### Summary: Intervention & Options

<table>
<thead>
<tr>
<th>Department /Agency:</th>
<th><strong>Title:</strong> Impact Assessment of changes to enforcement powers and related provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stage:</strong> Draft</td>
<td><strong>Version:</strong> v5 <strong>Date:</strong> 25 February 2009</td>
</tr>
</tbody>
</table>

**Related Publications:**

Available to view or download at:
http://www.

**Contact for enquiries:** Mark Snow / David Jones  **Telephone:**

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**What is the problem under consideration? Why is government intervention necessary?**

Current enforcement legislation (the Water Industry Act 1991) restricts Ofwat's ability to regulate the industry effectively in the best interests of consumers. There are limitations imposed on Ofwat in pursuing enforcement action and there are constraints and inconsistencies in the process and outcomes of setting conditions for appointments of water and/or sewerage companies. Government intervention is necessary to amend primary legislation to remedy these issues.

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**What are the policy objectives and the intended effects?**

Ofwat is seeking both to strengthen its ability to regulate the industry in the interests of consumers and to improve the manner in which existing enforcement tools work. Ofwat is also seeking to place an added incentive on companies to comply with their obligations.

Ofwat intends to simplify the enforcement framework and better align it with the principles of natural justice and Better Regulation, enhance incentives to comply, and remove perverse incentives to delay reporting of possible contraventions.

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**What policy options have been considered? Please justify any preferred option.**

Ofwat has considered a Do Nothing option, and package of three changes to primary legislation (each developed in more detail), each of which addresses a specific deficiency in the existing enforcement regime: the time limit for pursuing contraventions, the scope of Ofwat's information gathering powers and the procedures for modifying companies' conditions of appointment. Ofwat's assessment is that each of these changes can bring significant non-monetised benefits without significant costs, and the Preferred Option is to implement all three changes.

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**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?**

3 years following commencement

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**Ministerial Sign-off** For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.................................................................................................Date:
### Summary: Analysis & Evidence

<table>
<thead>
<tr>
<th>Policy Option:</th>
<th>Description:</th>
</tr>
</thead>
</table>

#### COSTS

<table>
<thead>
<tr>
<th>ANNUAL COSTS</th>
<th>Description and scale of key monetised costs by ‘main affected groups’</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off (Transition) Yrs</td>
<td>None quantified, but likely minimal one-off costs to regulator (for standardisation of conditions of appointment)</td>
</tr>
<tr>
<td>£</td>
<td></td>
</tr>
<tr>
<td>Average Annual Cost (excluding one-off)</td>
<td></td>
</tr>
<tr>
<td>£</td>
<td>Total Cost (PV) £ n/a</td>
</tr>
</tbody>
</table>

Other key non-monetised costs by ‘main affected groups’
None

#### BENEFITS

<table>
<thead>
<tr>
<th>ANNUAL BENEFITS</th>
<th>Description and scale of key monetised benefits by ‘main affected groups’</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off Yrs</td>
<td>Possible small cost savings to Ofwat (less than 1% annual budget, (£179,000))</td>
</tr>
<tr>
<td>£</td>
<td>Administrative cost savings to business (not quantified).</td>
</tr>
<tr>
<td>Average Annual Benefit (excluding one-off)</td>
<td></td>
</tr>
<tr>
<td>£</td>
<td>Total Benefit (PV) £ n/a</td>
</tr>
</tbody>
</table>

Other key non-monetised benefits by ‘main affected groups’ Ofwat enforcement more compliant with Better Regulation principles and natural justice. Companies and potential new entrants benefit from improved consistency in companies' obligations. Greater deterrence. Consumers benefit companies more accountable where they contravene their obligations.

Key Assumptions/Sensitivities/Risks

<table>
<thead>
<tr>
<th>Price Base Year</th>
<th>Time Period Years</th>
<th>Net Benefit Range (NPV) £</th>
<th>NET BENEFIT (NPV Best estimate) £</th>
</tr>
</thead>
<tbody>
<tr>
<td>What is the geographic coverage of the policy/option?</td>
<td>England &amp; Wales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On what date will the policy be implemented?</td>
<td>April 2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Which organisation(s) will enforce the policy?</td>
<td>Ofwat</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What is the total annual cost of enforcement for these organisations?</td>
<td>£ n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does enforcement comply with Hampton principles?</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will implementation go beyond minimum EU requirements?</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What is the value of the proposed offsetting measure per year?</td>
<td>£ n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What is the value of changes in greenhouse gas emissions?</td>
<td>£ n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will the proposal have a significant impact on competition?</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual cost (£-£) per organisation (excluding one-off)</td>
<td>Micro n/a Small n/a Medium n/a Large n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are any of these organisations exempt?</td>
<td>No No N/A N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Impact on Admin Burdens Baseline (2005 Prices)**

