

Statement of Obligations

Information for Water and Sewerage Undertakers and Regulators on Statutory Environmental and Drinking Water Provisions Applicable to the Water Sector in England

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1. INTRODUCTION

1.1 Background

1.1.1 This Statement of Obligations describes the Government's understanding of the main environmental statutory obligations that apply in particular to water and sewerage undertakers over the Price Review period 2015-2020. This covers both domestic legislation and requirements of European directives. It is organised into chapters on water quality, the water environment, water resources, climate change, sewerage and flood risk management.

1.1.2 The intended audience for this document are the water and sewerage undertakers and environmental and quality regulators. In addition, it is hoped that that this will provide a helpful reference document for the Consumer Council for Water, Customer Challenge Groups, Ofwat and other interested parties.

1.1.3 Many statutory obligations are delivered through programmes and planning regimes regulated by Ofwat and environmental and quality regulators. These are signposted here and companies are advised to work closely with regulators to ensure they contribute to achieving environmental objectives.

1.1.4 This is not a guidance document, it is a summary of the statutory obligations that already apply to water companies. The aim is to provide a useful reference tool, setting out the Government's understanding of relevant law and regulatory and economic instruments at the time of its issue. It is not a substitute for the law and should be read in conjunction with the relevant legal instruments. Legal advice should be sought if there is any doubt. This document is without prejudice to any enforcement action which the Secretary of State may take in any case. This document refers only to the water environment, drinking water, water treatment and supply. This document is a selection of the legislation applying specifically to the water industry. It may be updated from time to time. Other more general legislation is not detailed here.

1.2 Approach

1.2.1 In December 2011 the Government published its Water White Paper, *Water for Life*, setting out its vision for future water management to meet the challenges of adapting to climate change and increased pressure on water availability and quality. This further developed government strategy set out in the Natural Environment White Paper, *The Natural Choice*, published in June 2011 which set out the Government's commitment to taking an 'ecosystems approach' to environmental management and highlighted the economic and social benefits that can result from managing environmental activities at a larger scale, taking account of impacts across the landscape. This is often described as working at a 'landscape scale'. *The Natural Choice* recognised the particular relevance of this approach to management of the water environment across a whole catchment. *Water for Life* and *The Natural Choice* provide the strategic direction that will inform revised Social and Environmental Guidance (SEG) to Ofwat on the policy objectives to which

Government expects them to contribute in regulating the water sector. A revised SEG will be published in 2012, following a full statutory consultation.

1.2.2 The Government has adopted an integrated approach to meeting the requirements of the Water Framework Directive (WFD) and achieving the strategic objectives set out in *The Natural Choice* and *Water for Life*. This focuses on a joined-up approach to achieving environmental and drinking water quality goals as well as ensuring that all requirements, strategies and programmes contribute towards compliance with related directives.

1.2.3 In March 2011 the Government announced a new catchment-based approach to managing the water environment, building on the River Basin Management Planning approach established under the WFD. This acknowledges that water systems are complex and interconnected with the land that surrounds them. The key elements of the approach are bringing all interested parties together to build consensus about the best way to achieve outcomes, targeting advice and incentives where they can have most impact and tracking progress towards ensuring water bodies have 'good status' and that there is no deterioration. It aims to deliver water quality solutions in both urban and rural catchments that bring wider environmental benefits. This will complement existing schemes and tools that ensure compliance with the WFD. This approach should be adopted in meeting statutory obligations for the water environment.

1.2.4 Given their important role in delivering WFD objectives, water and sewerage undertakers should expect to be involved in the process of agreeing objectives and the apportionment of responsibility for delivering those objectives within the river basin district or districts in which they operate. The Environment Agency will consult water and sewerage undertakers on draft river basin management plans. Undertakers will be able to use information gained during this process of consultation and refinement for advance planning for WFD requirements.

1.2.5 Government expects the water industry to work with regulators to identify options for complying with their statutory obligations to the extent that such flexibility exists in law. The outcome of this process should be the appraisal of options before measures go into the final programme. Measures proposed to meet these requirements should be the most cost-effective means of meeting undertakers' statutory obligations noting that in some cases at least, the flexibility to take account of considerations such as cost-effectiveness in law, particularly EU law as transposed into domestic legislation, may be limited. It is also expected that undertakers will aim to generate wider benefits and deliver multiple outcomes where possible.

1.2.6 Since the introduction of the Flood and Water Management Act 2010 (FWMA 2010), companies now have a new role in wider flood risk management. Companies must act in a manner consistent with the National Flood and Coastal Erosion Risk Management (FCERM) Strategy and have regard to Local Flood Risk Management Strategies. Water companies must co-operate with other relevant authorities (e.g. local authorities and the Environment Agency) in the exercise of their functions in relation to surface water and combined sewers under section 94 Water Industry Act 1991 and the management of reservoirs.

References and Signposts

- Water for Life
- The Natural Choice: securing the value of nature
- Flood and Water Management Act 2010
- Water Industry Act 1991
- National Flood and Coastal Erosion Risk Management (FCERM) Strategy
- Floods Directive and Flood Risk Regulations 2009
- Local Flood Risk Management Strategies (prepared by Lead Local Flood Authorities)

2. DRINKING WATER QUALITY

2.1 General Approach

2.1.1 The Water Industry Act 1991 (WIA 1991) sets out the duty of water undertakers to supply drinking water that is safe and of a quality acceptable to consumers. The Drinking Water Inspectorate (DWI) is responsible for monitoring and enforcing the performance of those duties.

2.2 Drinking Water Directive and its implementation

2.2.1 The 1998 EC Drinking Water Directive is the primary legislation that sets standards for drinking water quality. The Directive was implemented in relation to public water supplies by the Water Supply (Water Quality) Regulations 2000, as amended. These contain the water quality standards of the Directive together with national standards. Under the Regulations, undertakers are required to implement a risk based approach using the World Health Organisation (WHO) 2004 Guidelines for Drinking Water Quality – Water Safety Plans (WSPs) methodology.

2.3 Water Framework Directive (WFD)

2.3.1 The Environment Agency has a duty under the WFD to designate as Drinking Water Protected Areas (DWPAs) all water bodies (both surface water and groundwater) from which water is abstracted or intended to be abstracted in the future, for human consumption in excess of 10 m³/day as an average or which serve more than 50 persons. Under Article 7.3 of the WFD, it is a requirement that measures are implemented to prevent deterioration in raw water quality due to pollution of DWPAs caused by human activities so that, as a minimum, the need for additional water treatment is avoided and ideally the level of treatment can be reduced over time. These measures are incorporated within River Basin Management Plans (RBMPs). Because Article 7.3 is a component of the Good Chemical Status test for groundwater, failure to meet this objective would mean that Good Chemical Status could not be met for groundwater bodies.

2.3.2 DWPAAs can be identified as 'at risk' in RBMPs and water companies should, where appropriate work with the Environment Agency, quality regulators and the local community to implement action plans and/or catchment schemes to ensure improvement.

2.3.3 The WFD requires measures to meet quality standards and prevent deterioration of raw water quality sources within DWPAAs. There are also related requirements in the Drinking Water Directive. The Environment Agency assesses compliance. Water undertakers will need to address the following specific obligations when considering drinking water quality proposals for PR14:

- to carry out a risk assessment for every water treatment works and associated supply system, to establish whether there is a risk of supplying water that could constitute a potential danger to human health.
- to carry out regulatory raw water monitoring at the point of abstraction for parameters identified through those risk assessments.

2.3.4 These risk assessments will provide information to support any drinking water quality proposals that water undertakers include in their business plans. The risk assessments and raw water monitoring should identify all existing and potential hazards that could impact on an undertaker's ability to supply wholesome drinking water. "Wholesome" is defined in regulation 4(2) of the Water Supply (Water Quality) Regulations 2000, as amended, and includes all existing drinking water quality standards and a requirement not to contain any other substance or organism that may pose a potential danger to human health.

2.3.5 Undertakers must comply with maximum levels of pesticides permissible in DWPAAs.

2.4 Raw Water Deterioration

2.4.1 Where there is a failure or a likelihood of a failure to meet national standards at consumers' taps, water undertakers will need to report to DWI as set out in the Water Industry (Suppliers' Information) Direction 2009.

2.5 Other substances and organisms

2.5.1 The Water Supply (Water Quality) Regulations 2000, as amended, require that water must not contain any substance at a level which would constitute a potential danger to human health. Water undertakers must also assess the risk posed by contamination of the raw water and have water treatment in place to ensure that the disinfection process is robust and able to either inactivate or remove all pathogenic organisms, including viruses, parasites and bacteria, before water is supplied.

2.5.2 Under the 1998 EC Drinking Water Directive the health based standard for lead becomes stricter across Europe in 2013. Existing measures have been very successful in reducing consumer exposure to lead. However, there are 'hotspots' in some towns and cities where there is a higher prevalence of lead plumbing in older buildings and sample results have indicated concentrations of lead above the future standard. Water

undertakers will need to examine whether strategic lead pipe replacement is required given the measures already in place. However, evidence shows that this is not always effective unless consumers replace their lead pipes at the same time. Therefore, water undertakers may need to work with others who have drinking water quality duties under the WIA 1991 (i.e. local authorities) to ensure that the future lead standard is met.

2.6 Operation and Maintenance

2.6.1 DWI works with undertakers to develop Distribution System Operation and Maintenance Strategies (DOMS). This is an integral part of undertakers' risk assessment and risk management approach using WHO Guidelines for Drinking water quality – water safety plans (WSPs) methodology.

