

www.defra.gov.uk

Summary of responses to the Consultation on the implementation of the revised Bathing Water Directive - 12 November 2007 to 4 February 2008

May 2008



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



defra
Department for Environment
Food and Rural Affairs

Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR
Telephone 020 7238 6000
Website: www.defra.gov.uk

© Crown copyright 2008
Copyright in the typographical arrangement and design rests with the Crown.

This publication (excluding the royal arms and departmental logos) may be re-used free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. The material must be acknowledged as crown copyright and the title of the publication specified.

Information about this publication and paper copies are available from:

Defra
Water Quality Division (WQ1)
Area A
2nd Floor, Ergon House
Horseferry Road
London
SW1P 2AL

This document is available on the Defra website:
<http://www.defra.gov.uk/corporate/consult/bathingwaters/index.htm>

Published by the Department for Environment, Food and Rural Affairs

Contents

1. Introduction	04
2. Overview of Responses	05
3. Summary of responses to the consultation questions and the Defra and Welsh Assembly Government response	06
Question 1	06
Question 2	08
Question 3	09
Question 4	10
Question 5	11
Question 6	12
Question 7	13
Question 8	14
Question 9	14
4. Other relevant issues raised by stakeholders	17
5. Next Steps	20
Annex A: List of consultation respondents and date of response	21

1. Introduction

1.1 A consultation document 'Bathing Water Quality: Consultation on the implementation of the revised Bathing Water Directive ' was published by Defra on 12 November 2007. The three month consultation period ended on 4 February 2008.

1.2 For the purposes of this summary document, the consultation will be referred to as the 'bathing water consultation'. The background to the bathing water consultation is set out in the consultation document, which is available on the Defra website at:

www.defra.gov.uk/corporate/consult/bathingwaters/index.htm

1.3 The bathing water consultation sought views on Defra and Welsh Assembly Government (WAG) (the "Government") proposals for implementing the revised Bathing Water Directive, 2006/7/EC, in England and Wales. Whilst stakeholders were invited to comment generally on the implementation proposals in the consultation document, the costs and benefits of the proposals identified in the Impact Assessment and the draft Bathing Water Regulations 2008, questions were included on a number of specific issues to gauge views for example, on:

- the number and type of bathing waters where measures should be taken to improve the water quality;
- the development of a prediction and discounting system; and
- the development of public information for beach signage.

1.4 The nine questions included in the consultation document and a summary of the responses received in relation to each question can be found later in this document (see Chapters 2 and 3).

2. Overview of responses

2.1 A total of 42 responses were received. 37 responses were received by the 4 February deadline with the remaining 5 responses received by 18 February. The late responses were accepted following agreement in advance. All responses were received via the dedicated bathing water consultation email addresses which should have sent out an automatic acknowledgment for receipt of the response. The consultation responses were subsequently logged and analysed.

2.2 In addition to the formal consultation responses, Defra received a letter from the UK Beach Management Forum expressing their support for the British Resorts and Destinations Association (BRADA) consultation response. WAG received an email from Denbighshire County Council endorsing the Welsh Bathing Water Sub Group consultation response. Defra and WAG also received 225 and 51 emails respectively, in support of the Surfers Against Sewage consultation response.

2.3 Defra and the Welsh Assembly Government would like to thank those of you who responded to the bathing water consultation with helpful, constructive and often detailed comments.

2.4 A list of the organisations and individuals who responded to the consultation can be found at Annex A. A breakdown of responses by interest group is set out in Table 1 below.

Table 1: Response breakdown by interest group

Interest Group	Number of Responses
Water Industry	10
Academic/Research Organisations	6
Individuals	6
Environment NGOs	5
Local Government	5
Recreational Sports Associations	3
Commercial Businesses	2
Government Agencies	2
Agriculture Industry Bodies	1
Other Government Departments	1
Tourism Associations	1

2.5 None of the 42 respondents have objected to their views being made public so copies of individual responses can be requested from the Defra library. Requests should be made to defra.library@defra.gsi.gov.uk.

3. Summary of responses to the consultation questions

3.1 Stakeholders were asked to respond to the nine questions outlined below. Responses were varied and not all respondents addressed each question. Some answers to the questions were also implied rather than clearly stated. Some stakeholders also discussed other related themes which did not specifically feature in the consultation document. Nevertheless, comments which we consider relevant are either discussed below or summarised in Chapter 4 of this response summary.

