

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Newid Hinsawdd,
Amgylchedd a Materion Gwledig
Memorandwm Cydsyniad
Deddfwriaethol (MCD) mewn
perthynas â Bil Amgylchedd y DU
NHAMG (5) EB06
Ymateb gan Ofwat

National Assembly for Wales
Climate Change, Environment and
Rural Affairs Committee
Legislative Consent Memorandum
(LCM) in relation to the UK
Environment Bill
CCERA(5) EB06
Evidence from Ofwat



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1. Ofwat is the regulator for the water and wastewater industry in Wales, and also regulates the principal water and wastewater undertakers in England. Ofwat is a Non Ministerial Government Department, and is responsible for regulating water companies' compliance with their statutory licences and statutory duties. We do this by setting the performance and service standards which companies are expected to deliver to customers, and by delivering a number of other regulatory functions, including keeping up to date the licence conditions under which water companies operate. We take appropriate enforcement action where companies fail to meet their licence obligations. Ofwat is not responsible for enforcement of environmental regulations, which is primarily the responsibility of Natural Resources Wales.
 2. This note summarises Ofwat's views on the areas of Part 5 of the Environment Bill 2020 which are most relevant to Ofwat covered in this Legislative Consent Motion, namely:
 - clauses 75 and 76 (plans and proposals): these clauses change the procedural requirements for Water Resources Management Plans, and introduce requirements for new plans with respect of drainage and wastewater management;
 - clause 77 (Authority's power to require information): this clause improves Ofwat's ability to require information from water companies.
 - clause 79 (Electronic service of documents): this clause would allow Ofwat to formally serve water company documents by email.

Clauses 75 and 76 (plans and proposals)

3. Clause 75 would insert new sections into the Water Industry Act 1991 to give the Welsh Ministers (or Secretary of State in the case of England) the power to direct that water companies prepare and publish “joint proposals” that identify measures that may be taken jointly by the undertakers for the purposes of improving the management and development of water resources. A joint proposal is separate from the Water Resources Management Plan that each company is required to prepare.
4. Clause 75 would also amend some sections of the Water Industry Act 1991 to omit certain procedural requirements regarding the preparation of Water Resource Management Plans from the primary legislation.
5. Clause 76 would put on a statutory footing a requirement for each sewerage company in Wales to prepare and publish a drainage and sewerage management plan.
6. A drainage and sewerage management plan is defined in the Clause as a plan for how the sewerage undertaker will manage and develop its drainage and sewerage system so as to meet its obligations under Part 4 of the Water Industry Act 1991. Part 4 contains, amongst other things, the duty for sewerage undertakers to provide a public sewerage system and to ensure it is are effectively drained.
7. We support these clauses which remove perceived inflexibilities in the current framework for water resources management planning, and enable governments and regulators to require companies to collaborate to drive effective water resources planning. Robust wastewater planning can also ensure that companies have the right incentives to devote appropriate time and resource to driving improvement in quality and planning of drainage and wastewater infrastructure. The lack of a statutory planning process for drainage and wastewater comparable to that for water resources has long been considered an impediment to effective long term wastewater planning that will be required to increase long term resilience of these assets, and drive appropriate widespread adoption of, for example, sustainable urban drainage systems.

Clause 77 (Authority's power to require information)

8. Ofwat has a general duty under the Water Industry Act 1991 (as amended) to keep under review the conduct of appointed water undertakers' activities which are not currently accompanied by statutory powers to require information from companies to fulfil this duty. It is anomalous to have a duty to keep regulated companies' activities under review but not a corresponding enforceable statutory power requiring companies to answer questions aimed at discharging that duty for the protection of industry and customers. Clause 77 aims to rectify this by requiring water companies and licensed water and / or sewerage suppliers to provide Ofwat with information it requires to perform its duty of keeping the activities of regulated entities under review. These information requests are enforceable by Ofwat under section 18 of the Water Industry Act 1991, in a similar way to licence conditions.
9. Ofwat is clear that both water companies and consumers will benefit from the regulator having clear powers to require information, and understands that there was widespread support for these measures in response to the UK Government's consultation.

Clause 79 (Electronic service of documents)

10. Currently Ofwat is required to serve all formal regulatory documents on water companies in hard copy. This change constitutes a modernisation of regulatory requirements, which currently has a negative environmental impact. We estimate that Ofwat typically serves some 5,000 pages of documents on companies in a typical year, with attendant administrative costs for recipient companies. Clause 79 would enable Ofwat's document service to be modernised in line with those across much of the rest of economy. This measure does not impact on water company communications with customers.