References and Signposts

- Water Industry Act 1991
- Drinking Water Directive 1998 (98/83/EC)
- Water Supply (Water Quality) Regulations 2000
- Water Industry (Suppliers' Information) Direction 2009
- The Water Supply (Water Quality) Regulations 2000
- Distribution System Operation and Maintenance Strategies (DOMS).
- What are the Drinking Water Standards?, Drinking Water Inspectorate, 2010
- Water Safety Plan Manual, World Health Organisation, 2006

3. THE WATER ENVIRONMENT

3.1 The Water Framework Directive

3.1.1 The Water Framework Directive (WFD) establishes a strategic approach to managing the water environment. This includes a common approach to setting environmental objectives for groundwater, dependent wetlands and surface water bodies within the EC, compliance with standards and objectives set for protected areas, and the implementation of programmes of measures to meet those objectives. The WFD consolidates requirements of several existing directives. This is explained in relation to each topic in the appropriate section. Details of other directives with a link to WFD are provided at the end of this section. The requirements of the WFD are for the most part imposed through the Water Industry Act 1991 (WIA 1991) and the Water Resources Act 1991 (WRA 1991).

3.1.2 Under the WFD, River Basin Management Plans (RBMPs) set out an objective for each water body (for example, a stretch of a river or coastline, a lake, or a groundwater body) and summarise the programmes of measures which will be taken to achieve this.

Programmes of measures may include action to achieve environmental quality standards for a range of pollutants and water chemistry, to improve or maintain flows in surface water bodies, to change the physical structure or operation of assets (e.g. reservoirs, or abstraction intakes) and to prevent input of pollutants to groundwater.

3.1.3 WFD objectives include:

For surface waters:

- prevent deterioration;
- aim to achieve good ecological status (or for Artificial or Heavily Modified Water Bodies, good ecological potential);
- aim to achieve good chemical status;
- aim to reduce/cease emissions, discharges & losses from priority substances and priority hazardous substances and;
- meet protected area objectives where relevant.

For groundwater:

- prevent deterioration of status;
- aim to achieve good quantitative status;
- aim to achieve good chemical status;
- prevent or limit the input of pollutants;
- reverse significant upward trends in the concentration of pollutants and;
- meet protected area objectives where relevant.

3.1.4 The WFD has a strong economic component to support the decision making process. There are provisions for setting extended deadlines or less stringent objectives if the most cost effective package of measures to achieve the target status is disproportionately expensive, providing the conditions for applying alternative objectives set out in Article 4 of the WFD are met. However, this discretion is limited in relation to measures required to prevent deterioration of status and achieve the objective of preventing or limiting inputs of pollutants into groundwater.

3.1.5 As well as observing the WFD requirements for objective setting, the Environment Agency will also take account of priorities and other requirements set out in the Defra guidance on river basin planning. This guidance provides more details of how WFD objectives are to be interpreted. It is currently being reviewed and updated.

3.1.6 Monitoring requirements under WFD are set out in the Water Supply (Water Quality) Regulations 2000.

3.2 River Basin Management Planning Timetable

3.2.1 The first River Basin Management Plans (RBMPs) were published in 2009. The Environment Agency has started the process of reviewing and updating the plans.

3.2.2 The timetable for the second round of RBMPs will be confirmed in early 2013, following the consultation on “statement of steps and consultation measures”. The indicative timetable is as follows:

- June 2012 to December 2012 – Consultation on Statement of Steps and Consultation measures
- June 2013 to December 2013 – Consultation on Significant Water Management Issues
- June 2014 to December 2014 – Consultation on draft RBMPs
- September 2015 – RBMPs submitted to the Secretary of State for approval
- December 2015 – RBMPs approved and published

3.2.3 The WFD provides discretion to Member States about what objectives to set for particular water bodies and how to achieve the objectives but provides a detailed framework for the decision making process. As well as observing the WFD requirements for objective setting, the Environment Agency will also take account of priorities set out in the Defra guidance on river basin planning.

3.2.3 Once RBMPs are approved by the Secretary of State the objectives and programmes of measures summarised in the plans become statutory requirements. The Environment Agency will use permit and licence conditions to ensure that the water and sewerage industry meets its agreed contribution to achieving these objectives. Given their important role in delivering WFD objectives, water and sewerage undertakers should expect to be involved in the process of agreeing objectives and the apportionment of responsibility for delivering those objectives within the river basin district or districts in which they operate. The Environment Agency will consult water and sewerage undertakers on the Significant Water Management Issues (SWMI) work and the draft RBMPs.

3.2.4 Undertakers’ business plans should include those measures that have been identified by the relevant deadlines, including investigative work and pilot schemes. Some improvement schemes will be identified early, in relation to water resources, no deterioration and protected areas. Undertakers will be able to use information gained through their active involvement in the river basin planning process for advance planning for the WFD requirements that will need to be delivered after 2015. Undertakers can also, in their business plans, provision for work they and the environmental regulators reasonably anticipate will be necessary after 2015, based on the SWMI. It is recognised that detailed scheme requirements can only be confirmed once the Secretary of State has approved the revised RBMPs in December 2015. Undertakers and regulators should work together and be prepared to make adjustments to take account of this fact.

3.2.5 Undertakers' business plans should provide for the inclusion of schemes (including investigations) to meet all WFD requirements, which are based on a consistent methodology for assessing costs and benefits across the sector. Schemes are not limited to the operation of assets owned or controlled by undertakers.

3.2.6 Water and sewerage companies can invest in natural as well as built infrastructure to deliver their desired outcomes. For example, where this provides value to their customers, they can support land management approaches designed to minimise pollution at source instead of paying for measures to extract the same pollutants downstream. *The Natural Choice* demonstrated how targeted investment of this sort can deliver a wide range of positive social, environmental and economic outcomes. An increasingly common approach to making such investments is through 'payments for ecosystems services' schemes. Treasury Green Book supplementary guidance on accounting for environmental impacts in policy appraisal recommends use of ecosystem services as a framework for assessing environmental impacts.

3.2.7 Water companies are encouraged to consider where payments for ecosystems services schemes or other such investments in natural infrastructure can deliver a cost beneficial outcome for their customers. They may also wish to work in partnership with other organisations (for example environmental NGOs or Local Authorities) where there are opportunities to invest jointly in shared outcomes; and to engage with customers on their willingness to pay for added value activities. Having undertaken an appropriate assessment of the benefits to customers, undertakers may agree and implement improvement schemes, source control measures, or demand management measures, in the catchments or Drinking Water Protected Areas in which they operate.

3.3 Maintaining Water Quality of Drinking Water Protected Areas (DWPAs)

3.3.1 Under Article 7.3 of the WFD it is a requirement that measures are implemented to prevent deterioration in raw water quality from a 2007/8 baseline due to pollution of DWPAs. Measures to address this should be included within RBMPs. In order to help achieve this requirement, the Environment Agency has designated safeguard zones. These are not statutory but can be used to target measures that can be taken to prevent deterioration and therefore minimise the need for treatment. Catchment Schemes that investigate and implement catchment based options may provide cost effective alternatives to additional treatment and provide wider benefits. These may be considered, where appropriate, by water companies or as part of local partnerships. These provisions support the duty to supply "wholesome water" under section 35 of the WIA 1991.

3.4 Urban Waste Water

3.4.1 The environment is protected from the adverse effects of discharges of urban waste water through the Urban Waste Water Treatment Directive (UWWTD) (91/271/EEC), implemented by the Urban Waste Water Treatment Regulations 1994. These should be seen in the context of the general duties to provide, improve and extend the sewerage

system imposed by section 94 of the WIA 1991. The Directive requires Member States to ensure that:

- collecting systems (sewers) are provided for urban waste water from cities, towns, villages and industrial premises above a certain size;
- urban waste water is treated to specified minimum standards before discharge into the environment;
- sensitive waters are identified as 'sensitive areas' and discharges to such waters are subject to more stringent treatment.

3.4.2 The treatment standard required by the UWWTD depends on the population equivalent (p.e.) served by the sewage treatment works (or industrial treatment plant) and the type of water into which they discharge:

- Appropriate treatment is the approach specified by the Directive to protect receiving waters from the effects of discharges from treatment works serving small communities (below 2,000 p.e. for discharges to inland and estuarial waters and 10,000 p.e. for discharges to coastal waters). Secondary treatment is the general standard of treatment set by the Directive for communities of 2,000 p.e. and above for discharges to inland and estuarine waters and 10,000 p.e. and above for discharges to coastal waters.
- more stringent than secondary (i.e. tertiary) treatment is required for discharges from treatment works serving communities of more than 10,000 p.e., contributing to the pollution of waters identified by member states as 'sensitive areas'.
- Less stringent than secondary (i.e. primary) treatment is permitted for waters identified by member states as 'less sensitive areas'.

3.4.3 Sensitive area designations are reviewed every four years and Member States have up to seven years from identification of a sensitive area to meet tertiary treatment requirements at qualifying sewage treatment plants. On 14 November 2011, 33 additional eutrophic sensitive areas were designated in England. These will require the relevant works to have the relevant nutrient removal in place by 14 November 2018.

3.4.4 Demonstrating ongoing active management of collecting systems is strongly encouraged. This includes the approach to sewerage planning (see para 6.5) but may also include the monitoring of events from intermittent discharges where appropriate. Spill frequency trigger levels in permits for discharges impacting on particularly sensitive waters (for example bathing and shellfish waters) would further underline a commitment to protecting such waters and those who use them.