Question 1: Bearing in mind the cost and benefit implications, do you think that England and Wales should aim to do more than the minimum that the rBWD requires by 2015?

The Government consulted on three main options for implementing the rBWD:

- Scenario 1A – aimed to meet the minimum requirements of the rBWD
- Scenario 1B – aimed to meet the minimum requirements of the rBWD with the use of prediction/ discounting at a small number of bathing waters
- Scenario 2 – explored the costs and benefits of going beyond the minimum requirements of the rBWD in the short term by focusing on maintaining and increasing the potential number of Blue Flag Awards

Summary of responses

3.2 Of the 42 consultation responses received, 40 respondents addressed this question.

3.3 25 respondents indicated that England and Wales should aim to do more than the minimum that the rBWD requires by 2015. The remaining 15 respondents felt that England and Wales should not aim to do more than the minimum at this stage. The reasons given by the 15 respondents against doing more than the minimum were varied.

3.4 7 respondents had concerns regarding the costs and benefits associated with the scenarios in the consultation paper, in particular in relation to scenario 2 and felt that they need to be clarified before a decision to go beyond the minimum can be made.

3.5 5 respondents felt that we should only aim to meet the minimum requirements of the rBWD at this stage because until now we have concentrated on bathing waters that have struggled to meet the requirements of the current Bathing Water Directive and less is known about the pollution sources at higher quality bathing waters predicted to be 'good' or 'excellent'. Insufficient evidence is therefore available at many of the predicted 'good' and "at risk" 'excellent' waters to propose measures in time for PR09 and the first river basin planning cycle of

the Water Framework Directive. A phase approach was suggested instead, only undertaking targeted investigations initially.

3.6 4 respondents also suggested that taking forward scenario 2 would be at odds with the Government's strategy for the water industry to reduce its CO2 emissions. Under scenario 2 the tertiary treatment required at sewage treatment works would result in an annual increase in greenhouse gas emissions of 600 tonnes of carbon dioxide compared to an increase of 230 tonnes for scenario 1A/1B.

3.7 3 respondents were not in favour of taking forward a Government scenario geared towards maintaining Blue Flags when the criteria are determined by the Foundation for Environmental Education (FEE), a non-governmental not for profit organisation, particularly as it is still unclear how FEE will amend the Award criteria in light of the rBWD.

3.8 1 respondent felt that as bathing water standards are already very high at virtually all bathing waters, measures should only be taken at a few bathing waters. In a similar vein another respondent felt that the measures proposed under scenario 1B would be sufficient to protect public health and in addition commented, along with another respondent, that the increase in costs associated with scenario 2 is unjustified in terms of net benefits.

3.9 1 respondent commented that they still need to be convinced that the evidence base is sufficiently strong and the measures proposed sufficiently effective that Ministers should introduce measures that exceed the basic requirements of the Directive.

3.10 1 respondent stated that bathing water improvements are part of the AMP programme for water company investment and should not skew the spending profile at the expense of other public health and environmental related drivers.

3.11 1 respondent mentioned that significant investment has already been made and the impact of which has not been fully realised, therefore we should not be aiming to do more than the minimum by 2015.

Defra and the Welsh Assembly Government Response

3.12 We note that the majority of respondents to this question were in favour of going beyond the minimum prior to 2015 citing, for example, the significance of the tourism industry to the wider economy. However, those recommending a less ambitious implementation approach tended to be the organisations/businesses with the best understanding of the potential cost associated with achieving water quality standards beyond the Directive's minimum requirements (e.g. the Environment Agency, water and farming industries). They expressed serious concern as to their ability to improve the water quality at the 'good' and 'excellent' bathing waters envisaged under scenario 2.

3.13 Whilst our knowledge and understanding of the pressures affecting the water quality at waters likely to be classified as 'poor' is robust, our understanding

of the pressures at 'good' and 'excellent' bathing waters is comparatively limited. There was a feeling amongst some respondents that there is insufficient time to carry out the necessary investigations and put in place meaningful, sustainable measures to implement the scenario 2 proposals by 2015. A number of respondents also suggested that the costs identified for each of the scenarios in the impact assessment, particularly the scenario 2 costs, could be too low (see Chapter 4).

