website. Obstacles to explore will include any FoI and data protection implications, as well as the legislative change that would be required. If implemented, this would reduce the administrative burden on Defra as well as achieving greater transparency.

Given that the purpose of publishing the Annual Review is to make it available to statutory consultees and other stakeholders, water companies will need to ensure that the document is sufficiently accessible to non-experts, or consider publishing a user-friendly summary. Depending on individual water companies' circumstances, they may wish to involve their quadripartite / joint group (see recommendation 3) in discussion about the key issues raised by the Review, prior to its submission.

7.5 Process improvements and increased sustainability

Recommendation 7: The industry and regulators should consider (through the proposed new National Forum) how consistency could be improved between different water companies' approaches to the WRMP process and to the published documents it generates.

For example:

- Standard timescales (e.g. consultation dates) could help to improve process transparency, enabling better integration of water resources management across water companies, and making it easier for stakeholders to compare plans;
- A more standard format for WRMPs could help to facilitate scrutiny of options for inter-company sharing by regulators and consultees;
- A more consistent approach to the SoR stage (perhaps facilitated by a pro forma or simple checklist) could help water companies ensure they cover all the points and provide a framework for the Environment Agency to indicate whether or not they are content with the water company's response on each comment. There might be a

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case for two options – one for Plans on which many substantive comments were received, and one for less controversial Plans.

Recommendation 8: The regulators should consider whether there would be any benefit in encouraging water companies to treat the WRMP as two distinct planning periods – with more emphasis on the short term, and a more strategic overview of the longer term.

This might help consultees to understand the increasing uncertainty over time, and the implications for the status of proposals in the latter half of plans (where exactly the boundary falls between short and longer term will differ depending on a company's circumstances). On the other hand it might create new problems – such as how to handle proposals which fall between the short-medium and longer term.

Recommendation 9: Defra's Water Resources team should consider with Climate Change Adaptation colleagues the case for a longer term forward look beyond the 25-year period, and what timeframe for this would be reasonable.

In light of any decision on taking climate change adaptation into account, the Guideline should set out the circumstances in which a longer-term view might be useful, provide advice on how this might be achieved (including examples of water companies that have already done so) and encourage water companies that decide not to include the additional forward look to comment on their decision. It will be for each water company to ensure that any effort invested in a longer term forward look is proportionate to the benefits of doing so.

Recommendation 10: The regulators should consider the case for a more streamlined process for the smallest companies and those with no supply-demand deficit if this can be achieved without undermining the robustness of Plans or the quality of dialogue with stakeholders.

Assessment of the scope for streamlining should take into account the need for all companies – regardless of size or status of supply-demand balance – to develop a robust WRMP based on sound evidence incorporating effective dialogue with their stakeholders.

It is equally important for all companies to provide the necessary information to ensure robust water resources planning at a regional and national scale. For example concerns about the long-term sustainability of WRMPs, as well as about inconsistencies between Plans and lack of collaboration between companies, may be addressed through ensuring that water companies with a supply-demand surplus identify and appraise options for exporting water to other companies.

It should nonetheless be possible to achieve this in a proportionate way, for example taking into account the degree of detail justified (e.g. in revising demand forecasts, conducting option appraisal) and whether updating is really required (e.g. for Deployable Output). The regulators should also consider whether there is any rationale to allow water companies with Plans that require minimal changes in the second statutory process to

adopt a more low-key approach without compromising the need for the process to be open and transparent.

Recommendation 11: Defra should consider adopting a more conciliatory alternative to Public Inquiries such as the Examination in Public approach.

Where further impartial advice to the SofS is required following the SoR stage, Defra should consider deploying alternative – less costly, less adversarial - public processes such as Examination in Public, based on a conciliatory / “building” process through the preparation of a Statement of Common Ground. Lessons can be learned from the process used by Planning Inspectors to examine local authority Development Plan Documents (DPDs) for soundness where an examination in public approach is being successfully used.

Defra should also ensure that the systems in place for any future public inquiry or hearing are clearly established to enable it to be as focused and streamlined as possible, with a strong working relationship with the Planning Inspectorate. The practical and logistical feedback in section 5.3.5 should also be taken into account.

Recommendation 12: Defra and the Environment Agency to consider the scope for better linkages between the WRMP process and drought planning, RBMPs and, ultimately, waste water planning.

In the case of **drought plans**, immediate consideration should be given to moving them to a five-year cycle in keeping with WRMPs.

In view of the clear linkages in terms of information requirements and production process, it may also be worth exploring further the merits of producing drought plans as part of the WRMP process. However in doing so it would be necessary to consider the very different natures of the two plans: drought plans are short term operational activity plans for flexible implementation if needed, whereas WRMPs are long term strategic plans, ultimately underpinning potentially costly investment decisions.

With **RBMPs**, work should continue to assess the linkages between the WRMP and RBMP processes and strengthen liaison arrangements within the Environment Agency. However, in the context of the wider discussions on the frequency of the PR, consideration could also be given to moving the WRMP/PR process to a 6-yearly cycle appropriately aligned with the RBMP period.

Finally, in terms of **waste water planning**, while this is likely to be a longer-term consideration, closer alignment and integration of processes – including with the WFD – is highly beneficial in terms of better regulation and, therefore, this is something that Defra may want to consider further.

Recommendation 13: The regulators – in dialogue with others where necessary – should consider what action can be taken to help increase confidence in Plans’ long-term sustainability.

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This should include consideration of how:

- Ofwat can articulate (in the high-level document) what it does to meet its sustainability duties in the context of the PR and WRMP processes and, in particular, how the PR process works with the WRMP process to ensure fair consideration of proposed early implementation of measures that deliver longer term sustainability;
- The Environment Agency and Natural England can work together – with water companies where possible - to identify a way to take longer term (unconfirmed) sustainability reductions into account in the WRMP process;
- Water companies can be encouraged to work more closely together and whether the Environment Agency and Ofwat need to improve their scrutiny of the extent to which water companies' proposals have adequately considered all the available options for water sharing (noting that Ofwat is already undertaking work on market reform and future price limits with the aim of incentivising companies to consider inter-company transfers). The Guideline could be strengthened to encourage more water companies to consider inter-company water exchanges as a mechanism for addressing supply-demand imbalances (e.g. because the consequent cost and environmental impact could be lower) (see also recommendation 10).

Among the technical proposals (recommendation 14) suggested to the Review, efforts to ensure a level playing field in the assessment of demand vs. supply measures will be relevant to this recommendation.

With the right framework in place, it will then be for water companies to take responsibility for delivering Plans that demonstrate best value for water customers and the environment over the long term.

Recommendation 14: The Environment Agency and Ofwat, in partnership with Defra and DCLG and other stakeholders as appropriate, should consider the technical proposals to improve the WRMP process recorded in Annex F.

Particular consideration should be given to the areas highlighted in section 6.5.6 to this report. It is suggested that the regulators should discuss the technical proposals with the National Forum (or a sub-group thereof) prior to reaching decisions.

Annex F reflects the range of suggestions submitted to this Review. It is not an exhaustive list of all the potential opportunities for technical improvement, and the regulators already have in hand a number of planned improvements.