<table>
<thead>
<tr>
<th>Increase of</th>
<th>Decrease of</th>
<th>Net Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>£ 0</td>
<td>£ 0</td>
<td>£ 0</td>
</tr>
</tbody>
</table>

Key: Annual costs and benefits: Constant Prices (Net) Present Value
1 Legal context and background

1.1 Ofwat’s approach to enforcement

Ofwat has committed in its strategy (Ofwat’s strategy: Taking a forward look, Ofwat (April 2008)) to “enforcing compliance in a reasonable and transparent way”. Ofwat will shortly publish its approach to enforcement, in which it explains its aim to take account of the Macrory principles (see Regulatory Justice: Making Sanctions Effective, Professor R B Macrory, BRE (November 2006)), which state that sanctions should:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- aim to deter future non-compliance.

Ofwat also aims to ensure that its decisions are fair, reasonable and transparent, and compliant with the principles of natural justice (in particular, that a decision maker should take into account all relevant facts).

1.2 Ofwat’s enforcement powers

The Water Industry Act 1991 (as amended) (“WIA91”), provides for Ofwat to enforce three different kinds of contravention:

- Breaches of conditions of an appointment or licence;
- Breaches of statutory requirements enforceable under section 18 of the WIA91 (the “statutory requirements”); and
- Breaches of standards of performance prescribed under sections 38(2) or 95(2) of the WIA91 (the “Guaranteed Standards of Service”, or “GSS”)

The WIA1 also provides Ofwat with the following enforcement-related powers:

- the power to issue enforcement orders for specified contraventions (section 18 of the WIA91);
- the power to impose financial penalties for specified contraventions (section 22A of the WIA91); and
- the power to acquire information for enforcement purposes (section 203 of the WIA91).

Ofwat has a duty (subject to limited exceptions set out in section 19 of the WIA91) to impose an enforcement order for ongoing breaches either of the conditions of an appointment or licence, or of any of the statutory requirements. Ofwat may not impose an enforcement order in respect of failures to meet the GSS.

Ofwat may impose financial penalties for historic or ongoing breaches of the conditions of an appointment or licence, any of the statutory requirements, or the GSS. Section 22C of the
WIA91 provides that financial penalties may only be imposed if an enforcement order is made in respect of the contravention, or if a notice requiring information under section 203 of the WIA91 or a notice proposing a penalty under section 22A(4) is issued within 12 months of the contravention.

Ofwat may request information for enforcement purposes under section 203 of the WIA91 for suspected breaches either of the conditions of an appointment or licence, or of any the statutory requirements, but not for suspected breaches of the GSS.

1.3 Conditions of appointment

All appointed water and/or sewerage companies operate under a suite of conditions of appointment. Sections 13-17 of the Water Industry Act 1991 (as amended) (the ”WIA91”) set out the three circumstances for making modifications to the conditions of appointment of a particular company:

- With the consent of the company;
- On the recommendation of the Competition Commission (following a referral by Ofwat); or
- By order under other enactments.

2 What is the problem under consideration? Why is government intervention necessary?

The existing enforcement regime restricts Ofwat’s ability to fulfil its duty to regulate the industry effectively and protect consumers’ interests. Under the current enforcement legislation, a number of issues can be identified:

- Lack of proportionality – the time limit for imposing financial penalties does not allow Ofwat to reflect the full circumstances of each case;
- Perverse incentives – the time limit within which Ofwat must take enforcement action might encourage a delay in reporting non compliance or a delay in compliance; and
- Differing obligations – due to differences in conditions of appointment across companies.

Based on its experience using the existing legislation Ofwat has developed proposals which aim to make the current enforcement system easier to use, more efficient, proportionate and transparent, and more in line with the principles of Better Regulation established by Macrory.

In particular, to address the issues above, Ofwat proposes three changes to the enforcement regime (developed in more detail below), each of which addresses a specific deficiency in the existing regime:

1. Extend the 12-month time limit in section 22C for commencing enforcement action following a contravention to five years;
2. Amend section 203 of the WIA91 to allow Ofwat to request information for enforcement purposes in all circumstances where it could pursue an enforcement order and/or a financial penalty; and
3. Improving the process for modification of conditions of appointment by allowing for modification by consensus.

2.1 Proposal 1: extend the time limit for commencing enforcement action

The regulatory regime in the water industry currently uses five-yearly reviews of price controls. Companies submit forward-looking business plans for each review of price controls, and Ofwat sets price limits on the basis of this information. Between price reviews, Ofwat monitors company performance by collecting information and data in an annual regulatory return (submitted each June for the financial year ending March).
Since Ofwat gained the powers to impose financial penalties for historic contraventions on 1 April 2005, Ofwat has pursued financial penalties at a number of companies. Four companies had reported inaccurate data (in two cases deliberately) over a period of several years. In three cases, this data had led to the companies’ regulated price limits being set too high at one or more periodic price reviews.