3.14 The general feeling from those who recommended that, initially, a less ambitious approach be adopted was that going beyond the minimum should only be considered post 2015 when there is a better understanding of the effectiveness of measures in place and included in the initial PoMs, taken for other EU Directives and voluntary initiatives; following investigations of bathing water catchments and once the Government has a better understanding of any further revisions the Commission may propose for the rBWD, which might include phasing out the 'sufficient' classification or modifying the standards.

3.15 In view of the comments described in the preceding paragraphs and in line with Government commitments to regulate in a proportionate and targeted way, Defra and the Welsh Assembly Government have decided to focus initially on scenario 1B. This means our top priority will be compliance with the rBWD by ensuring that all bathing waters achieve the 'sufficient' classification by 2015. As part of this, we will use a prediction system at some bathing waters, assuming a workable system can be developed (see also Government response to question 3). (Wales starts from a comparatively strong position with only one or two bathing waters possibly failing the 'sufficient' standard, meaning that there may be a comparatively small role for sample discounting in Wales.)

3.16 That said, Ministers are also very mindful of the importance of tourism to the economy and of the Directive's provision that Member States should take such realistic and proportionate measures as they consider appropriate with a view to increasing the number of bathing waters classified as 'excellent' or 'good'. For those reasons, our general approach will not preclude action at a water by water basis where such action is considered realistic and proportionate and will contribute toward meeting the rBWD's long-term aim to increase the number of 'good' and 'excellent' bathing waters. Actions taken under other EU Directives including voluntary initiatives to tackle pollution between now and 2015 may also help to improve bathing waters enabling them to achieve higher classifications than they would otherwise have done.

Question 2: If England and Wales are to go beyond the minimum requirements of the rBWD should the focus mainly be on increasing/maintaining the number of 'excellent' bathing waters with the potential for achieving a Blue Flag? If not, which types of bathing waters should be targeted?

Summary of responses

3.17 Of the 42 consultation responses received, 39 respondents addressed this question.

3.18 18 respondents agreed that the focus in England and Wales should be to increase/maintain the number of 'excellent' bathing waters with the potential to achieve a Blue Flag Award. However, of the 18 responses, 11 respondents suggested that other types of bathing waters should be targeted in addition to the Blue Flag beaches. 5 respondents suggested that measures should be taken to enable all bathing waters to achieve the 'excellent' classification. 3 respondents felt that water quality should be improved at bathing waters which would bring about the greatest benefits (e.g. those with the largest number of visitors). 2 respondents felt that all bathing waters should be improved to the 'good' classification as a minimum. 1 respondent suggested that clusters of bathing waters should be targeted to gain the maximum benefit from measures taken in bathing water catchments.

3.19 In addition to the 18 respondents, 4 more respondents appreciated the benefits associated with maintaining or increasing the number of Blue Flag beaches, but felt they should not be a priority until after 2015.

3.20 10 respondents were not in favour of focusing on Blue Flag beaches, but were in favour of improving other types of bathing waters. 4 respondents would like to see all bathing waters improved to the 'good' classification. 2 respondents thought that the focus should be the Article 5(3) requirement in the rBWD (i.e. Member States shall take realistic and proportionate measures as they consider appropriate with a view to increasing the number of bathing classified as 'good' and 'excellent'). 2 respondents would like to see all bathing waters improved. 1 respondent felt that bathing waters should be improved on a site by site cost/benefit basis. 1 respondent thought that the most popular bathing waters should be targeted to gain the greatest benefits.

3.21 7 respondents who did not support going beyond the minimum at this stage were not in favour of maintaining/ improving Blue Flag beaches or any other bathing waters.

Defra and the Welsh Assembly Government response

3.22 The responses to this question were mixed. There was little consensus around the proposal to maintain Blue Flag Award beaches and respondents did not tend to favour improving any particular group of bathing waters. In addition, some respondents felt that it was inappropriate to put forward a Government scenario geared towards maintaining Blue Flags when the criteria are determined by the Foundation for Environmental Education (FEE), a non-governmental not for profit organisation (see question 1). Therefore whilst there is some desire to do more than the minimum at this stage, the Government considers, in light of consultation responses, that it would be better to focus on meeting at least the 'sufficient' standard at all bathing waters in the short term.

