Water Bill

Consultation on Draft Legislation:

Government Response
### Government Response to consultation on the Draft Water Bill

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OVERVIEW

1. The Government published *Water Bill: Consultation on draft legislation*¹ in November 2000. We asked for views on a range of proposals to ensure a proper regulatory environment. This would enable water resources to be managed efficiently and effectively now and in the future, in the interests of customers, the environment and the industry itself and increase certainty for those operating in the industry.

2. The proposals covered a range of issues, from abstraction licensing to ensuring that the needs of consumers were placed at the heart of regulation, to strengthening the powers of the Drinking Water Inspectorate to prosecute those responsible for breaches of water quality. The public consultation ended on 31 January 2001. Some one hundred and fifty responses were received from a wide range of individuals and organisations,² demonstrating the level of interest in the issues. While differences of view were expressed both with the Government and between respondents on a number of the proposals, the aims of the draft Bill received general support. This document considers in detail both the questions and concerns raised by respondents on the proposals set out in the draft Bill, and on a number of topics which elicited comment but on which it had not been proposed to legislate.

3. A number of respondents expressed concern that provisions to extend competition in the water industry were not included in the consultation document, and highlighted the importance of examining proposals in the context of detailed plans on this issue. The Environment Sub-Committee of the then Select Committee on the Environment, Transport and Regional Affairs also commented on this in its report on the draft Bill. While we acknowledge the concerns expressed by the sub-committee and by respondents, we believe that publishing the draft Bill without proposals on competition was worthwhile. The high level of public interest in the consultation supports this view.

4. On 30th March 2001, the Government announced its intention to introduce further competition in the water industry for the benefit of consumers. The Department for Environment, Food and Rural Affairs (DEFRA) has been working with Ofwat and other Government departments, the industry and others to develop proposals that will be the subject of a consultation paper. On 19th March 2002, the Government announced that it proposed to extend competition for non-household customers that use large quantities of water. The Government acknowledges the need for consistency between the proposals in this response and the framework for competition. We will keep this issue under review as the proposals for competition develop.

² A list of respondents (excluding those who made their submissions in confidence) is given at Annex A.
5. On 28 June 2001, *Tuning Water Taking* set out the Government's proposals following consultation for facilitating the trading of abstraction licences. These proposals were built in part on the changes to the abstraction licensing system set out in the draft Water Bill. The revision of the abstraction licensing system and the measures set out in *Tuning Water Taking* will help to ensure access to water in a competitive industry.

6. Many people have expressed disappointment that the Water Bill was not included in the Queen’s Speech setting out the legislative programme for the current session. The Government has to balance priorities carefully and remains committed to introducing the Water Bill. We will do so as soon as Parliamentary time allows.

7. Any necessary revisions to the drafting of the Bill will be carried out before it is introduced to ensure a consistent approach to devolution and the responsibilities of the National Assembly for Wales.

**RESPONSE TO CLAUSES**

**PART I: ABSTRACTION AND IMPOUNDING**

8. The Government is pleased to note the widespread support for the clauses concerning water abstraction and impoundment. Many respondents recognised that further adjustments and additions will be necessary to fulfil all the intentions the Government set out in *Taking Water Responsibly*. As stated in the consultation paper, these will be incorporated in the Bill when it is introduced to Parliament. The detail of some of the proposals in *Taking Water Responsibly* have been amended in light of further legal advice.

**Clause 1: Licences to abstract water**

9. This requires licences to be one of three types: a “full licence”, a “transfer licence” or a “temporary licence”.

10. Several respondents were concerned that it may become necessary to have one abstraction licence to fill a winter storage reservoir by pumping from a watercourse, and another to abstract water from the reservoir.

11. This is generally not the current practice of the Environment Agency, and there are no immediate plans for it to become so. However, the Government is considering whether the implementation of the Water Framework Directive requirements for controls over abstraction may require double licensing in such situations. If this proves to be the case, the Government would expect the

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Environment Agency to ensure that the administrative procedures were as streamlined as possible, and that there was a single annual charge.

Clause 2: Rights of navigation, harbour and conservancy authorities

12. The effect of this clause, taken with clause 1, is to require the licensing of transfers of water from any source of supply to water systems operated by these authorities.

13. The Association of Drainage Authorities sought confirmation that Internal Drainage Boards would be required to obtain licences, not for transfers wholly within their drainage districts, but only for transfers from main rivers into the district (undertaken usually for the purpose of maintaining field water levels for sub-irrigation). This remains the Government’s intention and the Bill will be modified, as necessary, before introduction.

14. Two respondents questioned whether hatch operations on chalk streams would require a transfer licence. Some respondents were concerned that very minor water transfers would require transfer licences. To prevent unnecessary regulation, on introduction the Bill will contain a provision giving the Environment Agency discretion over whether to require licences for transfers (as already defined in the draft Bill) which have no significant environmental effect.

15. Hatch operations which control only the flow of water within the chalk stream source of supply will generally not require a licence of any sort. However, if a hatch enables abstraction for the purpose of an intervening use, then a full licence would be required if the quantity abstracted is above the licensing threshold. The Government recognises that the Environment Agency may need to issue guidance to ensure that this distinction is correctly made.

Clause 3: Rights to abstract small quantities

16. 20 cubic metres per day will be the normal threshold above which abstraction licences are required. The Environment Agency will be able to set different thresholds in specified areas.

17. This clause was generally welcomed. In its final form, the clause will ensure that the exemption is limited to not more than 20m³/day in aggregate from all points of abstraction from any source of supply by the same abstractor/licence holder for the same premises or operation. Some respondents were concerned that where abstractions below the standard 20m³ threshold are numerous, the aggregate negative impact on the environment may be significant. The power for the Agency to set lower thresholds, if necessary, will address this concern.

18. As stated in Taking Water Responsibly, the Bill on introduction will contain a provision which would empower the Environment Agency to establish a register of small abstractions in specified areas, with only those appearing on the
register having a right of protection from derogation. Where registers were not established, all abstractions exempt from authorisation would continue to have protection from derogation.

Clause 4: Rights to abstract for drainage purposes, etc.

19. This clause recognises that abstractions may be required as an emergency measure.

20. One respondent, pointing out that abstractions of this kind often need an associated discharge consent, asked if this clause should refer to section 89(1) of the Water Resources Act 1991. This permits discharges of water to proceed without a discharge consent from the Environment Agency ‘in an emergency in order to avoid danger to life or health’. The Government will consider the clause further.

21. Two respondents expressed concern about the effect of the proposed removal of the irrigation exemption on the historic “contour guttering” systems on Exmoor and in other parts of the West of England. These systems may serve simultaneously as both irrigation and land drainage channels. The Government will expect the Environment Agency to work closely with the interested parties to establish the extent to which transfer or full licences will be required or whether there would be grounds in these cases for setting a different licensing threshold quantity under the provisions of the substituted section 27 of the Water Resources Act 1991 proposed by clause 3 of the draft Bill.

Removal of the exemption for trickle irrigation

22. A number of respondents were concerned that the removal of the exemption for trickle irrigation would disadvantage those using trickle rather than other forms of irrigation. Trickle (and drip) irrigation can be more water efficient than spray irrigation. We are currently drawing up transitional provisions to ensure that trickle irrigators will be treated in an even-handed way. We would not want established users of water efficient systems to be placed at a disadvantage compared to other abstractors.

23. As set out in Taking Water Responsibly, there will be a transitional period of at least two years from when the Water Bill comes into force for currently exempt abstractors such as trickle irrigators to apply for licences. During that two year period, there will be no derogation of these currently exempt abstractions. Provisions to this effect will be added to the Bill before it is introduced to Parliament.

Clause 5: Licence applications

24. This clause ensures that abstraction and impounding licence applications can be required to be accompanied by such reports as are prescribed.
25. Of those who responded to this clause, most were concerned to ensure that the Environment Agency only demands information that is reasonably required, so that the costs of any reports which are required are not excessive.

26. There will be circumstances where the Environment Agency will require reports in order to meet its sustainable development and conservation duties. However, the Agency will be expected to take into account the costs and burdens on abstractors, to avoid these becoming unreasonable costs. The Secretary of State has the power to make regulations about the information that is required with licence applications.

**Clause 6: Who may apply for a licence**

27. **This clause will make right of access to the land where the abstraction will take place the only qualification necessary for those applying for licences.**

28. This was welcomed by nearly all respondents who commented. It was felt that the changes proposed would reduce the burden of the application process and should help facilitate competition.

**Clause 7: Publication of applications for licences**

29. **Environment Agency to undertake advertising of transfer licences. Detailed requirements to be prescribed in secondary legislation.**

30. Most respondents felt that a consistent approach should be adopted for full and transfer licences, and that the Environment Agency should undertake the advertising in both cases. The Government and the Agency recognise that a consistent approach will simplify what is one of the most complicated aspects of the application process for applicants. In its final form, the Bill will make the Agency responsible for advertising both full and transfer licences.

31. A few respondents stressed that the Agency must minimise the costs involved so that abstractors do not have to pay more for advertising than they currently do. The Government will look to the Agency to keep advertising costs as low as possible.

32. Many respondents referred to the scope for using the Internet in future for advertising applications, and some questioned whether it would remain necessary to publish proposals in the London Gazette or in local newspapers. The Government will ensure that effective use is made of new technology but will also ensure that those who do not have access to the Internet will continue to have access to the information.

33. Some respondents suggested that the Environment Agency should be given discretion to waive the advertising in the case of licence variations that have no environmental impact. The Government recognises that this will further help to reduce the burden on abstractors, and will revise the clause accordingly.
Clause 8: Applications: types of licence

34. This clause enables the Environment Agency to require an applicant for one type of abstraction licence to apply instead for another type or to group several related applications together.

35. One respondent was concerned that this clause might prevent an applicant itself making a grouped application. This is neither the effect nor the intention of the clause. Those considering applying for abstraction licences are, in any case, encouraged to discuss their applications informally with the Environment Agency before making formal application. That provides full opportunity for an applicant to put forward a “grouped” approach.