3.4.5 In the case of the provision of satisfactory collecting systems and treatment requirements, action and investment should only be necessary, and included in undertakers' business plans, where requirements have already been identified or become newly identified e.g. additional sewerage capacity for population growth areas or the resolution of issues concerning discharge consent applications. Guidance relating to the

implementation of the UWWTD will be reviewed and may need to be modified in the light of the outcome of the 'collecting system' case currently before the Court of Justice of the European Union (Case C-301/10) relating to London and Whitburn.

3.5 Bathing Waters

3.5.1 The health of bathers and maintenance of aesthetic quality at identified bathing waters is protected through the Bathing Water Directives, implemented by the Bathing Water Regulations 2008. There is currently a transition phase between the old and revised directives. From 2012 monitoring will begin under the revised Directive (2006/7/EC) and this will focus on a smaller set of parameters emphasising microbial pollution. Until 2015 assessment and reporting will continue under the old Directive. From 2015 the UK will report against the new classifications based on the revised Directive's more stringent microbiological standards for E.coli and intestinal enterococci. The Government's aim is for all bathing waters to achieve at least 'Sufficient' class by 2015 (this is approximately twice as stringent as the requirements for the current (c) Directive). From 2015 the Directive requires Member States to take realistic and proportionate measure to increase the number of bathing waters meeting the 'Good' or 'Excellent' classifications. Existing improvement schemes should continue but planning for the future should now be targeted at the revised classifications: 'Sufficient', 'Good', and 'Excellent' (those that fail to meet 'Sufficient' are classified as 'Poor').

3.5.2 The provisions apply to all identified bathing waters, of which there are around 416 in England. In summary, obligations will include schemes affecting bathing waters which:

- Are predicted to be 'Poor' (revised Directive) or fail Imperative standards (c Directive)
- Waters having a >20% risk of failing the 'Sufficient' classification
- Waters having a >20% risk of failing their Baseline class as set in 2011.

3.5.3 The government will also consider schemes of improvement towards meeting the 'Good' (or 'Excellent') classification where the company is supported fully by its customers' willingness to pay. The Government will also consider schemes to apply the prediction and discounting provisions of the Directive. Implementation of the Directive may require the EA to discuss with undertakers, investment that is needed not just in terms of asset maintenance but also action which helps to meet environmental objectives through dealing with, for example misconnections and diffuse urban pollution which impacts on bathing waters.

3.5.4 Although improvements will be included in programmes of measures within RBMPs, in some cases, work may have to be brought forward on specific sewage infrastructure to meet the requirements in para 3.6.1. The revised classification starts in 2015 and improvements agreed during PR14 will impact upon classifications between 2016 and 2020, so measures should be planned to impact on bathing water quality by 2016 or as early as possible in the planning period.

3.6 Freshwater Fish

3.6.1 The Freshwater Fish Directive (FWFD) (2006/44/EC) will be repealed in December 2013 by the WFD which replaces it. Obligations are implemented through the Surface Waters (Fishlife) Regulations 1997. A small number of existing FWFD schemes may have to be carried over into PR14 in order to provide the equivalent level of protection required by the WFD.

3.7 Shellfish Waters

3.7.1 The Shellfish Waters Directive (SWD) (2006/113/EC) will be repealed by WFD in Dec 2013 but must be fully implemented until it is repealed. After December 2013 its provisions will be taken on board in the WFD and WFD water quality standards will be used to provide an equivalent level of protection, supplemented by additional standards where necessary. Obligations are implemented in the Surface Waters (Shellfish) Directions 1997. Further improvements beyond this would fit under the objective of aiming to achieve 'Good' status. The guideline standard on the levels of bacteria in shellfish flesh will be retained for shellfish protected areas and measures for protecting and improving these will be part of the RBMPs.

3.7.2 In England there are 98 shellfish waters. The measures necessary to implement the SWD are identified in Pollution Reduction Plans (PRPs) and will become part of the RBMP Programme of Measures from 2014.

3.7.3 Current statutory requirements include actions to meet imperative (I) standards and to "endeavour to meet" guideline (G) values. The Environment Agency regularly reviews PRPs to ensure that measures included to meet (I) and to endeavour to meet (G) values remain up to date. PRPs must contain a comprehensive and clear plan aimed at achieving (G) values. Measures are mainly targeted at microbiological improvements to meet the guideline standard. Improvements to sewage works and Combined Sewer Overflows, and tackling sources of diffuse pollution will be key to meeting the guideline standard.

3.7.4 To align with the European Food Hygiene Regulations, the guideline standard will be based on E.Coli from 2014, rather than Faecal coliforms. This is consistent with the Bathing Waters Directive where monitoring has already changed from Faecal coliform to E Coli. The designation of shellfish protected areas will be reviewed as part of the RBMP cycle.

3.8 Dangerous Substances

3.8.1 Management of dangerous substances is controlled through the Surface Waters (Dangerous Substances) (Classification) Regulations 1998 that fulfil the requirements of the Dangerous Substances Directive (DSD) (76/464/EEC). From December 2013 these requirements will be replaced by the WFD management of priority substances (see below).

3.9 Priority Substances and Specific Pollutants

3.9.1 The Environmental Quality Standards (Directive 2008/105/EC) (EQSDir) is a “daughter Directive” of the WFD and sets out the criteria for good surface water chemical status under that Directive. It is implemented through Environmental Permitting Regulations. This takes the form of a list of Priority Substances and Priority Hazardous Substances together with their Environmental Quality Standards (EQSs) which must be met to achieve ‘Good Chemical Status’. The European Commission is required to update this Priority List every 4 years and is currently proposing amendments to current EQSs and additional substances for inclusion on the list, which when agreed, will form the basis for WFD second cycle planning. A list of these substances (both current and proposed) is given at the end of this section.

3.9.2 In addition to preventing deterioration in waterbody status it is anticipated that Member States will be required to introduce measures with the aim of achieving ‘Good’ status in bodies of surface water for the revised list of standards by 2021. Member States are also required to aim to progressively reduce emissions, discharges and losses of priority substances and, the cessation and phasing out those of priority hazardous substances.

3.9.3 Member States are required to identify substances of national concern which are discharged in significant quantities as ‘Specific Pollutants’ and then derive EQSs for them using the WFD methodology. The WFD UK Technical Advisory Group is currently proposing a list of new ‘Specific Pollutants’ and EQSs and amendments to some existing EQSs based on the most recent scientific knowledge. If a revised list of ‘Specific Pollutants’ and EQSs is adopted these will form the basis of WFD second cycle planning. A list of ‘Specific Pollutants’ (both current and proposed) is given at the end of this section.

3.9.4 The WFD objectives for ‘Priority List Substances’ in the EQS Directive are subject to the WFD Article 4 provisions, for the extension of deadlines and the setting of less stringent objectives in response to disproportionate cost and technical infeasibility.

3.9.5 Water undertakers will need to meet the current EQSs, and new or revised EQSs (following review, adoption & transposition of a revised ‘Priority List’ and update of ‘Specific Pollutants’), and provide the information needed to inform River Basin inventories of emissions discharges & losses.

3.9.6 Undertakers will also need to prepare for the progressive reduction of priority substances and the cessation and phase out requirements for priority hazardous substances, taking into account disproportionate cost and technical feasibility.

3.9.7 Following ‘Options Appraisals’ emerging from the PR14 Chemicals Investigation Programme, improved treatment, or other measures at Sewage Treatment Works (STWs), or alternative solutions, may be required where pollutant inputs from STWs are identified as reasons for failure of ‘Good’ chemical status. In such cases undertakers may need to plan cost effective infrastructure development/treatment upgrades in the second or third round of river basin planning.

3.9.8 With the current reviews of 'Priority Substances' and 'Specific Pollutants' in mind, the Environment Agency may need to selectively extend the current Chemicals Investigation Programme to gather information and evaluate options for proposed and newly emerging substances or address information gaps in the current programme. If required, this information should be delivered by the end of 2018 to allow implementation of options in either the second or third river basin planning cycles.

3.9.9 There are a number of mechanisms that may reduce inputs of chemicals to sewer such as source control (e.g. by REACH and other chemical/product legislation), trade effluent controls and Pollution Prevention and Control (PPC). Additionally undertakers' business plans should provide for the inclusion of schemes (including investigations) to meet all WFD requirements.