Question 3: Should the Government and the Environment Agency continue the development of the prediction and discounting system with a view to using it at a limited number of bathing waters to help achieve the minimum standards required by the rBWD (scenario 1B) by 2015?

Summary of responses

3.23 Of the 42 consultation responses received, 40 respondents addressed this question.

3.24 36 respondents indicated that the Government and the Agency should continue the development of the prediction and discounting system, as they could appreciate the benefits a workable system could bring, both in terms of reducing the risk to the public by advising against bathing during 'poor' water quality episodes and enabling a bathing water to achieve a 'sufficient' classification when it might otherwise be 'poor' and potentially lose its bathing water status. However, of the 36 respondents, 4 agreed with predicting bathing water quality and advising the public not to bathe during 'poor' water quality, but felt that any water samples taken during short pollution should not be discounted because including 'poor' water samples in the data set would further encourage action to be taken to reduce short term pollution events in the future.

3.25 The 4 respondents who were not in favour of taking forward the prediction system felt that the money needed to develop and run the system could be better spent on more frequent monitoring or used to tackle the causes of the pollution, for example. These respondents were also concerned about the public's perception of the system. For example, if a member of the public was advised not to bathe during a short term pollution event they may consider the bathing water to be sub-standard and would be unlikely to return or recommend the bathing water to friends and family.

Defra and Welsh Assembly Government response

3.26 Since virtually all of the responses felt that the Government should keep developing the prediction and discounting system, the work will continue. The Bathing Water Regulations 2008 will give the Environment Agency the scope to use prediction in the future (should a workable system be developed). As noted at 3.15 there may be a comparatively small role for sample discounting in Wales.

Question 4: If the prediction and discounting system can be used to help meet the minimum requirements of the rBWD, who should help meet these costs?

Summary of responses

3.27 Of the 42 consultation responses received, 36 respondents addressed this question.

3.28 The consultation responses to this question were mixed, but can broadly be grouped into seven categories as follows:

Table 2: Meeting the costs of a prediction system

Who should help meet the costs of a prediction system?	Number of respondents
Polluters and beneficiaries	8
Polluters	7
Government	7
Government, polluter and beneficiaries	6
Government and polluters	4
Beneficiaries	3
Government and beneficiaries	1

3.29 Polluters were generally taken to mean water companies, farmers and Highways Authority. Beneficiaries tended to include coastal local authorities, Environment Agency, Regional Development Agency, Tourist Boards, beach operators, beach award applicants, water companies, beach users and consumers. References to the Government sometimes included (in addition to Defra), the Department for Culture, Media and Sport (DCMS) and the Environment Agency.

3.30 Respondents generally felt that it was right to spread the costs amongst different types of business and organisations, but several respondents wondered what mechanisms would be used to allocate the costs proportionately (within a complex catchment) say between diffuse agriculture, diffuse urban and point sources and whether the Agency and/or local authorities have appropriate powers to ensure effective control.

3.31 3 respondents went as far as suggesting a way of apportioning the setting up and running costs of the prediction system amongst the key players (i.e. the Government, Environment Agency, farmers, water companies and consumers).

3.32 2 respondents suggested that when deciding which bathing waters should have a prediction system, the beneficiaries in the bathing water catchment should be consulted and consideration of the costs of implementing the system should take place at the same time.

Defra and Welsh Assembly Government response

3.33 See question 5.

Question 5: If the prediction and discounting system can be used to enable a bathing water to obtain a higher than 'sufficient' classification, for example, to achieve the classification needed for a Blue Flag award, who should help meet these costs?

Summary of responses

3.34 Of the 42 consultation responses received, 35 respondents addressed this question.

3.35 The consultation responses to this question were again mixed, but can broadly be grouped into eight categories as follows:

Table 3: Meeting the costs of a prediction system

Who should help meet the costs of a prediction system?	Number of respondents
Polluters and beneficiaries	9
Beneficiaries	6
Polluters	4
Government	4
Government and beneficiaries	4
Government, polluter and beneficiaries	4
Should not be used for this purpose	3
May not work for this purpose	1

3.36 Polluters, beneficiaries and Government included the same types of organisations and businesses as mentioned under question 4 above and similar comments and suggestions were raised.