Clause 9: Protection from derogation

36. Protection from derogation for new licence holders to be limited to full licence holders.

37. Few respondents commented on this clause. Some respondents stressed that the existing protection against derogation for those who abstract quantities below the licence threshold must be maintained. On introduction, the Bill will contain additional provisions enabling the Environment Agency to require abstractors in specified areas to register any abstractions under the licensing threshold. In its final form, the Bill will ensure that these and all abstractions which are below thresholds in other areas are protected from derogation.

38. The Association of Drainage Authorities and British Waterways were concerned that new transfer licences would not be protected from derogation. Holders of transfer licences will continue be protected by the Environment Agency's existing obligation to take account of river flow levels and lawful uses of inland waters when granting new licences to other abstractors. Applicants who consider that a transfer licence will not protect them sufficiently will be able to apply for a full licence instead, but would be charged accordingly.

Clause 10: Form, contents and effect of licences

39. All new abstraction licences will be required to state the purpose but not the land on which water is to be used. Every new abstraction licence will have to state the dates on which it will take effect and expire.

40. Many responses were received on the issue of time-limiting licences. Environmental groups supported the proposal. Water companies, the quarrying industry, hydropower interests and other abstractors stressed that long-term licence certainty is required in order to obtain investment and to see a return on capital investment.
41. Time limits will not be set by legislation, but the Environment Agency announced in April this year that time limits will generally be for 12 years. As stated in *Taking Water Responsibly*, there will be a presumption of renewal of licences. Time limits longer than 12 years may be given in particular circumstances, such as for infrastructure investments, subject to detailed economic and environmental appraisal. The Environment Agency will work closely with abstractors to take into account their particular circumstances, and long term investment needs, while ensuring that reasonable steps are taken to secure the long term protection of the environment.

42. Some respondents were concerned about the application of time limits to existing licences. In *Taking Water Responsibly*, the Government stated that it expected the Environment Agency over time to convert most existing abstraction licences to a time-limited status on a prioritised basis in accordance with Catchment Abstraction Management Strategies (CAMS). The Government remains committed to that aim while recognising, as stated in *Taking Water Responsibly*, that the process of conversion may be protracted.

**Clause 11: Limited extension of abstraction licence availability**

43. This requires the Environment Agency to give holders of full and transfer licences with a life of longer than 12 months notice of how they can apply for the renewal of their licences.

44. Many respondents welcomed this proposal. Some questioned whether it will apply equally to existing time limited licences. It will apply to all time-limited licences of longer than 12 months. Some respondents raised the issue of presumption of renewal. *Taking Water Responsibly* pointed out that Ministers will hold the Environment Agency to account for any significant departure from the presumption and will if necessary, give the Agency further guidance on how abstractors’ interests should be safeguarded. That remains the Government’s position. Ultimately, Ministers have powers to direct the Agency if persistent concerns about the application of “presumption of renewal” arise.

45. Some respondents said that it seemed perverse that, for the proposed limited extension to apply, the licence holder must rely on the Environment Agency to have complied with the requirements of proposed Section 46(A)(2), when there would be no compulsion for the Agency to serve the Notices. The Government recognises that concern and will amend the clause before introduction of the Bill to Parliament.

46. Subsection (3) (a) refers to an “abstraction from the same point...”. It was pointed out that licences can be held which are not necessarily located at a defined point, but relate to a prescribed area. The Government will revise the clause to apply the same definition as presently in Clause 13 (1) 59A(6) for “point of abstraction”.

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Clause 12: Proposals for modification at instance of Agency or Secretary of State

47. The Environment Agency will be able to vary impounding licences in a way which requires that impounding works are modified. Specific publication and notification requirements for licence modification proposals are removed from primary legislation.

48. No substantive comments were received on this clause.

Clause 13: Transfer and apportionment of abstraction licences

49. New provisions for the transfer and apportionment of abstraction licences were proposed.

50. Nearly all respondents welcomed the new provisions. A few stressed that it was important that the use of the water remained the same if a licence was transferred from one abstractor to another. This is provided for in the clause.

Clause 14: Claims arising out of water abstraction

51. This establishes a new right of claim for damages against holders of abstraction licences whose abstraction causes loss or damage to another person, and removes the existing defence against such damages.

52. Environmental groups supported this clause but many water undertakers and some agricultural abstractors were opposed to it. There were concerns that the effects of damage could be difficult to assess. Some felt that liability should be with the Environment Agency.

53. Ofwat was concerned that claims could have implications for water customers’ bills. Water companies are already taking steps to deal with their few abstractions which are causing environmental damage, as their part of the Environment Agency’s National Environmental Programme. Assessing the effects of any damage and, therefore, future potential costs can be done only on a case by case basis. However, the programme of improvements already budgeted for will reduce the risk of substantial additional costs arising in future.

54. A number of other points on this clause were raised by respondents. All the issues raised are currently being considered by the Department and will be taken into account before the Bill is introduced.

Clause 15: Compensation for modification of licence on direction of the Secretary of State

55. Compensation will not be payable if a licence is revoked or varied after four years of non-use. For new licences, the entitlement to compensation is removed if a variation is made to protect water availability. The variation is only exercisable 15 years after the licence is granted, with six years' notice.
56. Responses focused on the period of non-use being reduced from seven to four years. Many water undertakers, agricultural groups, the quarrying industry and other industries were concerned that the four year non-use power should not apply to licences which were held for valid contingency reasons. The Government recognises that licences will in some cases not be used for periods longer than four years for good reasons - for example drought planning or to match agricultural cycles. The Environment Agency will have the power, not the duty, to vary or revoke licences, and has stated that it will not revoke licences that are held for valid contingency reasons.

**Clause 16: Recovery of compensation from licence holder**

57. The Environment Agency can already revoke a water undertaker's licence and re-issue it to another undertaker for water resources management reasons. Under this clause, the Agency will be able to recover costs from the undertaker granted the licence to compensate the undertaker whose licence was revoked.

58. Few respondents commented on the clause. Ofwat considered that it would be appropriate for a statutory obligation to be placed on the Environment Agency to consult them before determining the appropriate level of compensation for the transfer of a licensed entitlement between two existing or potential public water suppliers. In such a case, the Government would indeed expect these two regulators to work together to ensure that the transfer took place on sound environmental and economic grounds. The ultimate arbiter of compensation amounts will remain the Lands Tribunal, as already laid down in section 61 of the Water Resources Act 1991.

**Clause 17: Withdrawal of compensation for certain revocations and variations**

59. This clause provides that, with effect from 15 July 2012, an abstraction without a time limit may be revoked or varied without compensation in order to protect the water-dependent environment from serious damage.

60. Many abstractors were concerned that licences would be able to be revoked without compensation, and some thought that the clause would not be consistent with Human Rights legislation. Environmental groups supported the clause, and some argued that it should not be restricted to cases of serious damage. One water company wanted there to be notice of the exercise of this proposed power in sufficient time to enable the cost implications to be taken into account in the price regulatory regime.

61. It is the view of the Department that clause 17 is compatible with the European Convention on Human Rights as defined in section 1(1) of the Human Rights Act 1998. The Government would expect all abstractors to work with the Environment Agency to ensure that any environmentally damaging abstractions are replaced with sustainable alternatives in advance of this provision coming into effect.
Clause 18: Water resources management schemes: other abstractors

62. The Environment Agency will be able to enter into water resources management arrangements with abstractors other than water undertakers.

63. Environmental groups strongly supported this clause. A small number of other respondents stressed the need to ensure that the Environment Agency does not impose any unreasonable costs or administrative burdens upon abstractors. The Government will look to the Agency to act reasonably.

Clause 19: Water resource management schemes: referral to the Secretary of State

64. If water undertakers or any abstractors are unwilling to enter into or maintain water management arrangements, the Environment Agency will be able to refer the issue to the Secretary of State.

65. Few respondents commented on this clause. Environmental groups supported it, and no major concerns were voiced.

Clause 20: Enforcement notices and related procedures and offences

66. Where an abstraction or impounding takes place without a licence or does not comply with the terms of a licence, the Environment Agency will be able to issue an enforcement notice to prevent significant damage to the environment.

67. Environmental groups supported this clause. Some other abstractors stressed that the Environment Agency should not take too 'heavy-handed' an approach in applying the new power. Some limitation – to cases where significant damage to the environment is occurring, or perhaps more generally to “non-trivial” cases - will remain in the clause.

Clause 21: Bulk supplies

68. This clause would enable the Environment Agency, in consultation with the Director General of Water Services, to take steps to persuade one water undertaker to apply for a bulk supply from another.

69. Ofwat suggested that it should have a similar ability to persuade a company to seek a bulk supply on grounds of economic efficiency. Ofwat said that such a power would increase the incentive on companies to seek the most cost-effective means of balancing supply and demand, in particular through bulk supplies, and that it would thus help new entrants to enter the water production market. The Government is considering this suggestion in the light of its work to develop proposals for competition in the water industry and will seek further views in its forthcoming consultation paper.
PART II: NEW REGULATORY ARRANGEMENTS

70. Our proposals for new regulatory arrangements for water, to put the consumer at the heart of the regulatory process, received wide-ranging support from respondents. The establishment of a new, independent Consumer Council for Water was particularly welcomed. As work on competition develops we will ensure that the functions of the CCW reflect this.

Clause 22: Water Advisory Panel

71. This provides for the establishment of an Advisory Panel to advise the Director General of Water Services (the Director) on the major decisions he takes in exercising his functions.


73. The Government has been reconsidering with Ofwat the decision to retain a single regulator in the light of responses to the consultation on the Draft Water Bill, the development of proposals for the introduction of greater competition in the water industry and the recent Better Regulation Task Force report on Economic Regulators.

74. Respondents to the consultation have argued that the remit of an advisory panel would not be clear in relation to the Director General, and the Consumer Council for Water, would not serve sufficiently to depersonalise regulation, and that a regulatory board would have a stronger role to play in reaching regulatory decisions. A Board would also lend itself more readily to the regulation of a more competitive water industry. The Better Regulation Task Force report also considered that a Board would offer more transparent accountability and avoid the risk of uncertainty due to policy shifts when there is a change in individual regulator.