3.9.10 Current Priority Substances, Specific Pollutants and other pollutants included in the EQS Directive:

Priority Hazardous Substances	Priority Substances	Specific Pollutants	Other Pollutants (GCS)
Anthracene	Alachlor	2,4-Dichlorophenol	Carbon-tetrachloride
Brominateddiphenylether (BDPE)	Atrazine	2,4-D	DDT total
Cadmium and its compounds	Benzene	Ammonia	Para-para-DDT
Chloroalkanes, C 10-13	Chlorofenvinphos	Arsenic	Aldrin
Endosulfan	1,2-dichloroethane	Chlorine	Dieldrin
Hexachlorobenzene (HCB)	Dichloromethane	Chromium (III)	Endrin
Hexachlorobutadiene (HCBD)	Di(2-ethylhexyl)phthalate (DEHP)	Chromium (VI)	Isodrin
Hexachlorocyclohexane (HCH)	Diuron	Copper	Tetrachloro-ethylene
Mercury and its	Fluoranthene	Cyanide	Trichloro-

compounds			ethylene
Nonylphenol	Isoproturon	Cypermethrin	
Pentachlorobenzene	Leads and its compounds	Diazinon	
PAH: Benzo(a)pyrene	Naphthalene	Dimethoate	
PAH: Benzo(b)pyrene	Nickel and its compounds	Iron	
PAH: Benzo(k)fluoranthene	Octylphenol	Linuron	
PAH: Benzo(g,h,i)perylene	Pentachlorophenol	Mecoprop	
PAH: Indeno(1,2,3-cd)pyrene	Simazine	Permethrin	
Tributyl tin compounds (TBT)	Trichlorobenzenes	Phenol	
	Trichlorormethane (chloroform)	Toluene	
	Trifluralin	Zince	
	Chloropyrifos		

3.9.11 Proposed additional Priority Substances and Specific Pollutants:

Priority Hazardous Substances	Priority Substances	Specific Pollutants
Di(2-ethylhexyl)phthalate(DEHP)	Dicofol	3,4-dichloroaniline
Trifluralin	Aclonifen	Benzyl butyl phthalate

PFOS	Bifenox	Carbendazim
Quinoxifen	Cybutryne (Irgarol ^R)	Chlorothalonil
Dioxins & dioxin-like compounds	Dichlorovos	Glyphosate
Hexabromocyclododecane	Terbutryn	Manganese
Heptachlor/heptachlor epoxide	17alpha-ethinylestradiol (E2)	Methlocarb
	17 beta-estradiol (E2)	Pendimeethalin
	Dichlofenac	Tetrachloroethane
		Triclosan

3.10 Groundwater

3.10.1 The Water Framework Directive (WFD) provides a risk based framework for protecting the aquatic environment. The WFD repealed many existing European directives including the “old” 1980 Groundwater Directive (GWD) (80/68/EEC). It allows a more flexible approach to regulation, while still providing an equivalent level of environmental protection through the Groundwater Daughter Directive (GWDD) (2008/116/EC).

3.10.2 The GWDD was enacted by the Groundwater Regulations (2009), which were almost immediately subsumed by the Environmental Permitting Regulations (2010). It creates no new objectives over and above those that are already in the WFD, but it does provide essential clarification for some of the WFD objectives. For example there are four objectives specifically for groundwater quality in the WFD:

- Achieve ‘Good’ groundwater chemical status by 2015, commonly referred to as ‘status objective’;
- Achieve Drinking Water Protected Area Objectives;
- Implement measures to reverse any significant and sustained upward trend in groundwater quality, referred to as ‘trend objective’; and
- Prevent or limit the inputs of pollutants into groundwater, commonly referred to as ‘prevent or limit’ objectives

3.10.3 The GWDD elaborates and clarifies these objectives, as well as providing instructions on how to classify the chemical status of groundwater bodies and how to identify upward trends in pollutant concentrations.

3.10.4 Importantly, the new regulations have reclassified List I and List II substances, now referring to hazardous substances and non-hazardous pollutants. While hazardous substances generally equate to the former List I's, non-hazardous pollutants covers a broader range of substances than under the former List II's. Radioactive substances are included within the scope of the GWDD because they are classified as pollutants under the WFD. Although radioactive substances were not included formerly under List I, they are classified as hazardous substances.

3.10.5 The Nitrates Directive is a "basic mechanism" for the purposes of the WFD and the GWDD and is a key measure for addressing agricultural diffuse pollution issues from nitrates. However, the WFD requires further measures to be taken if necessary to meet its environmental objectives.

3.10.6 Catchment management and source control approaches have the potential to offer better and more cost effective outcomes as well as wider benefits. Water companies should, therefore, routinely consider the following measures:

- Water company led Catchment Schemes. Catchment schemes target diffuse pollution at source and can deliver good value for money. Costs can be justified where shown that end of pipe treatment costs are reduced.
- Payments for ecosystem services (i.e. encouraging water companies to identify how farmers may help reduce or eliminate deterioration of raw water through amending management techniques).
- Develop and maintain accurate records of the location of all emergency sewer overflows and carry out associated risk assessment for groundwater receptors.
- Inspection and improvement of sewers in SPZ1, Safeguard Zones or other high risk areas (covering misconnections as well as old/damaged systems).
- Undertake a modelled assessment of STW discharges to assess if the prevent and limit requirements of the groundwater daughter directive are being met to protect groundwaters. If there are risks of not meeting these requirements then up-gradient and down-gradient monitoring should be considered. Monitoring of non-hazardous pollutants and hazardous substances in the receiving water is advised if risks are identified.

3.10.7 The impact of groundwater abstractions on the condition of groundwater dependent wetland plant communities has to be assessed to determine whether, and if so how, the abstraction is confirmed and whether the groundwater body is classified as at poor status.

3.11 Wildlife and Countryside

3.11.1 The Wildlife and Countryside Act 1981 (WCA 1981) (as amended by the Countryside and Rights of Way (CROW) Act 2000 and the Natural Environmental and Rural Communities (NERC) Act 2006, requires Natural England to identify any areas of land of special interest by reason of any of their flora, fauna, or geological or physiographical features and notify them as Sites of Special Scientific Interest (SSSI).

3.11.2 The CRoW Act 2000 changed the WCA 1981 by amending SSSI notification procedures, providing enhanced powers for the management and protection of these sites, and extending powers for entering management agreements. The Act places a duty on public bodies to conserve and manage SSSIs. The CRoW Act 2000 also amended the WCA 1981 by increasing the legal protection for species which are threatened. Section 28G(2) of the WCA 1981 (as amended) imposes a duty on statutory undertakers (including water undertakers and sewerage undertakers) in respect of impacts of their activities on SSSIs. The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. Sections 28 H and 28 I place obligations on statutory undertakers to give prior notification to the statutory nature conservation advisors, in relation to operations they themselves undertake, or for which they give consents or authorisations, which are likely to damage the special interest features of an SSSI. The s28G(2) duty applies whether the functions/activity is being carried on, within or outside the SSSI.

3.11.3 . There is an expectation that undertakers, in common with other SSSI owners and managers, will manage SSSI land sympathetically for its nature conservation interest, either maintaining or enhancing its condition. Natural England has powers under sections 28 J to 28 K to enforce appropriate management where this is not being undertaken on a voluntary basis. As mentioned above, where activities are being carried out by undertakers outside the boundaries of SSSIs but which have an impact on the special interest features of that SSSI, they will also need to review that activity and, where appropriate, cease or modify that activity in order to fulfil their S28G(2) duty.

3.11.4 Compliance with the section 28G duty contributes to meeting requirements for non-marine Natura 2000 sites, Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the Birds and Habitats Directives and meet the objectives of the Habitats and Wild Birds Directives.

3.11.5 Statutory undertakers, in their business plans, will need to include those actions deemed necessary both to remedy adverse impacts on, and to maintain and enhance the condition of, SSSIs in 2015 –2020 and beyond. Where there is not an appropriate level of confidence and precision in the current assessment, it may be necessary to make provision for investigations rather than substantive schemes.

3.11.6 There are also duties placed on statutory undertakers through:

- s11A of the National Parks and Access to the Countryside Act 1949, in exercising any functions in relation to or so as to affect land in any National Park, to have regard to the

purposes of conserving the natural beauty, wildlife and cultural heritage of National Parks and of promoting opportunities for public understanding and enjoyment of these areas;

- s85 of CRoW 2000, in exercising any functions in relation to or so as to affect land in any area of outstanding natural beauty, to have regard to the purpose of conserving and enhancing its natural beauty (which includes its flora, fauna and geological and physiographical features);
- s17A of the Norfolk and Suffolk Broads Act, in exercising or performing any functions in relation to, or so as to affect, land in the Broads, to have regard to the purposes of (a)conserving and enhancing the natural beauty of the Broads; (b)promoting the enjoyment of the Broads by the public; and (c) protecting the interests of navigation.

There is a Defra guidance note on these duties which was published in 2005.

3.12 England Biodiversity Strategy

3.12.1 The Biodiversity Strategy for England (Biodiversity 2020) promotes an integrated large-scale approach to conservation through initiatives such as Nature Improvement Areas and has a series of quantifiable outcomes to halt overall biodiversity loss including those on habitat condition, extent and connectivity. It contributes to compliance with international commitments for conserving and enhancing species and habitats identified as being of principal importance for the conservation of biological diversity in England. These are set out in the list published by the Secretary of State in accordance with section 41 of the Natural Environment and Rural Communities Act 2006 (NERC Act 2006) (available on the Natural England website).

3.12.2 Section 40 of the NERC Act 2006 also places a duty on every public authority, (which includes statutory undertakers), in exercising its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

3.12.3 Undertakers will need to take account of the section 40 NERC Act 2006 duty and the list of species and habitats published in accordance with section 41 of the Act in their Business Plans. They should also have regard to the Defra published guidance for public authorities “Guidance for Public Authorities on Implementing the Biodiversity Duty” which requires authorities to have regard, so far as is consistent with the proper exercise of their functions, to conserving biodiversity. Undertakers can contribute significantly to the overall objective in the Biodiversity Strategy of halting biodiversity loss through activities which improve the condition, extent and connectivity of the section 41 habitats and/or the habitats used by section 41 species.

3.13 The Habitats and Wild Birds Directive

3.13.1 The Habitats and Wild Birds Directives contribute towards protecting and enhancing biodiversity through the conservation of natural habitats and of wild flora and fauna.