3.37 3 respondents did, however, comment that whilst the prediction system should be used to enable bathing water to achieve the 'sufficient' classification, it should not be used to enable a bathing water to obtain a higher than 'sufficient' classification.

3.38 1 respondent commented that they are not convinced that the prediction model will support the prediction of water quality to obtain 'good' or 'excellent' classifications at bathing waters.

Defra and Welsh Assembly Government response

3.39 The responses to questions four and five were quite mixed. In relation to using the prediction system at 'poor' bathing waters (question 4) responses tended to favour splitting the costs between the polluters, government and the beneficiaries. In relation to using the system at other bathing waters to attain a higher than 'sufficient' classification (question 5) responses tended to favour splitting the costs between the beneficiaries and the polluters, leaning slightly more towards the beneficiaries, perhaps to be expected, since it is perceived that it is the beneficiaries (e.g. the beach operators) who will benefit the most from going beyond the minimum rBWD requirements. Decisions on who will pay and how the costs will be apportioned can be made at a later date, if and when a workable prediction system is developed and the costs better understood. The responses indicate that there is some willingness from business/industry to help fund the use of a prediction system.

Question 6: Do you agree that by 2012 the vast majority of beach operators will have included the bathing water quality information on their beach signage, for example, during routine sign replacement and updating, at minimal cost? If not, why not?

Summary of responses

3.40 Of the 42 consultation responses received, 30 respondents addressed this question.

3.41 21 respondents agreed that most beach operators will be able to include the bathing water information on their beach signage by 2012 at minimal cost. However, of the 21 responses, 1 respondent commented that whilst they agree that many beach operators will have included the information on their signage by 2012, it may not happen in all locations without additional funding, 1 respondent indicated that it may not happen in the remotest locations and another felt that it would only be minimal cost if the information could indeed be added during routine sign replacement and updating.

3.42 1 respondent did not agree and suggested that the Environment Agency as the competent authority, should assume responsibility for the provision of water quality signage, co-ordinate this activity with beach operators and provide resources as necessary.

3.43 The remaining 8 respondents did not specifically answer the question being posed, but instead gave their thoughts on beach signage, for example, that it should be prominent and needs to be extended to all waters where bathing takes place, there need to be systems in place to control the precise content or quality of the information provided and guidance on what is required is needed as early as possible because it can be a long process to update beach signage.

Defra and Welsh Assembly Government response

3.44 The majority of responses to this question agreed that most beach operators should be able to update their beach signage during routine sign replacement at minimal costs. The responses received from beach operators, or their representative organisations also tended to agree, although as noted above one respondent suggested that some beach operators may need financial support if beach signs are to be updated in all locations. The Government will go forward on the basis that most beach operators should be able to update their beach signage without incurring additional costs.

Question 7: Do you support our proposals to develop the information on signs to provide bathers with advice to help them avoid bathing during 'poor' water quality? If not, why not?

Summary of responses

3.45 Of the 42 consultation responses received, 39 respondents addressed this question.

3.46 39 respondents supported the proposal to develop the information on beach signage to enable bathers to avoid bathing when water quality could be 'poor'. Of the 39 respondents there were a couple which did not answer the question directly, but the answer given implied they agreed with the Government's proposal.

Defra and Welsh Assembly Government response

3.47 Since all of the responses to this question supported the further development of advisory information, we will work with the Environment Agency to develop the type of advisory wording to be included on beach signage, which will then be put to the UK Signage Working Group.

Question 8: Are you content with the Government's proposal not to consult again on amendments which will need to be made to the Regulations post March 2010, which will require local authorities and private controllers to use the signs or symbols proposed by the Commission and adopted by the EU through the Directive's committee procedure? If not, why not?

Summary of responses

3.48 Of the 42 consultation responses received, 35 respondents addressed this question.

3.49 19 respondents were content with the Government's proposal not to consult again when the Bathing Water Regulations need to be amended in 2010 to require beach operators to use the bathing water signs or symbols developed by the Commission.

3.50 In addition, 7 respondents could see that it is a fairly straight forward matter, but were keen to retain the possibility of further consultation if it turned out to be needed and particularly as it is thought to be good practice. 2 of the 7 respondents suggested that once we have a better understanding of what is required, further consideration (possibly through a seminar with key stakeholders) can be given to whether consultation is in fact needed.