75. The Government finds these reasons persuasive and propose to amend the draft Bill to provide for a small regulatory board along the lines of that adopted for the energy industry. The Director General of Water Services would then continue as the Chief Executive and Chairman. Ofwat is content with these proposals.

Clause 23: Consumer Council for Water

76. This clause (along with Part II of Schedule 1) establishes the Consumer Council for Water (hereafter the Consumer Council), which will replace

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8 This document refers to the “Consumer Council for Water”, as named in the draft Water Bill. Further consideration is being given to the organisation’s official name.
the existing Ofwat National Customer Council (ONCC) and statutory Customer Service Committees (CSCs).

77. The majority of respondents to Clause 23 welcomed the setting up of the Consumer Council, but some concerns were expressed about its structure and role. A number of respondents considered that, as the new Council would be independent of Ofwat, its duties should be clearly defined in primary legislation. This was to avoid confusion amongst consumers about to whom to complain and duplication of the roles of the two bodies, so avoiding unnecessary costs.

78. The Government agrees that the respective roles of the Consumer Council and Ofwat should be separate and distinct. The Council will have a duty to all consumers of water (ie all users of water, not just the bill payer) where they are supplied by a regulated or licensed company, be they domestic or industrial. It will handle complaints, acquire and publish information, provide advice and investigate other matters of interest to consumers of water. Clause 23 requires the Council to reach agreement with the Director on arrangements for co-operation between them. This memorandum of understanding will include arrangements for the sharing of information.

79. It is envisaged that the Consumer Council will operate on a similar regional structure to that in place at present, though there will be flexibility for the Council to adapt the structure as industry circumstances require. Ministers' approval will be needed for proposed structural changes as a safeguard to ensure that these best serve consumers' interests.

80. It is also expected that the membership of the Consumer Council will generally be drawn from the chairs of the regional committees. The Secretary of State, or National Assembly for Wales (hereafter the National Assembly), as appropriate, will be able to provide guidance to the Council on any issue relating to the appointment of members to regional committees, if this was to become appropriate.

Resources

81. Some respondents commented that the Consumer Council would need to be adequately resourced in order to carry out its duties effectively. Others argued that the Council should not be allowed to become an overly bureaucratic organisation and that its running costs should be regulated.

82. The Government wishes to establish a Consumer Council that is effective and efficient, and will provide resources sufficient to enable this. The costs of establishing the Council will largely be offset by savings from the transfer of responsibility of consumer functions from the existing CSCs, which will cease to exist. As a Non-Departmental Public Body (NDPB), the Consumer Council will be sponsored by DEFRA, who will set the Council’s budget and monitor its expenditure. As far as possible the costs of the Council will be met from licence fees.
Environmental protection

83. A number of respondents (mostly environmental groups) said that in order to represent all consumers’ views, the Consumer Council’s duties should encompass a duty to further conservation and environmental protection issues.

84. The Government is committed to protecting the environment and will support investment in doing so. In response to recent reports by the House of Commons Environmental Audit Committee and the Environment Sub-Committee, the Government will amend the draft Water Bill to give the Director a specific sustainable development duty, (see paragraphs 102-109 on clauses 27 and 28). Our preliminary view is that it is not necessary to include on the face of the Bill a separate requirement that the Consumer Council should be given a similar duty. The Consumer Council will have a duty to deal with all consumers' complaints, where they relate to the conduct of a water company. In some cases, the Council will refer cases to the appropriate regulatory body, such as the Environment Agency for environmental matters, or the Drinking Water Inspectorate where a complaint concerns health and quality issues.

Vulnerable groups

85. In addition the Government recognises the need to protect vulnerable groups in our society. We, therefore, intend to make it explicit on the face of the Bill that the Consumer Council’s duties should include having regard to particular vulnerable groups. This will mirror the duties of the Director, as set out in clause 27. Specifically, we propose that the Council should have regard to:

- individuals who are disabled or chronically sick;
- individuals of pensionable age;
- individuals with low incomes; and
- individuals residing in rural areas.

Clause 24: Transfer to Consumer Council of property etc. of Director

86. The provisions in clause 24 and Schedule 2 provide the Secretary of State with a power to make a transfer scheme to provide the Council with staff and property.

87. One respondent commented on this clause, expressing concern about possible increases in expenditure prior to the transfer of property from the Director to the Consumer Council and warning that ultimately customers might have to bear these costs.

88. As stated above, the Government will ensure that the Consumer Council is adequately resourced to carry out its functions effectively and efficiently. We will monitor closely any increases in costs.

Clause 25: Conditions relating to costs of water regulation

89. This clause gives the Director power to modify the conditions of appointment of a company as a water or sewerage undertaker, to provide for the recovery of costs relating to the Council and the Water Advisory Panel.

90. Some respondents expressed concerns about the level of costs that would be imposed by the establishment of the new Consumer Council for Water. The Government recognises the need to control these costs. Prior to the establishment of the Council the costs of the Customer Service Committees and Ofwat National Customer Council will continue to be sponsored by Ofwat from within their agreed budget. This provision will now apply to the Board of Ofwat rather than the Water Advisory Panel.

Clause 26: Forward work programmes and annual reports

91. This clause requires both the Director and the Consumer Council to consult on a draft forward work programme and then to publish the final version. It also requires the Director to make an annual report on his activities that year to the Secretary of State. A copy of each report must be sent to the National Assembly, the Consumer Council and the Chief Inspector of Drinking Water.

92. Few respondents commented on this clause and most were supportive of it. Two criticised the clause as unnecessary, since Ofwat and the ONCC’s forward programmes were already published in this way.

93. The Government welcomes the annual reports and work programmes which Ofwat and the ONCC publish each year following consultation. We recognise the importance of these documents to the industry, consumers and other stakeholders. To safeguard this good practice, we believe that there is merit in ensuring that the requirement to consult upon and publish them is set in statute.

Clause 27: Objectives and duties under the Water Industry Act 1991

94. This clause amends the existing general duties with respect to the water industry of the Director General of Water Services, the Secretary of State and the National Assembly. They are given a new consumer objective to protect the interests of consumers (i.e. all users of water, not just the bill payer) of regulated water and sewerage services, wherever appropriate through promoting effective competition. They are under a duty to further that objective, to secure that the functions of water undertakers and sewerage undertakers are properly carried out throughout England and Wales, and to secure that companies holding appointments are able to finance the proper carrying out of those functions.
95. The majority of respondents who commented welcomed the Government's proposed new consumer objective. However, a variety of concerns were expressed relating to the other proposed changes to the general duties. The main points made by respondents are set out below.

ability of companies to finance their functions

96. Water companies expressed concern at the proposal to remove the requirement, under section 2 of the Water Industry Act 1991, that undertakers are able to secure "reasonable returns on their capital". Ofwat and the companies believe that removing this would increase regulatory risk and undermine their ability to finance their functions. This in turn, it is argued, would not further the consumer objective.

97. The Government has considered the water companies’ concerns carefully. In principle, the removal of these words does not have a real impact on the Director General’s statutory duty to ensure that companies can finance their functions. His primary duties would still require him to act so as to secure that the companies can adequately finance their functions. A reasonable rate of return is implicit in this.

98. However, the Government recognises the importance of perception in the financial markets. There is a risk that the industry and the markets would see the removal of a specific reference to a reasonable rate of return as a negative signal, downgrading its importance. For this reason the Government has concluded that that this element of the Director General’s duties should not be altered.

duty to promote effective competition

99. Views on the proposed duty on the Director to "promote" rather than "facilitate" competition were mixed. While a number of respondents supported the change in principle, views were expressed that there was a need for a specific legislative framework to be introduced and that competition should be promoted in the interests of customers and should not be a goal in itself. The Government accepts this.

100. The Government will be consulting further on its legislative proposals – see paragraph 197 for further details.

duty to consult the Health and Safety Commission

101. The Health and Safety Commission (HSC) have proposed that the Director be placed under a duty to consult them on issues relating to health and safety. The Director is currently under a duty to see that the companies are able to finance the proper carrying out of their functions. This means, therefore, that the Director has a duty to see that the companies have enough money to carry out their functions in a way that is consistent with their duties under health and
safety legislation. Ofwat is also required to consult interested parties on major decisions, and the HSC is clearly one of the key consultees covered by this.

102. The Government believes, therefore, that Ofwat is already under a duty to consult the HSC where relevant, and has asked Ofwat and the HSC to agree a Memorandum of Understanding. This should detail practical arrangements to ensure that the HSC is consulted fully and in good time where health and safety issues are concerned. Ministers will keep this arrangement under review, and if there is evidence that the Memorandum of Understanding is not producing the desired result, they will reconsider the option of giving Ofwat a legislative duty to consult the HSC.

*Sustainable development and the long term interests of consumers*

103. In addition to the above, a number of respondents suggested that it should be made clear that the long-term interests of consumers consisted of more than ensuring the lowest price. Some argued that the primary duties should be revised to ensure that environmental and public health considerations are taken into account when considering the interests of consumers; and that they should be weighed against other social objectives.

104. The Government is committed to protecting public health and the environment as well as the long term economic interests of water consumers. The Government aims to ensure that water supplies are managed as sustainably, reliably and efficiently as possible and will support investment in protecting the environment. The Government has considered recent reports by the House of Commons Environmental Audit Committee (including evidence to this effect from the Director General) and the Environment Sub-Committee which recommended that the Director General should be given a specific duty in respect of sustainable development. The Committees made their recommendations in recognition of the fact that in the water industry, the interaction of environmental and economic issues is particularly strong, and giving the Director an explicit obligation to take all these into account would help to ensure the necessary balance between economic, social and environmental objectives.

105. The Government accepts the case for a duty that reflects this wider policy context and will amend the draft Water Bill to reflect this. The Government is actively considering the exact form that such a duty will take. This duty will not alter the Director General’s purpose or aims but will oblige him to be mindful of social and environmental concerns, when exercising his functions of economic regulator of the industry.