Member States are required to:

- identify and protect as “Special Areas of Conservation” certain sites that are representative of specified habitats or of habitats for specific species which are of European importance. Such sites, together with sites protected under the Wild Birds Directive (2009/147/EC) (“Special Protection Areas”) comprise the pan-European ecological network of conservation sites known as “Natura 2000”. In England, as a matter of policy, sites listed or proposed under the “Ramsar Convention on Wetlands of International Importance” receive the same level of protection as Natura 2000 sites. This level of protection also applies to potential SPAs and possible SACs and, in accordance with the NPPF, to sites identified or required as compensation in circumstances where a damaging development is allowed to take place notwithstanding adverse impacts on protected sites.
- Maintain or restore, at “favourable conservation status in their natural range” habitats and species of EU interest listed in the Habitats Directive. Similar obligations apply to all wild bird populations under the Birds Directive, and include the need to preserve, maintain and restore habitats essential for their survival. This protection is afforded by a combination of specific controls on activities that may have an effect on protected sites listed above, and other controls that apply outside the protected sites but which also aim to give appropriate protection to habitats and species.

3.13.2 In England and Wales, the Habitats Directive and certain elements of the Birds Directive have largely been transposed into law by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 (‘the Habitats Regulations 2010’) (as amended). The Habitats Regulations 2010 include statutory undertakers as “competent authorities”. Regulation 9(3) requires a competent authority, in exercising any of its functions, to have regard to the requirements of the Habitats and Wild Birds Directives so far as they may be affected by the exercise of those functions. In addition, regulation 61 places obligations on competent authorities in respect of plans or projects likely to have a significant effect on a protected site. Regulation 9A(8) places a duty on a competent authority in exercising any function in or in relation to the United Kingdom, and so far as lies within their powers, to use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds.

3.13.3 A number of Natura 2000 sites are affected by existing regulatory consents held by water undertakers, most particularly discharge consents and abstraction licenses under the WRA 1991.

3.13.4 Those areas (263 in England) designated under the Habitats and Wild Birds Directives where the maintenance or improvement of the status of water is an important factor in their protection have been listed on the register of protected areas under WFD.

3.13.5 The WFD introduces a 2015 deadline (Article 4.1(c)) for achieving compliance with the objectives for water of those water-dependent Natura sites which are covered by the WFD. The WFD provisions for setting alternative objectives cannot be used in relation to objectives drawn up under the Habitats and Wild Birds Directives. However, the provisions for extending the 2015 deadline can be used in relation to areas of water identified as ‘water bodies’ in protected areas where, for instance, it is not technically feasible to

complete all the necessary improvements until after 2015 provided that in so doing, compliance with the requirements relating to the particular protected area are not undermined.

3.13.6 There is direct read-across to the provisions of the Environmental Liability Directive (ELD), implemented through the Environmental Damage (prevention and Remediation) Regulations 2009, since water undertakers will be liable under the ELD to take remedial measures where an activity has caused damage to habitats or species listed in the Annexes to the Habitats and Birds Directive. This does not apply where the activity was fully in accordance with conditions of an authorisation and the operator was not at fault or negligent.

3.13.7 All terrestrial parts of Natura 2000 sites in England are protected by Part II of the Wildlife and Countryside Act 1981 through underpinning SSSIs. The England Biodiversity Strategy (2011) includes outcomes in relation to SSSI condition.

3.13.8 For 2015 –2020 the regulators and the statutory undertakers will need to identify and address those actions deemed necessary to address adverse impacts in 2015 –2020 and beyond. The actions deemed necessary and to be included in undertakers' business plans will be those identified through the 'Review of Consents' or other processes which provide good evidence and which are not already funded under AMP4 or 5, or schemes which are necessary as a result of AMP4 investigations..

3.14 Forestry

3.14.1 Water Companies should have reference to 'Woodland for Water' guidance to identify any measures they could take, where appropriate, to support forest management and the restoration of degraded forests. The UK Forestry Standard and 'Forests and Water Guidelines' set out the Government's approach to sustainable forest management and outline the legal and good practice requirements relevant to the freshwater environment.

3.15 Eels

3.15.1 Under the European Regulation, the UK must take actions to halt and reverse the decline in the European eel stock. The EC Eel Regulation (Council Regulation 1100/2007) required European member states to prepare Eel Management Plans to describe the current status of eel stocks and highlight management actions that will be taken. Eleven Eel Management Plans cover England and Wales. Each sets out our plans for action under five headings: passage; habitat; exploitation; stocking; and monitoring.

3.15.2 The EC Regulation specifically requires that the Eel Management Plans consider eel passage as part of the solution in addressing declining eel stocks. The Eels (England and Wales) Regulations 2009 provides the Environment Agency with powers to ensure safe passage for eels. The Environment Agency and the statutory undertakers will need to identify those actions deemed necessary to deliver the Eel Management plans particularly

in relation to eel passes and screens. The Environment Agency will take a risk based and prioritised approach on all structures that are likely to impact eel passage.

3.16 Industrial emissions (including Integrated Pollution Prevention and Control)

3.16.1 The integrated prevention and control of pollution arising from listed industrial activities is carried out via the Integrated Pollution Prevention and Control Directive (IPPCD) (2008/1/EC) . The IPPCD lays down measures designed to prevent or, where that is not practicable, to reduce emissions in the air, water and land from the listed activities, including measures concerning waste, in order to achieve a high level of protection of the environment taken as a whole.

3.16.2 IPPCD is founded upon the application of best available techniques (BAT). As defined in the Directive, what are BAT for each installation has to be determined by the regulator. Permit review by the regulator in certain circumstances may be required, notably in cases where BAT move on. In England and Wales, the regulator for most IPPC activities is the EA, (the relevant local authority is the regulator for some activities, though these are not likely to be of relevance to water undertakers).

3.16.3 Undertakers will need to include in their business plans, treatment and disposal of sludge to maintain compliance with IPPCD. This may be a higher standard of performance than generally delivered under UWWTD and covers a wider range of media (noise / odour etc).

3.16.4 The Directive is transposed and implemented in England and Wales through the Environmental Permitting (England and Wales) Regulations 2010. Those Regulations also transpose the Waste Incineration Directive (2000/76/EC) which is applicable to any incineration or co-incineration activity, irrespective of capacity. It is therefore particularly applicable to the incineration of sewage sludge.

3.16.5 Both the IPPC and waste incineration Directives have been recast, along with Directives concerning large combustion plants, activities using volatile organic compounds and the titanium dioxide industry, into the industrial emissions Directive (2010/75/EU). Transposition should be complete by January 2013, in England and Wales through amendment of the Environmental Permitting (England and Wales) Regulations 2010.

3.16.6 The industrial emissions Directive maintains and somewhat strengthens IPPC requirements, as well as extending them to more waste treatment activities, notably those involving recovery using biological processes. However, activities covered by Directive 91/271/EEC (the “urban waste water treatment” Directive) are excluded. Activities newly subjected to IPPC will have to meet the requirements by July 2015: those already subject to IPPC and carried out in existing installations will have the strengthened requirements applied from January 2014. The waste incineration requirements remain virtually unchanged from those in the Waste Incineration Directive.

References and Signposts

- EC Water Framework Directive (2000/60/EC)
- Water Environment (Water Framework Directive) (England & Wales) Regulations 2003
- Water Supply (Water Quality) Regulations 2000
- Marine Strategy Framework Directive (2008/56/EC)
- Bathing Water Directive (76/160/EEC, as replaced by 2006/7/EC)
- Bathing Waters Regulations 2008
- Drinking Water Directive (80/778/EEC, as amended by 98/83/EC)
- Urban Waste Water Treatment Directive (91/271/EEC)
- Urban Waste Water Treatment Regulations 1994
- Nitrates Directive (91/676/EEC)
- Nitrate Pollution Prevention Regulations 2008
- Water for Shellfish Directive (79/923/EEC)
- Surface Waters (Shellfish) Regulations 1997
- Water for Freshwater Fish Directive (78/659/EEC)
- Surface Waters (Fishlife) Regulations 1997
- Groundwater Directive (80/68/EEC)
- Dangerous Substances Directive (76/464/EC)*
- Surface Waters (Dangerous Substances) (Classification) Regulations 1998
- WFD Daughter Directive on Groundwater (2006/118/EC)
- WFD Daughter Directive on environmental quality standards (2008/105/EC)
- Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC)
- European Food Hygiene Regulations 2006
- Environmental Liability Directive (2004/35/EC)
- Environmental Damage (Prevention and Remediation) Regulations 2009
- Major Accidents (Seveso) Directive (96/82/EC)
- Environmental Impact Assessment (85/337/EEC)
- National Parks and Access to the Countryside Act 1949
- Norfolk and Suffolk Broads Act 1988
- Internal Emissions Directive (97/68/EC)
- Waste Incineration Directive (2000/76/EC)
- The Landfill Directive (99/31/EC),
- The Environmental Assessment of Plans and Programmes Regulations 2004
- The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004

- DoE Circular 7/89. (List II substances), 1989
- RBMP Guidance, Environment Agency
- Accounting for environmental impacts: Supplementary Green Book guidance, HMT, 2012
- Eel Management Plan Guidance, Environment Agency
- Biodiversity 2020: A strategy for England's wildlife and ecosystem services, Defra
- The Conservation of Wild Birds Directive (2009/147/EC)
- Guidance for Public Authorities on implementing the Biodiversity Duty, Defra
- Wildlife and Countryside Act 1981
- Natural Environment and Rural Communities Act 2006
- The Birds Directive (2009/147/EC)
- Countryside and Rights of Way Act 2000
- UK Forestry Standard, Forestry Commission
- Forests and Water Guidelines, Forestry Commission
- The Conservation of Natural Habitats and of Wild Fauna and Flora Directive (92/43/EEC)
- The Conservation of Habitats and Species Regulations 2010 (as amended)

4. WATER RESOURCES

4.1 Water resources management planning

4.1.1 The challenge of climate change puts an even greater importance on water resource planning. Water Resources Management Plans (WRMPs) are integral to meeting these challenges. The development of WRMPs should also inform other water resource management tools such as catchment and River Basin Management Plans (RBMPs) as well as ensure compliance with requirements of the Water Framework Directive (WFD).