3.51 9 respondents did not agree and commented that they would welcome further consultation on any proposed changes to the Bathing Water Regulations.

Defra and Welsh Assembly Government response

3.52 The majority of responses could see there is little merit consulting again if it is simply to require the use of the symbols they had helped to develop. However, quite a few responses suggested that the option to consult should be left open, should it be needed. We will keep the situation under review, but as we are intending to involve as many stakeholders as possible in the development of the Commission's signs or symbols (for example, via the UK Signage Working Group or articles in Defra's Bathing Water Newsletters), further consultation on this issue is unlikely to be required.

Question 9: The Government's proposals assume that the rBWD will apply to the existing list of bathing waters. Do you think that any waters need to be added to, or removed from the current list of bathing waters? If yes, please give reasons.

Summary of responses

3.53 Of the 42 consultation responses received, 37 respondents addressed this question.

3.54 7 respondents agreed with the Government's assumption that the rBWD will apply to the existing list of bathing waters under the current Bathing Water Directive.

3.55 12 respondents thought that some bathing waters may need to be added or removed. Some of the 12 respondents went as far as actually naming bathing waters which they felt could be de-designated or sites which they felt should be identified as bathing waters, but most were more vague. For instance, 3 respondents commented that there may be some bathing waters which are predicted to be classified as 'poor' where it may be disproportionately expensive or technically infeasible to improve the water to a class of 'sufficient' and may need to be de-designated. In a similar fashion, another respondent commented that de-designation should be considered where improvements are not worthwhile, unlikely to meet minimum rBWD requirements, or where tidal conditions, dangerous currents, access problems, marine traffic or other uses make bathing unsafe. Another respondent also commented that the designation of bathing waters affected by wildlife, which may stop them reaching the 'sufficient' classification may need to be reviewed.

3.56 The remaining respondents did not answer the question being posed, but instead used it as an opportunity to raise other related issues. For instance, 17 respondents were in favour of designating recreational waters, inland waterways and rivers used on the whole for water sports (e.g. canoeing, kayaking, surfing, sea angling, sailing and wind surfing) to protect participants against poor water quality. 11 respondents felt that the bathing water designation process could be more proactive including carrying out of a full review of all currently designated bathing waters and examining sites which could be potentially be identified as bathing waters. 6 respondents suggested that the length of the bathing season should be varied, for example, it could be shortened in areas where there are wildlife breeding colonies and extended (including the water sampling regime) where the bathing waters are used year round by water sport participants.

Defra and Welsh Assembly Government response

3.57 Only a fairly small number of respondents proposed changes to the current list of bathing waters, by suggesting some sites in England which could be designated or bathing waters which could be de-designated, which we will consider on a case by case basis. There were also some calls from respondents in Wales for the current list of EC identified bathing waters to be reviewed: the Welsh Assembly Government will continue its current policy of considering on their own merits any requests for particular bathing waters to be added to the list. A number of responses felt that recreational waters used for surfing, canoeing, kayaking, sailing and wind surfing etc should be identified as bathing waters to help protect the health of the participants. However, because these waters are

used for recreational purposes rather than bathing they fall outside the scope of the revised Directive and will not be considered further in this exercise.

4. Other relevant issues raised by stakeholders

4.1 A number of respondents also commented on issues not directly covered by the consultation questions. The key issues related to the costs and benefits associated with each of the proposals in the impact assessment and the powers in the draft Bathing Water Regulations to tackle diffuse pollution.

Costs

4.2 Of the 42 responses received, 10 respondents commented on the costs associated with the three implementation scenarios. Most of the 10 respondents felt that the costs to the water industry of achieving each of the implementation scenarios, in particular scenario 2, could be under-estimated. The types of comments included the following:

- Based on the water industry's cost estimates the figures reported for continuous discharge improvements are not dissimilar to those reported by Defra, if limited to the addition of disinfection at specific sites (without the need for improvements in secondary treatment). However the number of sites being considered for improvement is low. This will be a particular issue if scenario 2 is adopted.
- The basis of the costs for intermittent discharge improvements should be re-evaluated, as it is believed they have been underestimated. If scenario 2 is adopted then it is likely to identify new assets for investment as the scope of investigations extend.
- The modelling costs proposed to understand and profile bathing waters and their associated risks have been underestimated.
- Removing sewerage cross-connections is expected to be addressed by the existing water industry rolling programme, presumably at current levels of funding. This is a simplistic assumption that ignores the possibly significantly higher levels of activity that both sewerage companies and local authorities may have to undertake in this area to meet rBWD standards.
- New connections to the sewerage system are assumed to be of zero cost to the private individual. This is not the case as the private individual will generally have to pay for the infrastructure to connect to the water company's sewerage network. There is also the cost to the sewerage company for the provision of first time public sewerage.
- The costs for urban run-off improvements may have been underestimated.

4.3 One respondent commented on the agricultural costs included in the impact assessment. They felt that the share of costs anticipated for agriculture appear to be substantially in excess of its estimated contribution to the problem.

Benefits

4.4 Of the 42 responses received, 7 respondents also commented on the benefits associated with the three implementation scenarios. The 7 respondents questioned the size of the benefits, commenting that the benefits were higher

than they would have expected. 1 respondent noted that much of the benefit to be gained from the implementation of the rBWD is attributed to the effect of signage on public choice and queried whether the risk of over calculating the NPV due to optimistic assumptions had been considered (for example, will bathing advice be fully complied with?). The assumption of a direct link between tourist health and bathing water quality was queried and a couple of the respondents noted that this link has not been substantiated by previous UK survey work.

Defra and Welsh Assembly Government response to cost and benefit issues

4.5 The Government has reviewed the costs and benefits in the Impact Assessment in light of the comments received. As a result the cost estimates for each implementation scenario have approximately doubled and the benefits associated with providing better information on beach signage are now approximately one third of their original value (the reductions to the benefits were made in light of a study undertaken for the RNLi which found that only 33% of beach visitors read beach signage). Despite the adjustments to the costs and benefits, the benefits of implementing the rBWD still significantly outweigh the costs and suggest that scenario 1B is still the most favourable option (see table 4 below).

Table 4: Summary of the costs and benefits for scenarios 1A, 1B and 2

Scenario	Costs (£m)		Benefits (£m)		Net Benefit (NPV) (£m)
	Annual	Total (PV) (25 yrs)	Annual	Total (PV) (25 yrs)	
1A	14.1 – 17.8	159 - 238	51.8 - 126	854 – 2,068	+ 1,279
1B	11.6 – 14.8	118 - 187	52.7 - 128	868 – 2,108	+ 1,357
2	22.0 – 29.3*	264 - 425*	60.0 - 140*	989 – 2,309*	+ 1,338

*includes costs and benefits from scenario 1A

4.6 It is worth noting, however, that the Environment Agency will assess bathing waters on a case by case basis later this year, to determine which bathing water catchments will in fact need measures to achieve the objectives of the rBWD, what the measures will be and the costs and benefits associated with these measures. To do this, the Agency will also need to assess the interaction of the measures required under the rBWD and measures needed under other EU Directives and voluntary initiatives, for example, which will then be taken forward into the WFD's Programmes of Measures. At this point we will have a better idea of the actual costs associated with the implementation of the rBWD.

Diffuse pollution

4.7 Of the 42 respondents, 5 respondents commented on the powers that will be available to the Environment Agency to tackle diffuse pollution. The respondents noted that the Environment Agency will have broad 'management measures' available to them, but at present the link to agriculture is not clear and it is uncertain whether the existing powers of the Agency will be sufficient to address the risk from diffuse agricultural pollution.

Defra and Welsh Assembly Government response

4.8 The comments relating to the Agency's powers to tackle diffuse pollution to meet the new rBWD standards, generally referred to Regulation 12 of the Bathing Water Regulations 2008. However, Regulation 12 only sets out the action that needs to be taken following either an unexpected pollution incident (e.g. a failure at a sewage treatment works), a proliferation of cyanobacteria, macro-algae or marine phytoplankton or the presence of waste. It is Regulation 5 which requires the new standards in the rBWD to be met by requiring the Secretary of State, the Welsh Ministers and the Environment Agency to exercise their relevant functions in England and Wales so as to ensure that, by the end of the bathing season in 2015, all bathing waters are classified as 'sufficient'.