**Clause 28: Guidance to the Director General on Social and Environmental Matters**

106. **This clause provides for the Director General to take account of guidance by Secretary of State or the National Assembly on social and environmental matters.**
107. There was a cautious welcome for the proposal, with nearly all respondents suggesting steps the Government should take before issuing such guidance, such as consulting on draft guidance and ensuring that it was clear and easily implemented.

108. Clause 28 states that before issuing guidance the Secretary of State or National Assembly should consult: the Director General; the Council; relevant undertakers; such other persons as the Secretary of State considers appropriate. A number of respondents who commented on this clause said that it should specify some of the groups to be consulted. Amongst the groups most commonly mentioned were the Environment Agency and English Nature or the Countryside Council for Wales. There is also a close read across to the development of appropriate impact assessments by the Director General (see paragraph 136).

109. It is the Government's intention to consult widely on the social and environmental guidance to be issued. We do not consider, however, that it would be appropriate to specify particular groups on the face of the Bill. DEFRA is in regular contact with interest groups both at Ministerial and official level and will continue to involve these and many others in discussions to develop policy.

110. A number of respondents commented that any guidance issued would need to be clear about terms and definitions and that these should be agreed only after consultation. In particular there was concern that the term 'environment' would itself need careful definition. Most were concerned that its definition should be drawn widely and include issues such as the built environment and heritage issues, and that this definition should be given on the face of the Bill. There were also calls for the guidance to include advice on its application in practice.

111. There were significant concerns that in order to implement guidance, water companies' costs would increase. Water companies in particular commented that the Director should make proper allowance for these extra costs in the price setting process. Similarly there were some comments about the impact on customers' bills of compliance with the guidance.

112. When exercising his functions, the Director General will be obliged to have regard to statutory guidance about the making of a contribution towards the attainment of any social or environmental policies which the Secretary of State, or National Assembly as appropriate, may issue from time to time. This will be in addition to the specific environmental and social duties that already exist. It is essential that the guidance is clear in its purpose and application and the Government will be seeking views from interested parties on draft guidance, to ensure that this aim has been achieved. There will therefore be a full public consultation on any new guidance and the Secretary of State will lay his drafts before Parliament.

113. The Director General would be expected to reflect the Secretary of State’s guidance in the operation of his duty to promote sustainable development.
objectives, and the proper integration of economic, social and environmental considerations in regulatory decision-making.

**Clauses 29 and 30: Standards of performance**

114. **Clauses 29 and 30** of the draft Bill give the Secretary of State and National Assembly powers to initiate proposals for new or amended standards of performance in relation to the provision of water and sewerage services.

115. The proposals received a mixed response. A number of respondents welcomed them or declared themselves content, subject to consultation and full evaluation of the regulatory impact of proposed new standards. Ofwat and others questioned the need for and potential use of the powers and raised concern about regulatory uncertainty and the likely cost implications.

116. Currently, the Secretary of State, or the National Assembly for Wales, can set standards of performance only in response to a specific proposal from the Director. The Government considers that the Secretary of State and National Assembly should be able to initiate proposals that facilitate the achievement of environmental and public health policies, and to consider proposals put to them directly by other bodies. For example, the Drinking Water Inspectorate and the new Consumer Council for Water will be able to propose standards directly to the Secretary of State and the National Assembly, without having to rely on the Director.

117. The Government recognises the concerns expressed by some respondents. However, the standards in question are the minimum standards of performance that water and sewerage undertakers must attain in the delivery of their services and which customers should reasonably be able to expect of them. The Bill's provisions would require full consultation on proposals for new standards of service before they could be set, including evaluation of the regulatory impact and costs. Additionally, the regulations themselves are established by statutory instrument and would therefore also be subject to Parliamentary scrutiny.

**Clauses 31 to 35: Functions of the Consumer Council for Water**

118. **Clauses 31 to 35** set out the main functions of the Council, which are broadly:

- to keep itself informed of consumer matters and the views of consumers throughout England and Wales;
- to make proposals, provide advice and information and represent the views of consumers to public authorities, companies holding an appointment as a water or sewerage undertaker and anyone else whose activities may affect the interests of consumers;
- to seek to resolve specific complaints from consumers;
- to provide them with information and advice; and
- to publish information and advice in their interests.

119. The clauses also give the Council power to carry out investigations, and set out arrangements for the exchange of information including arrangements
for giving the Council rights of access to information from the Director and companies holding an appointment as a water or sewerage undertaker.

120. Few respondents to the consultation commented on this group of clauses. As stated above (see paragraphs 75-84), the establishment of the Consumer Council was generally welcomed, but some questions were raised about the detailed arrangements for the body. Questions included whether the draft Water Bill gave the CCW sufficient powers, or whether they should be strengthened. The ONCC, in particular, raised a number of detailed points about the powers to be given to the new body.

121. The Government is keen to ensure that the roles and functions of Ofwat and the Consumer Council are separate and distinct. We are also keen that the Consumer Council is an effective organisation and we are committed to providing it with sufficient powers and resources to enable it to properly represent consumers’ interests. We will continue to work closely with Ofwat and the ONCC to ensure that the clauses in the Water Bill will enable this objective to be met.

122. In particular, it will be important to ensure that the Consumer Council is equipped to represent consumers in any emerging competitive market. These clauses will be kept under review as the Government’s work in increasing competition in the water industry develops and any changes necessary to give the CCW sufficient powers will be made before the Bill is introduced.

**Clause 36: Financial Penalties**

123. **This clause confers powers on an enforcement authority to impose financial penalties on statutory undertakers for contravening their conditions of appointment or failing to achieve standards of performance prescribed in the 1991 Water Industry Act.**

124. The proposal to confer powers on the enforcement authority to impose financial penalties on statutory undertakers attracted criticism from water companies. Many expressed concern that the threat of financial penalties would increase regulatory risk, and therefore the cost of capital for companies. What was viewed as the discretionary nature of the regime and the absence of a specific requirement to ensure that any fines levied are proportional to the seriousness of the service failure were also criticised.

125. Most companies comply with their obligations and will therefore have nothing to fear from the new powers to impose penalties. The extent of the application of penalties is to be determined in accordance with an order to be made by the Secretary of State. The Government is inclined to the view that penalties arising from regulated activities should be applied to the turnover of the regulated company. Consideration of the options will be the subject of public consultation before an order is made.

126. The Director General of Water Services will also have to consult on and publish a statement of policy on the imposition of financial penalties, and to have regard
to the statement in deciding whether to impose a penalty and the amount. Companies will have the right of appeal to the courts on both the imposition and the amount of the penalty. Financial penalties will have to be reasonable in all the circumstances of the case. The Government believes that these requirements will give adequate certainty in the operation of the new regime to minimise regulatory risk.

127. A number of respondents raised concerns about double jeopardy, pointing out that companies were already subject to service penalties in the form of regulatory action at Periodic Reviews and under the Guaranteed Standards Scheme. It is a requirement of the clause that the penalty must be reasonable in all the circumstances of the case and, where appropriate compensation arrangements apply (whether under other legislation or as a result of regulatory agreement), the Government would envisage that it would be unlikely that further action would be taken. But it would not be appropriate to try and prescribe the circumstances in legislation. The Government envisages that the Director General's statement of policy on the imposition of financial penalties will address, among other issues, the way in which penalties should be applied where other remedies are available.

128. Some respondents expressed concern over what they saw as the limited rights of appeal against the penalties provided for by the provisions. Appeals against the imposition of financial penalties will take place over two stages. First, the regulator will be required to signal his intention to interested parties, to consult on his intentions and to take account of representations received. Second, the company will be able to appeal to the courts on both the imposition and the amount of the penalty. The courts will be able to quash the penalty or substitute one of a lesser amount.

Clause 37: Enforcement of conditions of appointment

129. The enforcement authority currently has a duty to make an enforcement order in relation to a likely future contravention of a condition of appointment or statutory or other requirement, where a contravention has already taken place. Clause 37 replaces this with a duty on the enforcement authority to act wherever there is likely to be a contravention of such a condition or requirement in future (whether or not a contravention has previously occurred).

130. Responses to clause 37, which provides for enforcement in relation to a likely future contravention of conditions of appointment or statutory or other requirement, were limited. Ofwat expressed support for the proposal, commenting that it will bring regulation of the water industry into line with other utilities, whilst one respondent expressed the need for enforcement authorities to set out the processes that they would adopt to satisfy themselves that a future contravention was likely.

131. The Government agrees that enforcement authorities need to adopt clear and consistent processes when considering enforcement action. The Water Industry Act 1991 already requires enforcement authorities to give notice of enforcement
orders setting out the facts which justify making the order and provides for failure to do so to be challenged in the High Court.

Clause 38: Links between directors’ pay and standards of performance

132. This clause is intended to achieve transparency in the relationship between company directors’ remuneration and any standards of performance, in a market that is not fully competitive.

133. The Government's proposal for the disclosure of links between directors' remuneration and standards of performance received widespread support from those respondents who commented on it. Only two respondents disagreed. One felt that debate on the issue of directors' remuneration in the media was biased and irrational, making it hard to attract new executives and urged that the issue be de-politicised. The other dissenting party felt that it would be better if direct comparison of actual performance and pay was to be made by an external body.

134. The Government believes companies should be able to justify their directors' remuneration, and that requiring the publication of links between pay and service standards will stimulate improvements in service. We do not believe that it is the Government's job to set boardroom pay. The Bill simply ensures that the way Directors' remuneration is set is transparent in order to make them more accountable to the consumers they serve. It is already open to others to make and publish any comparisons between overall company performance and directors' remuneration.

Clause 39: Reasons for decisions

135. This clause requires the Director, the Secretary of State and the National Assembly to give reasons for the key decisions that each of them take.

136. This proposal received widespread support. Some respondents suggested that the provisions should be strengthened by extending the requirement to cover key decisions made by the Environment Agency and by the Drinking Water Inspectorate.