4.1.2 Water companies are required to set forecasts of demand for water for 25 years, taking into account factors such as population growth and climate change.

4.1.3 The main water resources planning requirements for water undertakers are set out under s. 37A of Water Industry Act 1991 (WIA 1991) as amended by the Water Act 2003. This requires undertakers to draw up, consult upon and adopt a water resources management plan (WRMP). The purpose of the plan is to set out how the undertaker will manage, and continue to manage, its water resources so as to be able to meet its obligations under Part III of the WIA 1991. These obligations include those for supplies to domestic and non-domestic customers, which are outlined below.

4.1.4 The process for drawing up the plan is specified in s.37B of the WIA 1991 as amended by the Water Act 2003 and in regulations (The Water Resources Management Plan Regulations 2007).

4.1.5 As set out in Directions (The Water Resources Management Plan Direction (2012)) from the Secretary of State, the plan must cover a period of 25 years from 1 April 2015. The Directions also require that the plan sets out:

- assumptions on the frequency of restrictions on use during drought;
- the appraisal methodologies used to select options for meeting demand;
- emissions of greenhouse gases arising from those options;
- How the impacts of climate change on forecasts for supply and demand for water have been taken into account; and
- the assumptions made about the effect of population and housing growth on the demand for water.

4.1.6 The Secretary of State may also direct undertakers to change their plans before they are published in final form.

4.1.7 Undertakers must publish and maintain a WRMP. It must be reviewed annually and be reported on to the Secretary of State. Monitoring data must be included as part of the annual review as a requirement of the Environment Agency's annual review of WRMPs. Undertakers must prepare a new plan if there is change of circumstances or they are directed to do so. They must prepare, consult on and publish a new plan within 5 years of the publication date of the last plan.

4.1.8 As stipulated in the WRMP Direction 2012 draft plans for the period from 2015 must be submitted to Defra by 31st March 2013.

4.1.9 Each WRMP must be prepared in the context of the duties and restrictions of Part III of the Water Industry Act 1991 taking account of the undertaker's supply obligations and the terms of their abstraction licences.

4.2 Abstraction licensing

4.2.1 The current abstraction regime is unsustainable and in many catchments is already reducing the quality of the environment. Therefore one of the key commitments in *Water for Life* was the development of a reformed abstraction regime that will be responsive to climate change and changes in supply and demand. The Government intends to consult on detailed proposals for a new abstraction regime in 2013.

4.2.2 Chapter II Part II of the Water Resources Act 1991 (WRA 1991) sets out the circumstances in which abstraction licences are required. Water undertakers must comply with the terms of their abstraction licences.

4.2.3 Water undertakers have a duty under 9(5) of the Conservation of Habitats and Species Regulations 2010 (as amended) (the 'Habitats Regulations') to have regard to the requirements of the Habitat Directive (see para 3.11.3). This duty arises because of the statutory nature of the undertakers' role and does not apply to other abstractors. The effect

of this duty is to require the water undertaker to review the effects of its abstractions on Natura 2000 sites. It should then discuss with the Environment Agency what action is appropriate to the particular circumstances, and on that basis to reduce adverse impacts – such as seeking the revocation or necessary modification of licences through an application under s. 51 of the WRA 1991 to the Environment Agency.

4.2.4 Where the undertaker does not agree with the Environment Agency's assessment of what is required to protect a Natura 2000 site, then the Agency has the power under s. 52 of the WRA 1991 to revoke or modify licences. Water companies should include both 'confirmed' and 'likely' sustainability changes in their central forecasts, as notified by the Environment Agency.

4.2.5 Section 28G of the Wildlife and Countryside Act 1981 (as amended) imposes a duty on statutory undertakers, including water undertakers and sewerage undertakers, and public bodies in respect of impacts of their activities on Sites of Special Scientific Interest (SSSI). The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. Sections 28 H and I place similar obligations on public bodies, and to consult with the statutory nature conservation advisors, in relation to operations they themselves undertake or for which they give consents or authorisations. Reasonable steps may include the investigation of the impacts of abstraction on relevant features of the site, and of options to alleviate any adverse impacts.

4.2.6 Section 40 of The Natural Environment and Rural Communities Act 2006 (the NERC Act 2006), places a duty on every public authority, in exercising its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Undertakers will need to take account of the duty under Section 40 of the 2006 Act with respect to existing and proposed abstractions. Defra has published guidance for public authorities entitled "Guidance for Public Authorities on Implementing the Biodiversity Duty.

4.2.7 The Environment Agency may take action, under its powers in s. 52 of the WRA 1991, to revoke or modify abstraction licences to protect SSSIs. It may similarly use these powers in relation to habitats and species contained in the list published by the Secretary of State in accordance with section 41 of the NERC Act 2006 Act and 'local' sites (i.e. those with no legal designation as a nature conservation site).

4.2.8 Section 27 of the Water Act 2003 took effect from 15th July 2012. This means that, in certain circumstances, where a licence is modified or revoked in order to protect the environment from 'serious damage' then the right to compensation will be withdrawn.

4.3 Metering

4.3.1 Under the Water Resources Management Plan No.2 Direction 2007 and the WRMP Direction 2012 all undertakers should consider a programme of metering within their area in their WRMPs, but undertakers whose areas have been determined to be areas of

serious water stress are required in relation to their respective areas of serious water stress to consider the case for the compulsory metering of household customers in those areas. This is set out in the Water Industry (Prescribed Conditions) Regulations 1999.

4.3.2 The Secretary of State has the power to direct a company to change its plan. In relation to metering where a programme of metering was judged not to be considered as an appropriate means of maintaining the supply demand balance, the Secretary of State may direct an undertaker to remove the proposals from a WRMP. This would not affect the undertaker's powers to compulsorily meter household customers in other circumstances.

4.4 Supply demand balance

4.4.1 The last round of Water Resource Management Plans saw a greater emphasis on demand management, reflecting greater awareness of current and predicted water stress. *Water for Life* set out a long term approach to supply and demand management including the expectation that all demand management measures must be thoroughly reviewed and tested during WRMP development. Government is working with Ofwat to incentivise ways of managing demand. This is reflected in the Future Price Limits statement of principles published in May 2012.

4.4.2 Water companies should follow the Water Resource Planning Guideline when completing their WRMP. The WRMP will form the water resources supply demand balance component of its business plan. Water companies must also take account of sustainability changes, as informed by the Environment Agency.

4.4.3 Water undertakers have a statutory duty under section 93A of the WIA 1991 to promote the efficient use of water by its customers.

4.4.4 Water undertakers have a statutory duty to under section 3(2) of the WIA 1991 to further water conservation and, as a public authority, under section 83 of the Water Act 2003, to take account of the desirability of water conservation.

4.5 Drought Plans

4.5.1 Water undertakers, under section 39B of the WIA 1991, must prepare, consult upon and adopt a drought plan that sets out how they will continue to meet their duties under part III of the WIA 1991, to supply adequate quantities of wholesome water during drought periods. The process for drawing up the plan is specified in section 37B of the WIA1991 and in regulations.

4.5.2 Water undertakers must comply with legislation on temporary restrictions in the Floods and Water Management Act 2010.

4.5.3 The Drought Plan Direction 2011 specifies additional content of the plan:

- the management structure to be put in place to deal with a drought;
- the drought orders or permits that may be needed;

- the liaison that will be needed in relation to such permits and order; and
- the measures needed to mitigate the effects of such permits and orders.

4.5.4 Water undertakers may also be directed to change their plans before they are published in final form. The final drought plans are kept under review by the water undertakers and they must prepare a revised plan if there is a material change of circumstances, if directed to do so by the Secretary of State or no later than three years from the date the last drought plan was published.

4.6 Resilience Planning

4.6.1 Water and sewerage undertakers are required to comply with the Security and Emergency Measures Direction 1998 (SEMD). This requires undertakers to have plans in place to provide essential water supplies and sewerage services in the event of a civil emergency, i.e. natural disaster or other emergency, such as flooding, or an event affecting national security. Similar requirements are imposed on licensed water suppliers in subsequent Directions. Companies also have responsibilities under the Civil Contingencies Act 2004.

4.6.2 In developing these plans companies should have regard to guidance issued under SEMD 1998, Water Advice Notes, the Defra Policy Letters and Defra Guidance No. NSE 141: Planning for Major Water and Wastewater Incidents in England and Wales - Generic Guidance.

4.6.3 The Government's National Risk Assessment (NRA) sets out the hazards that should be planned for by water undertakers, which are brought together in a National Resilience Planning Assumption for Water issued to the water undertakers.

4.6.4 SEMD requires undertakers to maintain sufficient strategically stored stockpiles of suitable equipment to deal with emergencies affecting mains water supply and sewerage, taking account of Mutual Aid arrangements between water undertakers, as well as contract arrangements with other providers.

4.7 Reservoir safety

4.7.1 Under the Reservoirs Act 1975 the undertaker, operating or owning the reservoir, has ultimate responsibility for the safety of the reservoir. The Act applies to all "large raised reservoirs", which means a reservoir capable of holding at least 25,000 cubic metres of water above the natural level of any ground adjoining the reservoir. The act places obligations on undertakers in relation to supervision, safety and reporting.