4.9 Regarding the Agency's powers to tackle diffuse pollution, however, Defra issued a consultation last year on Diffuse Sources of Water Pollution from Agriculture, which identified mechanisms of delivery for mitigating agricultural sources of diffuse pollution. In light of the responses to that consultation, Defra has decided that future policy for tackling agricultural diffuse pollution will be based on a package that consists of advice, agri-environment schemes and Water Protection Zones (WPZs). The Defra response following the consultation can be viewed at

<http://www.defra.gov.uk/farm/environment/water/csf/pdf/diffuse-consult-govresponse.pdf>

4.10 There may also be a role for using WPZs to tackle non-agricultural sources of diffuse water pollution. It is expected that a consultation document covering this issue will be published around the end of 2008. A consultation on tackling sewer misconnections is also due to be published in summer 2008. Changes to existing powers to rectify misconnections may be considered in the course of that consultation.

4.11 Although the powers to designate WPZs already exist within the Water Resources Act 1991, there is a case for amendments to be made to the legislation to simplify the designation process. We intend to consult on the draft amendment to the legislation and statutory guidance in the summer, with a view to having the legislation and statutory guidance in place by early 2009.

5. Next steps

5.1 On the whole, the responses to the Bathing Water Consultation were in favour of the Government's proposals. The comments received also tended to relate to the implementation of the rBWD, rather than the provisions included within the Bathing Water Regulations to transpose the rBWD, which meant that few changes needed to be made to the Regulations. The Government has therefore laid the Regulations.

5.2 In light of the comments received to the Bathing Water Consultation the Government and the Environment Agency will continue to work closely with stakeholders over the coming years to implement the rBWD and the Government appreciates the offers of support from stakeholders in their consultation responses.

Annex A

List of consultation respondents and date of response

1. West Wittering Beach – 05/12/2007
 2. Private individual – 14/01/2008
 3. Department for Culture, Media and Sport (DCMS) – 15/01/2008
 4. Instow Parish Council – 18/01/2008
 5. Private individual – 23/01/2008
 6. The Chartered Institute of Water and Environmental Management (CIWEM) – 29/01/2008
 7. Environmental Campaigns (ENCAMS) – 29/01/2008
 8. Welsh Water – 29/01/08
 9. Local Authorities Coordinators of Regulatory Services (LACORS) – 30/01/2008
 10. The Planning Inspectorate (PINS) – 30/01/2008
 11. Surfers Against Sewage (SAS) – 31/01/2008
 12. Welsh Bathing Water Sub Group – 01/02/2008
 13. Northumbrian Water – 01/02/2008
 14. Central Council of Recreative Physical Training (CCPR) – 01/02/2008
 15. The Royal Yachting Association (RYA) – 01/02/2008
 16. Keep Wales Tidy – 01/02/2008
 17. Private individual – 04/02/2008
 18. Private individual – 04/02/2008
 19. Scarborough Borough Council – 04/02/2008
 20. Parkinson Wright LLP Solicitors – 04/02/2008
 21. British Resorts and Destinations Association (BRADA) – 04/02/2008
 22. UK Environmental Law Association (UKELA) – 04/02/2008
 23. Institution of Civil Engineers (ICE) – 04/02/2008
 24. Wessex Water – 04/02/2008
 25. British Canoe Association – 04/02/2008
 26. Marine Conservation Society (MCS) – 04/02/2008
 27. Water UK – 04/02/2008
 28. United Utilities – 04/02/2008
 29. The Royal Society for the Prevention of Accidents (RoSPA) – 04/02/2008
 30. Environmental Industries Commission (EIC) – 04/02/2008
 31. Southern Water – 04/02/2008
 32. South West Water – 04/02/2008
 33. Private Individual – 04/02/2008
 34. National Farmers Union (NFU) – 04/02/2008
 35. Yorkshire Water – 04/02/2008
 36. CIWEM Welsh Branch – 04/02/2008
 37. Green Sea – 04/02/2008
-
38. Anglian Water – 07/02/2008
 39. Sefton Council – 08/02/2008
 40. Private individual – 12/02/2008
 41. OFWAT – 14/02/2008
 42. Environment Agency – 18/02/2008