137. Clause 39 specifies the types of decision that the Director, the Secretary of State and National Assembly would be required to give their reasons for. These are all decisions central to the appointment of water and sewerage undertakers and the enforcement of resulting obligations on them. Where the Drinking Water Inspectorate takes decisions in respect of enforcement action they do so on behalf of the Secretary of State and will be required by the proposed obligation to give reasons. The Environment Agency undertakes a wide range of regulatory activities but does not take decisions of the nature specified by clause 39. The Government is not persuaded that there is justification to broaden the scope of the clause.

138. Other respondents suggested requiring a Regulatory Impact Assessment for all major changes to the regulatory regime; and requiring the Director General to publish reasons for his decisions on key areas of methodology in advance of
Periodic Reviews or Interim Determinations of prices. The Better Regulation Task Force report on Economic Regulators also recommended that the regulators should produce assessments of costs and benefits for proposals with a significant impact on business activity.

139. The Government’s response to the Task Force report, noted that regulators are already working to develop the most appropriate form of impact assessment for their circumstances. This will build on the work Ofwat already does to analyse and consult on its proposals. In that context therefore the Government does not feel there is any need to impose a statutory requirement.

Clause 40: Specialist members of the Competition Commission

140. This clause provides for the abolition of the Competition Commission’s sector-specific utility panel for water. In its place, the single, cross-utility group set up under the Utilities Act 2000 to deal with gas and electricity references will also deal with references for water.

141. The proposal was broadly welcomed. A minority of respondents expressed uncertainty in the light of the differences between water and the other sectors.

142. The Government recognises that there are differences between water and the other utility sectors. Specialist members will continue to be available to the Commission and will continue to be appointed for the purposes of licence modification and water determination references.

Clause 41: Determination references under section 12 of the Water Industry Act 1991

143. This clause ensures that the same procedures apply to references to the Competition Commission under section 12 (concerning determinations under conditions of appointment) as apply to references to the Commission in relation to proposals to modify conditions of appointment.

144. There was support for this measure.

Clause 42: Conditions of appointments under the Water Industry Act 1991

145. This clause relates to references to the Competition Commission on the modification of conditions of appointment, extending the powers of the Commission in particular circumstances.

146. There was support for this measure.
PART III: MISCELLANEOUS

Clause 43: The Drinking Water Inspectorate

147. This clause enables the Secretary of State to appoint a Chief Inspector of Drinking Water, after consultation with the National Assembly for Wales, and to appoint other inspectors, to carry out the investigatory duties currently assigned to technical assessors under section 86 of the Water Industry Act.

148. Subsection (7) increases the maximum penalty available in the magistrates’ court for the offence of failing to provide inspectors with assistance or information, from £5,000 to £20,000, and also enables cases to be brought on indictment before the Crown Court, where the offence would be punishable by an unlimited fine.

149. Subsection (8) enables prosecutions, in relation to drinking water quality, to be instituted in the name of the Chief Inspector.

150. On the general question of the role and status of the Drinking Water Inspectorate, several respondents were in favour, while one considered it wrong for the powers of the Secretary of State to be exercised by anyone other than the Secretary of State. In fact the proposal is that such powers would be exercised by the Inspectorate on behalf of the Secretary of State, in the same way as they are exercised now by the technical assessors, who are already commonly known as the Drinking Water Inspectorate. The Secretary of State, therefore, remains responsible, and accountable to Parliament, for the exercise of powers. On the particular point of most concern, which was the power to make regulations, the administrative work is done on behalf of the Secretary of State by DEFRA officials, rather than the Inspectorate, and this will continue to be the case.

151. Most responses were in favour of the proposed changes to the offence of failing to provide inspectors with assistance or information.

Clause 44: Abstraction and impounding offences

152. This increases the maximum penalty available to magistrates’ courts for abstracting or impounding offences from £5,000 to £20,000.

153. Very few respondents commented on this clause. Of those that did, there was general support for the increase.

Clause 45: Penalties for the supply of water unfit for human consumption

154. This clause increases from £5,000 to £20,000 the maximum penalty available to a magistrate’s court for the offence by a water undertaker of supplying water that is unfit for human consumption.

155. Responses to this proposal were fairly evenly divided between those who approved of the increase, those who were concerned with the impact of different
aspects of the penalties, and those who favoured a greater increase than that proposed.

156. Any penalty would be determined by the courts at a level commensurate with their judgement of the seriousness of the offence. A maximum penalty of £20,000 is in line with the exceptional maximum available to magistrates’ courts for a wide range of environmental offences. More serious cases can still be brought to the Crown Court where fines are unlimited, or referred there for sentencing if magistrates feel their own powers are inadequate.

Clause 46: Drought

157. Water undertakers will be required to prepare, maintain and publish drought plans.

158. This clause was welcomed by environmental groups, and generally supported by water companies. Some water companies stressed the need for flexibility in any regulations which are prescribed. Some companies recognised that companies should place a digest of their drought plans in the public domain, but questioned the need for publishing full plans, which could contain commercially confidential information on resource capacity and operations, which would be of value to competitors. These concerns will be addressed when the form of drought plans and the manner of their publication are prescribed under the terms of the Water Industry Act sections 39B(8) and 39C(1) proposed in this clause.

Clause 47: Information

159. This clause strengthens the Environment Agency’s powers to require information about abstractions, impounding and any related matters.

160. Environmental groups and others supported this clause. A number of respondents commented that more information about water supply, usage and associated costs should be made publicly available.

161. Some water undertakers were concerned that the provisions would allow the Agency to demand information that could impose unreasonable costs on industry. One respondent was concerned that confidential or industrially sensitive information could be placed in the public domain and made available to competitors under existing information regulations. These concerns will be addressed in the final form of the clause.

Clause 48: Border Rivers

162. This clause provides for the Environment Agency’s abstraction and impounding functions to be exercised in the English parts of catchments forming the border with Scotland.

163. Three respondents commented on the proposal to remove the existing exemptions from abstraction and impoundment licensing control from the English parts of the Scottish border rivers. Two supported the extension of
regulatory controls whilst a third was not aware of any problems or risk of over-
abstraction. Whilst abstraction may not be having any adverse environmental
effects at present, the extension of regulatory control will help ensure that this
remains the case for the future.

Clause 49: Environment Agency to be enforcement authority under the
Reservoirs Act

164. Enforcement within England and Wales of the provisions of the Reservoirs
Act 1975 (which covers the whole of Great Britain) currently falls to some
140 local authorities. This clause transfers enforcement functions in
relation to England and Wales to a single body, the Environment Agency.

165. All those who commented on this proposal either supported it or had no
objection to it in principle.

166. Some respondents saw the potential for a conflict of interest where the
Environment Agency is itself the reservoir undertaker but, in this respect, the
Agency will be in the same position as local authorities are now. It will be
required to report to the Secretary of State (or National Assembly, as
appropriate) on the actions it takes as an undertaker to comply with the Act.
Clear management lines will need to be set in place within the Agency to
maintain the separation of its Reservoirs Act functions from its flood functions.

167. The comment was also made that the Environment Agency had no expertise for
these duties. The Agency, however, already has enforcement duties in respect
of its abstraction and impoundment licensing functions, and has a great deal of
water engineering expertise. Making the Agency a one-stop shop for reservoir
undertakers will considerably simplify matters and, as several respondents
endorsed, ensure a more consistently applied approach.

168. One respondent considered that the Environment Agency is likely to be more
proactive than local authorities, resulting in more requests for information from
reservoir undertakers, leading to increased costs for undertakers. The
Department would not expect requests for information by the Agency to be so
excessive as to be unreasonably expensive.

169. Proposed new clause to be added to the Water Bill to amend the Reservoirs
Act 1975: Reserve powers of enforcement authority.

170. Cases have been brought to the Department's attention where the enforcement
authority has had to use its reserve powers to appoint construction engineers to
supervise reservoirs being constructed or altered in default of the undertakers
doing so. In these circumstances the construction engineer is required by
section 8(2) of the 1975 Act to inspect and report on his findings. The report
must include any recommendations as to measures to be taken in the interests of
safety. Some undertakers have failed to implement safety recommendations to
a timescale that the construction engineers and enforcement authorities
considered appropriate.
171. The Government therefore intends to add a new clause to the Water Bill which will extend enforcement authorities' reserve powers in section 15(2) of the 1975 Act to include notices issued under section 8.

**Clauses 50 and 51: Consequential amendments**

172. The amendments made by these clauses are consequential on provision made by clause 49.

**Clause 52: Flood Plans**

173. **This clause provides a power for the Secretary of State/NAW to direct reservoir undertakers to prepare flood plans.**

174. The views expressed on this proposal included the points that the need to provide a flood plan, and to make it available to a wide audience, raise concerns about existing standards of reservoir safety.

175. There have been no reservoir failures leading to loss of life since 1925. It is to be expected, therefore, that few people will be aware of what the 1975 Act requires and how it works in practice. Realisation of the effects of a reservoir failure will inevitably cause initial concern; many people will be unaware, for example, that they live downstream of a reservoir. The fact that they are unaware of the potential risk and that the knowledge may alarm them are not valid reasons for keeping people uninformed. The Government believes that people have a right to know. Flood plans represent no more than contingency emergency planning that is considered both desirable and unexceptional in other areas of potential risk.

176. One respondent questioned the need for the Secretary of State or National Assembly to give directions, when inspecting engineers' safety recommendations already have the force of law. Clearly flood plans will require sensitive handling. Although the panel engineers concerned will be closely involved in the process, it is considered that Ministers should take the decision over whether a flood plan should be prepared, after consultation with all interested parties. It may prove to be reassuring to residents living downstream of a reservoir to know that their views and concerns are heard and responded to by elected representatives.

177. Some respondents asked whether the power would be exercised in respect of all reservoirs or used selectively. The determining factors are likely to be the location of the reservoir, the topography of the downstream area and the risk assessment in terms of potential loss of life or damage to property if an escape of water should occur. The purpose of the reservoir is unlikely to be a significant factor. So, in practice, selective use is likely.