4.7.2 The Water Act 2003 amended the Reservoirs Act 1975 by giving the Minister powers of Direction to require reservoir undertakers to prepare reservoir flood plans.

4.7.3 Under the Flood Risk Regulations, the Environment Agency is required to develop Flood Risk Management Plans for the whole of England and Wales that cover large raised reservoirs. Water companies who are reservoir undertakers are required to work with the

Environment Agency to set out appropriate measures to manage flood risk related to large, raised reservoirs.

References and Signposts

- Water Industry Act 1991
- The Water Resources Management Plans Regulations 2007
- Water Resource Management Plan (No.2) Direction 2007
- Water Resource Management Plan (No.2) (Amendment) Direction 2007
- Water Resource Management Plan Direction 2012
- The Drought Plan Regulations 2005
- Drought Plan Direction 2011
- Civil Contingencies Act 2004
- The Habitats Regulations 2010
- Water Act 2003
- Reservoirs Act 1975
- The Natural Environment and Rural Communities Act 2006
- The Natural Choice
- Common Implementation Strategy (CIS) Guidance Document Number 24, EC
- Water Resources Planning Guideline - A joint Environment Agency, Ofwat, Defra and Welsh Government guide for water companies on how to develop and present their water resources management plans, Environment Agency, 2012
- Security and Emergency Measures Direction 1998 (SEMD)
- Defra Guidance No. NSE 141: Planning for Major Water and Wastewater Incidents in England and Wales, 2006

5. CLIMATE CHANGE

5.1 General approach

5.1.1 The Government strongly supports a long term approach to meeting the challenges of a changing climate, a growing population and associated pressures on water availability and quality. The latest UK Climate Projections (UKCP09) indicate that average temperatures will increase, seasonal precipitation patterns will change, extreme weather events will be more common and drought conditions are likely to be more frequent. The 2012 Climate Change Risk Assessment has provided an evidence base that has enhanced our knowledge and understanding of the risks. These factors will impact on water resources and viewed in conjunction with demographic change and changing patterns of demand, it is evident that the water sector will need to improve resilience and plan for these challenges. The Case for Change, published by the Environment Agency in December 2011, highlights these issues and presents water availability under a range of climate change and behavioural scenarios. This has informed the government's approach set out in *Water for Life*.

5.1.2 The Climate Change Act 2008 (CCA 2008) created a legal framework to cut greenhouse gas emissions and build the UK's ability to adapt to a changing climate. A key requirement of the act is a UK wide Climate Change Risk Assessment (CCRA) that must be produced every five years. This helps inform a national adaptation programme (NAP) that must be reviewed every five years. The Secretary of State directs reporting authorities to prepare climate change adaptation reports.

5.1.3 The CCA 2008 reflects this long term approach and Undertakers have produced 25-year Strategic Direction Statements in coordination with Ofwat, drawing on climate change predictions. Water companies are expected to plan for mitigating and adapting to the impacts of climate change over the next decades.

5.2 Mitigation

5.2.1 Undertakers use large amounts of energy in their operations. Energy consumption, reducing process emissions and transport efficiency should be considered alongside other aspects of sustainable development in delivering any particular outcome.

5.2.2 The Government has set emissions reduction targets in the CCA 2008 and Undertakers should identify steps to contribute towards this. The Government Carbon Plan (December 2011) sets out in more detail the policies and measures to achieve the obligations in the Act. Companies are also expected to utilise the Carbon Reduction Commitment Energy Efficiency Scheme (CRC)². Undertakers that consume more than 6,000MWh of mandatory half hourly electricity will qualify for CRC and will be required to purchase sufficient allowances to cover their annual CO₂ emissions.

5.2.3 Companies should also consider how biological carbon sequestration could contribute towards emissions reduction targets with consideration being given to woodland creation under the Woodland Carbon Code, management of peat moorland and organic soils, and the guidance provided by Defra/DECC on how businesses and organisations should monitor and report their greenhouse gas emissions.

5.3 Adaptation

5.3.1 It is the Government's expectation that water undertakers will assess the impacts of climate change on their operations and set out plans to address them, and have regard to these plans in the exercise of their functions.

5.3.2 The Government published the first national CCRA in January 2012. This will inform the development of an NAP in England in 2013. The Government can direct public authorities and water companies to produce adaptation reports. The Government has issued statutory guidance on this process to help public bodies understand how to assess the impacts of climate change and how to set about drawing up policies and proposals to address these risks. The first round of adaptation reports were submitted in 2011. The reports outline how companies are assessing and acting on Climate Change risks that pose a threat to their organisation. Where companies are able to make a sound business case, investment in line with what is set out in Adaptation Reporting Power reports should be supported. Common themes include an assessment of how climate change impacts may affect companies' asset base and service, processes for identifying vulnerable assets, preparedness strategies and monitoring and evaluation approaches. Adaptation reports have been used to produce sector summaries that have informed the national CCRA. Adaptation reports will help inform the development of the national adaptation programme. On 27 March Government published a document summarising the findings from the adaptation power reports received.

5.3.3 Adaptation to Climate Change is already embedded in many statutory obligations, such as Water Resource Management Plans, that explicitly require undertakers to consider the impact of climate change by taking certain actions. The CCRA identifies a number of risks, for example to aquatic ecosystem services including water quality, water supply and biodiversity resulting from higher temperatures and changes in rainfall patterns. These will need to be addressed through the development of the NAP. The SEG will also provide a high level steer on specific actions the Government expects Ofwat to encourage undertakers to take. In particular, Government expects undertakers' plans for adaptation to be based on robust risk assessment and informed by the best available evidence, including UKCP09.

References and Signposts

- Climate Change Act 2008
- Climate Change Risk Assessment
- UKCP09
- National Adaptation Programme
- Adapting to Climate Change: helping key sectors to adapt to Climate Change, Defra
- Government Carbon Plan
- Carbon Reduction Commitment Energy Efficiency Scheme (CRC)²
Woodland Carbon Code, Forestry Commission

6. SEWERAGE

6.1 Transfer of Private Sewers

6.1.1 Part IV of the Water Industry Act 1991 (WIA 1991) sets out the general functions of Sewerage Undertakers including their principal duties.

6.1.2 From 1 October 2011 the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 transferred responsibility for existing private sewers and lateral drains to Water and Sewerage Companies (WaSCs). Pumping stations will be transferring over a five year period between October 2011 and October 2016.

6.2 Sewage Sludge

6.2.1 The Sewerage Sludge Directive is transposed by the Sludge (Use in Agriculture) Regulations 1989. The Regulations introduce prohibitions on the supply and use of sludge in agriculture otherwise than in accordance with requirements for treatment and use which reflect the Directive requirements. The Urban Waste Water Treatment Directive (UWWTD) requires reuse of sludge where practicable. However, recycling to land of sewage sludge should not threaten WFD objectives.

6.3 Statutory Nuisance - Odour from Sewage Treatment Plants

6.3.1 Nuisance caused by odour from sewage treatment works is regulated by local authority Environmental Health Practitioners under the statutory nuisance provisions of Part III of the Environmental Protection Act 1990 (EPA 1990).

6.3.2 Section 79 (1) of EPA 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005) lists what is capable of being a statutory nuisance.

6.3.3 Under section 79(1) of EPA 1990, local authorities have a statutory duty to inspect their areas periodically for existing and potential statutory nuisances, and to take reasonably practicable steps to investigate complaints of nuisance. Once satisfied that a statutory nuisance exists or may occur or recur, the local authority must serve an abatement notice under section 80 of EPA 1990 on the person responsible for the nuisance (in this case the sewerage undertaker). The abatement notice must either require that the nuisance be ceased or abated, or specify steps to be taken, within a specified timescale.

6.3.4 A person served with an abatement notice has twenty-one days within which to appeal to the magistrate's court under section 80(3) of EPA 1990. If the appeal is not successful, or if one is not made, the abatement notice will remain in force.

6.3.5 It is not an offence to cause a statutory nuisance (unless by doing so, other legislation is breached). It is an offence to breach or fail to comply with an abatement notice without "reasonable excuse".

6.3.6 The defence of "best practicable means" is available to the person responsible for the statutory nuisance on an industrial, trade or business premises (i.e. a sewerage undertaker for this case) should the case go to court, either in an appeal against the abatement notice, or in a prosecution for non-compliance with an abatement notice. "Best practicable means" is set out at section 79(9) of EPA 1990. It takes account of local conditions and circumstances; current technical knowledge; financial implications; design, installation, maintenance, manner and periods of operation of plant and machinery; and construction and maintenance of buildings and structures, in deciding whether the best practicable means have been used to prevent, or to counteract, the effects of the nuisance. It applies only so far as it is compatible with any duty imposed by law; health and safety; and emergencies or unforeseeable circumstances. Because "best practicable means" is a defence argued in court, it is for the courts to decide what "best practicable means" is on a case-by-case basis. Where a sewerage undertaker has, in the opinion of the court, introduced "best practicable means" to control or prevent the nuisance, the statutory nuisance is in effect allowed to continue.

6.3.7 A complainant can also take private action through the courts against a statutory nuisance under section 82 of EPA 1990. If the court agrees that a statutory nuisance exists or is likely to recur they will make an order requiring the defendant to abate or prohibit the recurrence of the nuisance, and carry out any works in order to do so. They may also impose a fine.