178. DEFRA has noted the importance of consulting internal drainage boards, where such bodies exist, over proposals for directions.
179. One respondent pointed out that consultation should not only be with those local authorities in whose area the reservoir is situated but also with those who may be affected by any escape of water. This is accepted. Where this is self-evident at the outset, consultation with the local authorities concerned would be included through the proposed new section 12A(3)(f). It may be the case, though, that the effects on another local authority's area would not be apparent until an analysis of a dam failure had been undertaken. In these circumstances consultation with the authorities concerned would take place at a later stage.

180. See also paragraphs 167-169 for details of a new proposal for legislation on reservoir safety.

**Clause 53: Water conservation by undertakers**

181. **This clause gives water undertakers a general duty to further water conservation.**

182. Several respondents referred to the importance of using water efficiently. The Government agrees that this is a crucial part of managing water resources, and has been pursuing a number of policies to achieve this end. For example, we require water resource planning to integrate the ‘twin track approach’. This essentially means that in preparing to meet future demand, water companies should seek to manage the demand itself, as well as considering any increases in supply. This is enshrined in the Environment Act 1995, which places every water company under a duty to promote the efficient use of water to its customers. At the Water Summit in May 1997, the Deputy Prime Minister told the water companies that they must carry out this duty with vigour, imagination and enthusiasm. Ofwat has required each water company to produce a Water Efficiency Plan and monitors their progress towards implementation. The results are set out in Ofwat’s annual reports on leakage and the efficient use of water.

183. Some respondents, including some water undertakers, felt that the water conservation duty was unnecessary for companies who have already pursued significant leakage reduction and, where relevant, household metering. The Government considers that the duty is nevertheless necessary to ensure that all water undertakers continue to further water conservation wherever possible in carrying out all their functions.

184. Environmental groups supported the clause, but some were disappointed that it has not been possible to place similar duties on all abstractors. The Government agrees that all abstractors should be treated similarly but considers that new legislation for abstractors other than water undertakers is unnecessary. The Environment Agency requires applicants for an abstraction licence to demonstrate that they have taken all reasonable steps to ensure that water is used efficiently before a licence is granted or renewed and are able to propose variations to the licences of existing abstractors to deal with wasteful use. In its response, the Agency said it would encourage the voluntary inclusion of such conditions in variations to existing licences.
185. See also paragraphs 245-246 for response to comments received on leakage.

Clause 54: Fire Hydrants

186. This clause makes it clear that a water company will meet the cost of providing and installing fire hydrants where it removes them when it is renewing or renovating a water main.

187. Most respondents supported this proposal. One respondent suggested that there should be a sliding scale of payment, but as this could increase the costs and complexity of administration, on balance the Government does not favour this approach.

Clause 55: Coal Mine Water Pollution

188. The effect of this clause will be to give the Coal Authority statutory powers under the Coal Industry Act 1994 to take action to prevent and clean up mine water pollution from abandoned coal mines.

189. In general, proposals to improve mine water pollution powers for the Coal Authority under the Coal Industry Act 1994 were widely welcomed by respondents. A number of points concerning the scope of the proposed powers were raised. These will be clarified as work on the draft clause progresses. In addition, two related matters were raised and these are set out below.

190. One respondent expressed concern that the removal (by section 85 of the Environment Act 1995) of the statutory defence against prosecution for polluting watercourses from discharges of minewaters had not resulted in prosecutions being instigated by the Environment Agency. It is for the Agency to determine whether or not to prosecute under section 85 in any individual case where pollution may have been caused.

191. There was also concern about the possibility of duplication of work between the Coal Authority and the Environment Agency. Preventing and cleaning-up minewater pollution from abandoned mines is a major environmental activity for the Coal Authority, which has been successfully running for a number of years on a non-statutory basis with funding from the Department of Trade and Industry. The proposal will put the powers on a statutory footing. The work of the Environment Agency will not be affected by this proposal and both bodies will work independently. With these powers in place, we believe that the problem of minewater pollution from abandoned mines can be addressed and tackled in a more efficient and effective way. A Memorandum of Understanding between the Coal Authority and the Environment Agency defines the respective roles of the two bodies and ensures that there is close cooperation between them.
Clause 56: Contaminated Land

192. This clause introduces a “significance test” to the definition of contaminated land, in relation to cases of pollution of controlled waters.

193. The majority of those responding to this proposal supported the aim of the change.

194. One respondent wanted reassurance that the change to the definition of contaminated land would not weaken environmental protection, citing a case taken under statutory nuisance powers against sewage debris on a beach. Another respondent expressed concern that the change to the definition of contaminated land in relation to pollution of controlled waters might have implications for the level of protection afforded to water under the separate legislation that deals with water pollution.

195. The clause does not reduce the scope of statutory nuisance, which is dealt with in Part III of the Environmental Protection Act 1990. Nor does it affect the expression “pollution of controlled waters” as it appears and is used in water legislation, nor the circumstances in which that legislation may be applied or enforced. The clause amends a definition which is used for the purposes of Part IIA of the Act (contaminated land), and the change is concerned solely with the application of Part IIA and should have no impact on other regulatory regimes.

Clause 57: Sewerage

196. This clause amends section 101A of the Water Industry Act 1991 (provision of a public sewer to replace non-mains drainage in certain circumstances) by removing the qualifying date of 20 June 1995.

197. There was general support for this proposal. Ofwat suggested that the date should be amended from 20 June 1995 to 1 April 1999 (when Planning Circular 3/99 was implemented). This was considered when the clause was drafted but it was thought some properties might still be excluded by imposing a new date because they were not completed or started until after the date. It was, therefore, considered on balance that there should be no qualifying date.

RESPONSE TO WORK IN PROGRESS

COMPETITION

198. The Government announced on 30 March 2001 that it would boost the opportunities for competition in water services. We proposed that Ofwat should license new entrants into the market for production and retail activities, while the incumbent water companies will remain vertically integrated statutory undertakers, retaining their important strategic water resource and environmental duties. Companies would be given clearer rights to enter the water market, providing the opportunity for innovation and efficiency gains to give customers better deals. Since then, the Government has been undertaking further work with Ofwat, the industry and others and announced on 19th March...
that it proposes to extend competition for non-household customers that use large quantities of water. The Government will publish a consultation paper on its proposals for increasing competition in the next few months.

**INFORMATION ON WATER COMPANY PERFORMANCE**

199. The consultation paper stated the Government’s intention to ensure that customers were pointed clearly to reliable, comparative information on the performance of their water companies when they received their water bills. It also said that a pilot scheme would be undertaken to test customer preferences for performance information, various methods for allowing them to access information easily, and whether they had other information needs.

200. Respondents varied in their approach to the principle of providing information on company performance. Most agreed that customers should have access to this information in some form, but there were different views over who should provide it and how it should be disseminated. Some respondents noted that information on performance was already provided to Ofwat and that this was available to the general public. Two respondents questioned how a duty for companies to provide information to their customers would work alongside the new powers of the proposed Consumer Council for Water.

201. The Government wants customers to have access to reliable, comparative data on the performance of their companies. It is right that customers should be able to find out how the company to which they pay their bill has performed on issues such as the environment, water quality and customer service. And customer reaction to this information can also act as a spur for improvement.

202. The Government recognises the need to ensure that the role of the new Consumer Council for Water in providing information to customers complements a requirement for companies to publish performance information. We will give further consideration to how this might best be achieved and, if necessary, add appropriate provisions to the Bill before it is introduced.

203. Two respondents argued that customers rarely read information received alongside their bills, while, in contrast, one water company cited high response rates to a customer survey as evidence of latent demand. A number of respondents also expressed views on the type of information that should be provided and the medium through which it should be made available. There was broad support for the implementation of a pilot scheme as a means to investigate these issues further.

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11 DEFRA News Release 103/02
204. Respondents’ views on the type and format of information that should be provided will be taken into account in drafting provisions. The Department is now studying the results of the pilot scheme, which has provided useful pointers to the subjects in which customers have most interest and the methods of presentation and dissemination that they find most useful, and it will be announcing its conclusions shortly.

ECONOMIC INSTRUMENTS

205. The Government announced our intention to consult on the possible application of economic instruments to water abstraction in our paper Taking Water Responsibly, published in March 1999, and did so with a consultation paper published in April 2000. There was a broad range of responses to the various questions raised in the paper. Almost all the seventy-one respondents felt that licence trading should be promoted.

206. Tuning Water Taking - the Government's response to the consultation, was published on 28 June. The key announcements in the paper are that:

- water abstraction charges will remain limited to recovery of the Environment Agency’s water resources management costs. The Agency has been asked to consult, by June 2002, on changes to the current charging scheme within that framework.
- abstraction licence trading will be facilitated by a variety of means, within the Agency’s existing powers to ensure that trading does not harm the water environment. Simplifying the trading arrangements should also assist competition in the water industry.
- the changes to the abstraction licensing system in the Water Bill will further facilitate trading.

TRANSFER OF DISCHARGE CONSENTS

207. The proposal is to seek a power to make regulations which will enable specific procedures to be set out clarifying the mechanism for effecting transfers of consent from one holder to another.

208. Overall, the proposal to make minor changes to the procedure for transferring discharge consents has been welcomed. Some respondents said that consents should be reviewed if, on transfer, there was a significant change of operation.

209. Schedule 10 of the Water Resources Act 1991 (as amended by the Environment Act 1995) sets out the current position when a transfer of consent may take place. Schedule 10 (11)(1) makes it clear that a consent may be transferred by the holder of the consent to another person who proposes to carry on the discharge in place of the holder. The Government's view is that this implies that the same discharge is being made, but by a different consent holder. However, it is the responsibility of the original holder of the consent to notify the Environment Agency of the transfer and, having been notified of the transfer, if the Environment Agency has any doubts as to the form of the discharge, it may
take appropriate action to review the consent. This may be at any time with the consent of the holder, or otherwise within specified time limits.

210. Some respondents asked that further consultation be carried out in advance of regulations being made. The proposal in the Bill is initially to give the Secretary of State the power to make regulations in this respect. Any subsequent regulations would be subject to the normal drafting procedure and would be subject to consultation as part of that process.

**TRADE EFFLUENT CONSENTS**

211. The proposal will provide the Secretary of State with a new order making power the overall effect of which would result in better regulation of the trade effluent discharge process.

212. The proposal to make minor improvements to the trade effluent discharge consent scheme has been generally welcomed. It has been noted that while consultees were content with the proposal, many expressed a wish to be consulted again before regulations were brought into force so that they could see exactly how any regulations would operate.

213. We would expect to consult on any regulations arising from the powers that it is proposed to give to the Secretary of State in the proposed Bill. The first priority however is to ensure that the powers to make regulations are in place.

**FLOOD DEFENCE**

214. Paragraph 74 of the consultation paper set out the intention to include provisions to:
- Restore to internal drainage boards the power they had to borrow to fund contributions payable to the Environment Agency. This power was inadvertently removed when water legislation was consolidated in 1991.
- Correct defective wording in section 16 of the Land Drainage Act 1991. There is a meaningless reference in section 16(2)(b) to “subsection (3) above” whereas the reference should be to section 16(2)(b) itself.
- Provide powers for additional regional flood defence committees (RFDCs) to be created.

215. The few comments received on the proposal to restore the power for internal drainage boards to fund contributions payable to the Environment Agency were positive; as were those received on the proposal to correct the defective wording in section 16 of the Land Drainage Act.

216. At present there are two tiers of flood defence committees – regional and local. The Agriculture Select Committee and others have argued in favour of creating a single, regional tier of committees. One obstacle to this is that the present regional committees may be too large to operate on a single-tier basis and would need to be split. However, the Environment Act 1995 restricts the number of regional committees to ten (i.e. the number in place at the time the Environment Agency came into effect). This would therefore hamper any future decision to
move to a single, regional tier. The proposed amendment will provide powers to make orders establishing additional regional committees, abolishing local committees and related matters.

217. This proposal attracted adverse comment because the consultation paper wrongly implied that the Bill would itself abolish local flood defence committees (LFDCs). This is not the intention. Instead, it is intended to provide a power to make an order to set up additional RFDCs, increase their size and abolish LFDCs. Any such changes in committee structure would only be considered following the current review of flood defence funding (scheduled for completion by September 2001) and would involve full consultation of relevant interests in the area concerned.

**WATER RESALE**

218. The consultation paper set out the Government’s proposal to legislate so that purchasers of water services, such as park home residents, could be given a right of access to information about the basis on which their bill had been calculated. The consultation paper also proposed that customers should be entitled to interest, at a rate set by the Director General, when they were found to have been overcharged.

219. Nearly all respondents that commented welcomed the proposal on information for resale customers unreservedly, and none opposed it.

220. There was wide recognition that water resale customers such as tenants and park home residents include many vulnerable and less well-off households faced with effective monopoly resellers. One respondent pointed out that water resale also included some arrangements for water and sewerage services to commercial customers. It was suggested that such customers also needed the protection of water resale orders under section 150 of the 1991 Act and that this should be made clear in the legislation.

221. The Government welcomes the general support for strengthening Ofwat's powers to give water resale customers access to information specified by Ofwat on their basis of charging. The case for such information is particularly strong for vulnerable household customers facing effective monopoly suppliers. However, both the existing scope of the powers in section 150 and the proposed extension apply both to household and to commercial water resale.

222. Two respondents argued that the powers of section 150 should be limited to cases where the purchaser had no choice of supplier, on the grounds that controls on water resale would not be necessary where there was competition. The Government is not persuaded that competition in water services will remove the need for safeguards from some water resale transactions. Ofwat already have powers to make an order making different provision for different cases (section 150(4)).

223. One respondent asked that the information required of resellers be kept simple. It would be for Ofwat to consult on the detailed use to be made of the extended
powers. The Government agrees that the information required of resellers should be as simple as is consistent with enabling purchasers to check their charges.

224. Four respondents referred to the proposal that customers should be entitled to interest. Only one opposed it, on the grounds that penalties for excessive charges should be a matter for the courts. The Government takes the view that it is more satisfactory to allow Ofwat to make clear and universally applicable rules for setting interest on overpaid charges rather than leave it to the courts to determine in each case.

225. One respondent raised concerns about the difficulty of practical enforcement of both the present and proposed scope of Ofwat's powers. They suggested that resellers retained a dominant bargaining position and that Ofwat should take responsibility for enforcing the terms of any order on resellers rather than leaving it between the parties to resolve.

226. The enforcement of any order made under section 150 remains an issue. The Government recognises that not every purchaser finds it easy to resort to the courts to enforce a limit on water charges. The intention is that the proposed changes will make it easier and more certain for both resellers and purchasers to ensure a correct basis of charges without recourse to the courts. The 2001 Order already made by Ofwat sets out a clear basis for setting charges. This proposed legislation would allow purchasers access to the necessary information to check charges. There is also a need to cater for what should happen if the prescribed information is not provided. The Government therefore proposes to empower Ofwat to set a basis on which charges are to be determined should the reseller fail to provide this information.

OTHER ISSUES RAISED

WATER FRAMEWORK DIRECTIVE

227. The Bill is not being used specifically to transpose the Water Framework Directive. The Government is still considering how the Directive should be transposed into English law. However, provisions in the Bill will help deliver much of what the Directive requires in respect of controlling water abstractions. The new duty on water companies to use water efficiently will also be helpful when it comes to implementation. There is also scope to use the existing powers to make secondary legislation, particularly those in the European Communities Act 1972 but also in the Water Resources Act 1991 and the Environment Act 1995, rather than primary legislation.

228. The Directive came into force on its publication in the Official Journal on 22 December. It must be transposed within three years. A first consultation paper [13],

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setting out the Government’s intended approach to transposition and implementation, was published in March 2001. It invites views on some of the fundamental issues at the heart of the Directive to guide future implementation work. We expect to start consulting on draft implementing legislation next year.

**ECONOMIC REGULATION ISSUES**

229. A number of respondents raised wider issues about the regulatory system. Many water companies wanted to see changes to the appeal mechanisms for appealing against regulatory decisions. At present, for example, companies can appeal against the final determinations of the periodic review process, but not specific aspects of methodology that underpin price limits. Nor can companies appeal on the basis of specific parts of the final outcomes.

230. Appeals against the regulator’s decisions were also discussed in the recent Better Regulation Task Force report on Economic Regulators. In its response to the report, the Government concluded that certain regulatory decisions, principally price controls were effectively a “package” based on a set of assessments of a company’s future costs and revenues. The Government does not favour a right of appeal on individual elements as it was likely to lead only in the direction of price increases to the detriment of customers.

231. Both Ofwat and the ONCC also raised concerns about how the costs of recent Competition Commission inquiries have been passed on directly to customers through increased price limits. The Government is also concerned that appeal costs should be allocated fairly and appropriately, and will consider whether legislative changes are needed either in this Bill.

232. Several respondents also raised concerns about the current period of notice for the termination of companies’ appointments as statutory undertakers under the 1991 Water Industry Act. Several companies said that the current 10 year notice period is creating regulatory risk and uncertainty, and particularly causing concern amongst investors. The Government takes these concerns seriously, as, with the other regulators, the Government wants to work with the industry and its investors to create a reasonably stable and secure climate for investment. This is beneficial for the health of the industry, and, most importantly, for the industry’s customers. This is not however a matter for primary legislation, but for agreement as part of companies’ conditions of appointment. The Government is considering the appropriate licence period, and notice for termination period for both statutory undertakers and new licensees as part of its work on competition, and will address this issue in the forthcoming consultation paper.

**CESSPOOLS AND SEPTIC TANKS**

233. Ofwat has received complaints from cesspool and septic tank owners about the high charges paid to tanker operators for the removal and disposal of their waste. Ofwat’s view is that it has no jurisdiction to regulate these prices, as the service does not form part of the appointed business of an undertaker, and that it would be difficult for customers to obtain satisfactory redress under the Competition Act 1998.
234. Ofwat suggests that the Water Bill should bring the reception, treatment and disposal of tankered cesspool and septic tank waste within the scope of sewerage undertakers' regulated business. This would oblige undertakers to receive, treat and dispose of waste from cesspools and septic tanks. Charges for these activities would then be brought within the scope of companies' charges schemes and subject to approval by Ofwat, so that cesspool and septic tank customers would enjoy the same level of protection as those customers receiving mains sewerage services. However, charges for the transport of this waste would remain unregulated.

235. This suggestion has not been subject to public consultation, which would be necessary before legislating as Ofwat propose. The Government will continue to examine the implications of this proposal.

**HYDROPOWER**

236. The British Hydropower Association (BHA) felt that the Environment Agency should have a duty to promote hydropower with a view to facilitating its development. The Government and the Agency recognise the positive benefits of hydropower: possible improvement of river environments; benefits to rural communities; and the provision of a renewable energy source. The Government does not intend to place a duty on the Environment Agency to promote hydropower. However, the Government is discussing with the Agency whether the application process for abstraction licences for hydropower schemes could be made easier in order to promote the use of hydropower.

237. The BHA requested that low head hydro schemes be exempted from abstraction licensing requirements. Different low head hydro schemes will have different effects and each has to be considered individually. But implications for water resources management need to be addressed, and the licensing mechanism enables the Agency to fulfil its water resources management duties. Section 125 of the Water Resources Act 1991 exempts hydropower schemes with a capacity of not more than 5MW from charges above the recovery of administrative expenses.

238. The BHA also requested longer time limits for licences for hydro schemes. Time limits longer than 12 years will be given in particular circumstances, such as for infrastructure investments, subject to detailed economic and environmental appraisal. Hydropower operators may be able to make a strong case to the Environment Agency for licences longer than 12 years.