6.3.8 The voluntary Code of Practice on Odour Nuisance from Sewage Treatment Works, published by Defra and Welsh Assembly Government, sets out the relevant framework under the statutory nuisance regime in England and Wales within which the appropriate regulators and sewerage undertakers operate.

6.3.9 The Code of Practice is intended to apply to those elements of sewage treatment works that are not currently subject to environmental regulation under other legislation. Elements of onsite sewage treatment process operations are regulated under the

Environmental Permitting Regulations 2010 (EPR 2010) such as the storage or treatment of sewage sludge. Those elements of the works are regulated by the Environment Agency under the EPR 2010 and are therefore not covered by the Code of Practice. Whilst the local authority can investigate complaints of odour nuisance from those elements of the works regulated by an environmental permit, and issue an abatement notice if a statutory nuisance exists or likely to occur or recur, they cannot institute summary proceedings without consent from the Secretary of State (section 79(10) EPA 1990).

6.3.10 Part III of the Code of Practice recommends that sewerage undertakers use appropriate means to prevent odour from sewage works, and where that is not possible, to abate odour emissions with the aim of ensuring that the nuisance is minimised.

6.4 First time sewerage

6.4.1 Section 101A of the WIA 1991 (as amended by the Environment Act 1995) places a duty on sewerage undertakers to provide first time mains drainage (by connection to a foul sewer) in an area where non mains sewerage arrangements are causing an environmental or amenity problem or is likely to do so if no preventative action is taken.

6.4.2 Section 101A does not provide an automatic right of connection for properties not connected to mains drainage. Certain conditions need to be met and mains connection has to be the most satisfactory and best value solution to resolving the difficulties. Ministerial Guidance published by Defra and the Welsh Government provides further guidance on how applications are to be assessed and the criteria that need to be considered. The assessment should consider comparative practicability and cost of alternative solutions.

6.4.3 The Government expects sewerage undertakers to continue to examine all applications that are submitted to them under section 101A and to give their response within a reasonable time. Where schemes fall within the criteria and are approved, sewerage undertakers are required to give a realistic date for the sewer to be provided. The Government expects schemes to be carried out by that date and the sewerage undertakers to avoid delay.

6.4.4 Schemes relating to successfully determined applications made under Section 101A of the WIA 1991 and not already funded will be eligible for PR14 funding if engineering work is scheduled for the period (2015 - 2020). Schemes relating to potentially successful applications in relation to Section 101A of the WIA 1991, i.e. applications received but not yet determined, should be identified in order to indicate the likely scale of obligations for PR14.

6.5 Sewerage Planning

6.5.1 *Water for Life* recognised that longer term planning for water infrastructure has had less focus than water supply infrastructure. Water companies must understand how their networks currently perform and how they interact with other drainage systems, so that they can effectively manage future pressures. Ofwat and the Environment Agency are working

together on a strategic sewerage management framework which is due to be finalised by December 2012. This is anticipated to include an industry standard for sewerage planning.

6.5.2 This framework may take several periodic reviews to implement but PR14 should see strong foundations put in place for longer term sewerage planning and maintenance. Realistically we accept that full coverage of industry standard Sewerage Plans will take longer than five years to complete. For PR14 there should be a risk based focus of effort in bringing the current Drainage Area Plans up to meet the industry standard. There should be continued focus during PR19 and PR24 so that all Drainage Areas have been considered for renewal. Water and sewerage companies are encouraged to undertake longer term planning for sewerage in PR14 and follow the guidance that is identified in the Strategic Sewerage Management Framework.

6.5.3 It is recognised that not all drainage networks are currently able to cope with extreme rainfall or keep surface and groundwater out of sewers. Surface water flooding is complex and often includes flooding from water courses, sewers and drainage networks at the same time. Given the pressures on our infrastructure capacity and the risks from climate change, we encourage: the shared understanding of risk and the benefits of delivering integrated solutions by partners, including water and sewerage companies; the benefits that the development of Flood Risk Management Plans including Surface Water Management Plans, Local Flood Risk Management Strategies and Catchment Flood Management Plans, can promote. Government expects these strategic plans to include appropriate sustainable measures for managing flood risks, such as sustainable drainage systems (SuDS).

6.6 Flow monitoring of discharges from water treatment works

6.6.1 Flow monitoring of significant discharges has a vital role in protecting water quality by helping us ensure that permitted flow limits are not exceeded and by providing data that helps us understand the impact of discharges on the water environment.

6.6.2 The application of the requirement in environmental permits for flow monitoring is risk based and a number of thresholds have been set to ensure that only significant discharges require flow monitoring. For water treatment works this means that discharges greater than 50 cubic metres per day with a numeric limit for BOD, COD or metals will require flow monitoring unless all the following criteria are met:

- Permitted maximum flow less than 1000 m³/d
- Large dilution of discharge (>50:1 at mean flow).
- No numeric limits for hazardous substances or specific pollutants for which EQS have been set.
- Does not discharge to or significantly affect waters designated under the Habitats, Birds, Bathing Waters or Shellfish Waters Directive or a Water Framework Directive Protected Area.

References and Signposts

- Environment Act 1995
- Water Industry Act 1991
- Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011
- Environmental Protection Act 1990
- Clean Neighbourhoods and Environment Act 2005
- Code of Practice on Odour Nuisances from Sewage Treatment Works
- Sewage Sludge Directive (86/278/EEC)
- Urban Waste Water Treatment Directive (91/271/EEC)
- Sludge (Use in Agriculture) Regulations 1989
- Strategic Sewerage Management Framework
- Pollution Prevention and Control (England and Wales) Regulations 2000
- Environmental Permitting Regulations 2010
- Water for Life

7.0 FLOOD RISK MANAGEMENT

7.1 Duties to act consistently and have regard to national and local flood risk management strategies and the duty to co-operate.

7.1.1 Under the Flood and Water Management Act 2010 (FWMA 2010) the statutory duties of water companies under section 94 of the Water Industry Act 1991 (WIA 1991) (in relation to any sewer that conveys surface water) are defined as *flood risk management functions* and water companies (appointed under the WIA 1991) are defined as risk management authorities. Under the FWMA 2010, water companies who are risk management authorities must exercise their flood risk management functions, acting in a manner which is consistent with the national flood and coastal erosion risk management strategy (the “National Strategy”, prepared pursuant to sections 7-8 FWMA 2010) and guidance on its application published by the Environment Agency. They must have regard to the relevant local flood risk management strategy (the Local Strategy) developed by Lead Local Flood Authorities in their area (prepared pursuant to sections 9-10 FWMA 2010). In exercising any other functions which may affect a flood risk or coastal erosion risk, a water company must have regard to the national and local strategies. Under the FWMA 2010 water companies (who are risk management authorities) must co-operate with other flood risk management authorities in the exercise of their flood risk management functions and guidance is provided by the EA pursuant to section 7(6) of the FWMA 2010 about how this duty should be complied with.

7.1.2 Complementing the new duties for Lead Local Flood Authorities set out in the FWMA 2010, the Flood Risk Regulations 2009 (FRR 2009) implement the requirements of the Floods Directive, a sister Directive to the Water Framework Directive. Functions under

the FRR are flood risk management functions for the purposes of the FWMA 2010. The FRR 2009 set out a six year time cycle for flood risk management planning that aligns with the WFD planning cycle, where:

- the Environment Agency is required to prepare Flood Risk Management Plans (FRMPs) for the whole of England and Wales to cover flooding from main rivers, the sea and reservoirs by Dec 2015; and
- Lead Local Flood Authorities that have areas identified as “Flood Risk Areas” are required to prepare FRMPs by Dec 2015 to cover flooding from local sources (and where these local sources of flooding interact with other sources of flooding).

Under the FRR 2009 water companies are required to comply with requests for information by the EA and LLFAs and co-operate (pursuant to Section 13 (1) of the FWMA 2010) with the EA and LLFAs exercising their functions under the FWMA, which include the preparation of FRMPs. The EA and LLFAs will be consulting with risk management authorities during 2012 about FRMPs and how existing flood risk management plans can contribute to these and be rationalised.

7.1.3 The Floods Directive is required to be coordinated with the implementation of the Water Framework Directive, notably through the co-ordination of FRMPs and RBMPs and through the statutory consultation of draft plans.

7.2 Powers to request information

7.2.1 Under the FWMA 2010 the Environment Agency and a Lead Local Flood Authority in connection with their flood and coastal erosions risk management functions, may request a person (including a water company) to provide information in connection with the Authority’s flood and coastal risk management functions. Guidance is provided by the EA pursuant to section 7(6) of the FWMA 2010 about how requests should be complied with.

7.2.2 Civil sanctions in the form of an enforcement notice and a penalty notice can be applied if a company fails to comply with a request (the civil sanctions provisions of the FWMA 2010 have only been commenced in relation to Wales with commencement in England expected in due course). Similarly, under the FRR 2009 a water company (appointed under the WIA 1991) must comply with a request of a Lead Local Flood Authority or the Environment Agency to provide information reasonably required in connection with their functions under these regulations.

References and Signposts

- Flood and Water Management Act 2010
- Flood Risk Management Functions Order 2010
- Floods Directive (2007/60/EC]
- Flood Risk Regulations 2009
- Water Industry Act 1991
- Flood Risk Areas identified in Preliminary Flood Risk Assessments, Environment Agency
- National Flood and Coastal Erosion Risk Management (FCERM) Strategy
- Local Flood Risk Management Strategies (prepared by Lead Local Flood Authorities)
- Guidance on “Co-operation and requesting information in flood and coastal erosion risk management “ , Environment Agency, 2011