**DROUGHT ORDERS**

239. Some respondents were concerned that no mention was made of continuing the exemption from cessation notices during drought periods for the irrigation of glasshouse, protected cropping and container plants. The exemption set out in the Spray Irrigation (Definition) Order 1992 [SI No 1096] was made under section 72(5) of the Water Resources Act 1991. Neither the draft Bill nor the Bill on introduction will alter either the Order or the order-making power.
**DIFFUSE POLLUTION**

240. It was suggested that the Bill should include provisions to tackle diffuse pollution. The Government accepts that regulatory effort has in the past been concentrated more on point sources of water pollution than diffuse ones. This reflects the fact that historically point sources have created more of an environmental problem, and technologically they are often easier to address. It is past success in tackling point sources of pollution, including from sewage discharges, that has led to the effects of diffuse pollution being now both more visible and more important for securing further environmental improvements.

241. The Government made clear in its response to the Environmental Audit Committee’s Seventh Report on ‘Water prices and the environment’ that it accepts additional effort is needed to identify and tackle diffuse sources of water pollution. The Environment Agency will devote increased resources to investigating and addressing diffuse sources which are impeding progress towards meeting targets for bathing water and river quality. Action to be taken will include improving both the provision of advice and guidance and, where relevant, the enforcement of legislation.

242. However, the Government has not yet come to a firm view over whether or what additional regulatory controls on diffuse sources of pollution are needed. The Environment Agency already has wide powers, and – as noted above – will devote more regulatory effort to diffuse pollution. We will be considering and then consulting on what further action will be necessary to meet the requirements of the recently agreed EC Water Framework Directive. The Government's working assumption is that, where needed, secondary legislation will be prepared using existing regulation making powers.

**RESOLUTION OF DISPUTES BY OFWAT**

243. Ofwat have requested that disputes about pipelaying by water companies in private land, compensation for streetworks and trade effluent appeals prices and costs be made relevant disputes under section 30A of the Water Industry Act 1991. They say that investigating these cases can be expensive and making them relevant disputes would enable Ofwat to recover its expenses. We will be looking at this very carefully from a general policy aspect, in particular, whether it could lead to disparity of costs between cases determined by the Director and those determined by the Secretary of State.

**PRIVATE SEWERS**

244. One respondent considered that an amendment should be made to section 106 of the Water Industry Act 1991 to make it clear that a person wishing to connect a private sewer to a public sewer should obtain a street works licence under section 50 of the New Roads and Street Works Act 1991 to open up the road to lay the sewer. This comment has been made on the premise that the owners of private sewers are statutory undertakers. They are not. They should be treated as private individuals and should obtain a licence under section 50 of the New Roads and Street Works Act 1991 to open a street to make a connection to a
public sewer. In the circumstances, we do not consider that an amendment to section 106 of the Water Industry Act 1991 is necessary.

**USE OF WATER FOR FIREFIGHTING**

245. The Fire Service suggested that developers should comply with recommendations about the siting of hydrants and that they should pay for hydrants on new development. These are considered to be planning issues and not matters for inclusion in the Water Bill. The Fire Service’s comments are being considered by the Department of Transport, Local Government and the Regions.

246. In addition, the Fire Service suggested that hydrants should be allowed to be installed on trunk mains. This has not been accepted because these mains are used to move water between two places and are not designed to have draw off points such as communication pipes along their length. The Service also suggested there should be guarantees of minimum flows of water for firefighting and that they should have maps of all water mains. The Government believes that these are issues that should be addressed through liaison meetings with the water industry using the guidance document that the water industry and fire service jointly produced and agreed in 1999.

**LEAKAGE**

247. The Government agrees with comments that this has been an area where water was unjustifiably wasted in the past. However, leakage is down by almost a third since May 1997, and is now at its lowest level since privatisation. Nonetheless, the Government wants this progress to continue, and our joint study with Ofwat and the Environment Agency into the potential for further economic reductions was published on 5th March 2002.

248. Another respondent recommended that supply pipe ownership should be transferred from the owner of the premise to the water company to help ensure that leakage was reduced from these pipes. There are, however, a number of concerns about the transfer of statutory responsibility. Firstly, many people might be concerned about extending a water company's right to dig up gardens and driveways to repair or replace a pipe. Were ownership to extend to 'the first practical point of use by the customer', the right would even extend into customers' homes. The cost implications could be significant, with customers with well maintained pipes subsidising those with poorer ones, including the costs towards the full re-instatement of the garden or driveway. Currently every water company has a scheme for providing a subsidy to customers who need to repair or replace their leaking supply pipe. This provides a flexible arrangement in which customers receive assistance with repairs while not incurring the disadvantages associated with full transfer of ownership.
Annex A

Respondents to the Consultation paper

COMMERCIAL

- Arup Water
- British Waterways (BW)
- Brunner Mond (UK) Limited
- Centrica plc
- DLA
- Enviro-Logic Limited
- Hanson Quarry Products Europe
- Holtom & Thomas
- Innogy plc
- Irrigation Systems Company
- Lloyds
- Logica UK Limited
- Port of London Authority (PLA)
- R & J M Place Limited
- RJB Mining (UK) Limited
- Sibelco Minerals & Chemicals Limited (SMC)
- Somerford Home Farm
- Tarmac Group
- Watertrack Limited (Railtrack Limited)
- WRc plc

Water Companies.

- Anglian Water
- Bournemouth and West Hampshire Water
- Bristol Water plc
- Dŵr Cymru / Welsh Water
- Mid Kent Water plc
- North of Scotland Water Authority
- North West Water
- Northumbrian Water Limited (NWL)
- Portsmouth Water plc
- Severn Trent Water Limited
- South East Water
- South Staffordshire Water plc
- South West Water
- Southern Water
- Thames Water
- Three Valleys plc on behalf of Folkestone & Dover, Tendring Hundred and Three Valleys Water
- United Utilities plc
• Water Power Engineering
• Wessex Water
• Yorkshire Water

**NON-TRADE ORGANISATIONS**

• Action for the River Kennet (ARK)
• Agricultural Law Association
• British Trout Association
• Campaign Against Monopoly Abuse
• Campaign for the Renewal of Older Sewerage Systems (CROSS)
• Central Council of Physical Recreation (CCPR)
• Centre for Ecology & Hydrology (CEH)
• Chartered Institution of Water & Environmental Management (CIWEM)
• Chief & Assistant Chief Fire Officers’ Association (CACFOA)
• Coalfield Communities Campaign (CCC)
• Consumers’ Association
• Council for British Archaeology (CBA)
• Council on Tribunals
• English Heritage
• Friends of the Earth (FOE)
• Friends of the Lake District
• National Consumer Council (NCC)
• National Council of Women of Great Britain (NCW)
• National Farmers’ Union (NFU)
• National Federation of Anglers (NFA)
• Plantlife
• Public Utilities Access Forum (PUAF)
• Public Utility Reform Group (PURGe)
• Royal Society for the Protection of Birds (RSPB)
• Salmon & Trout Association and the Anglers’ Conservation Association joint response
• Save Our Seabirds Charitable Trust
• Scottish Natural Heritage (SNH)
• Somerset Association of Local Councils
• South West Rivers Association (SWRA)
• Sport England
• Surfers Against Sewage (SAS)
• Swindon Friends of the Earth
• Transport & General Workers Union (T&G)
• UNISON
• Wildlife Trusts
• Women’s Food & Farming Union (WFU)
• WWF-UK
• Yorkshire Forward
OTHER GOVERNMENT DEPARTMENTS

- Broads Authority
- Caldicot & Wentlooge Levels Drainage Board
- City of Stoke on Trent Department of Environment & Transport
- Competition Commission
- English Nature
- Environment Agency
- Environment Agency Thames Region West Area Environment Group
- Exmoor National Park Authority
- Glamorgan Local Flood Defence Committee – J S Mackay
- Greater Manchester Fire Authority
- Hampshire & Isle of Wight Local Flood Defence Committee
- Hampshire County Council (Leader of the Council)
- Local Government Association (LGA)
- Lord Chancellor’s department
- National Assembly for Wales
- Norfolk & Suffolk Local Flood Defence Committee - Henry Cator
- North Yorkshire County Council
- Northumberland County Council
- Office of Water Services (Ofwat)
- Ofgem
- Ofwat National Customer Council (ONCC)
- Ofwat Southern Customer Services Committee
- ONCC, on behalf of the ten regional Customer Services Committees
- Planning Inspectorate (PINS 5)
- Scottish Environment Protection Agency (SEPA)
- Sussex Local Flood Defence Committee
- Vale of Glamorgan Council
- Welsh Regional Flood Defence Committee and the six Welsh Local Flood Defence Committees

PERSONAL RESPONSES

- Anna Humpfries
- Ian Trew
- J A Funk
- Keith Weatherhead
- Oliver Letwin MP – on behalf of constituents growing watercress
- Peter Howsham
- Siu Cheung

TRADE ORGANISATIONS

- Association for Environment Conscious Building (AECB)
- Association of Building Engineers (ABE)
• Association of County Chief Executives
• Association of Drainage Authorities
• British Cement Association (BCA)
• British Holiday & Home Parks Association Ltd (BH&HPA)
• British Hydropower Association (BHA)
• British Soft Drinks Association (BSDA)
• Broadland Agricultural Water Abstraction Group (BAWAG)
• Chemical Industries Association
• Confederation of British Industry (CBI)
• Confederation of United Kingdom Coal Producers (COALPRO)
• Council of Mortgage Lenders
• Country Land & Business Association (CLA)
• Country Landowners Association – Essex Branch (CLA)
• East Suffolk Groundwater Abstraction Group (ESWAG)
• Engineering Council
• Environmental Industries Commission (EIC)
• Farmers’ Union of Wales (FUW)
• Horticultural Trades Association (HTA)
• Inland Waterways Amenity Advisory Council (IWAAC)
• Inland Waterways Association (IWA)
• Institute of Directors (IOD)
• Institution of Civil Engineers
• Institution of Water Engineers (IWO)
• Major Energy Users’ Council (MEUC)
• Quarry Products Association (QPA)
• Tenant Farmers Association (TFA)
• UK Irrigation Association (UKIA)
• United Kingdom Environmental Law Association (UKELA)
• Upper Thames Fisheries Consultative
• Utility Buyers’ Forum (UBF)
• Water UK

One Confidential Response was received.
Annex B

Bibliography