In all of the cases, the 12-month time limit had two adverse consequences:

- Ofwat could not take full account of the duration of the contravention; and
- Ofwat could not penalise the company of the most serious contravention (reporting of inaccurate or false data at a price review) which led to the most serious consumer detriment, but had to penalise the company for the less serious ongoing misreporting in the companies’ annual regulatory return. Ofwat required the companies to provide informal undertakings to provide redress to customers and ensured the companies did so in each case.

Ofwat has also recently investigated a further case where a company deliberately reported false data in its annual returns over a period of at least five years. In this case, Ofwat only became aware of the contravention when the company notified Ofwat in its annual return (i.e. 12 months after the last instance of false reporting). Consequently, Ofwat was unable to impose a financial penalty for a serious contravention (deliberate misreporting), due to being effectively ‘timed out’ by the 12-month limit.

The twelve-month time limit provides a perverse incentive to companies to delay reporting a contravention until such time as the 12-month time limit would prevent Ofwat from imposing a financial penalty. This may also diminish the incentive to comply that the threat of a financial penalty should provide.

Ofwat has considered two alternatives, extending the time limit in section 22C to:

- two years; or
- five years.

Based on the analysis of costs and benefits (see section 5.3 below), Ofwat believes that the extension to five years delivers significant additional benefits over the extension to two years without introducing significant additional costs. Ofwat therefore proposes an extension of the time limit in section 22C to five years, which would align with the 5-yearly cycle of reviews of regulated prices.

2.2 Proposal 2: align powers to acquire information with other enforcement powers

Ofwat’s power to acquire information for enforcement purposes (under section 203 of the WIA91) provides for Ofwat to obtain documents from any person which might be relevant to a possible contravention by a company. As explained above, this power is available only in respect of breaches of the conditions of a company’s appointment or licence, or of any of the statutory requirements. The section 203 power does not extend to failures to meet the GSS, for which Ofwat may impose a financial penalty.

In practice, the inability to use section 203 powers means that Ofwat must propose a penalty in respect of any contravention of the GSS within 12 months of that contravention having occurred. This has (in three separate cases) led to Ofwat needing to issue a proposal to impose a penalty prior to concluding an investigation into the failures. In all three cases, Ofwat had to propose a nominal penalty before all relevant facts were known, and subsequently vary that penalty once all information had been gathered. This is administratively burdensome and effectively imposes a sanction, albeit public disapprobation, before Ofwat has sufficient information to conclude whether or not a penalty is appropriate.

Ofwat believes that taking formal enforcement action in general, and publishing a public notice of its intention to pursue a financial penalty in particular, before all relevant facts are clear conflicts with the principles of natural justice (in particular, that a decision maker should take account of all relevant facts).
Ofwat proposes an extension to the enforcement authorities’ powers to acquire information for enforcement purposes under section 203 of the WIA91 to encompass failures to meet the GSS.

2.3 Proposal 3: Modification of conditions of appointment by consensus

The constrained procedure for modifying appointments and licences (see section 1.3 above) has led to a situation where the different appointed companies have slightly different Conditions of Appointment.

The presence of such differences raises a number of concerns:

- Incumbents with more out of date conditions may enjoy a competitive advantage over new entrants;
- It might be necessary to take enforcement action in respect of a condition which was not common to all companies, which could lead to questions of fairness;
- Key improvements to conditions (such as ring-fencing provisions) might not be shared by all companies; and
- Ofwat’s ability to respond to changes in the industry is constrained by its inability to make modifications to appointments or licences.

Ofwat proposes a new method for modifying the conditions of appointment by consensus, which would apply only where Ofwat was seeking to modify the conditions of all companies’ appointments. It would be implemented in a similar fashion to section 17J of the WIA91, allowing for modifications to be made only where:

- No more than a specified percentage of appointees object to the change; and
- the combined market share of any objecting appointees does not exceed a specified percentage.

The specified percentages and the method for calculating market share would both be set by the Secretary of State in an order.

3 What are the policy objectives and intended effects?

Through the changes outlined in section 2 above, the policy proposals aim to:

- increase the proportionality of enforcement, by allowing regulators to use existing enforcement tools more flexibly;
- reduce the costs of enforcement, by simplifying and harmonising processes to avoid unnecessary complexity;
- strengthen the deterrent effect of existing powers;
- remove perverse incentives;
- ensure that any financial penalties imposed can focus on the most serious breaches, and those which result in the most serious consumer detriment;

4 What policy options have been considered?

Ofwat has considered two possible policy options:

- Do nothing (i.e. no legislative change);
- Implementing legislative change

4.1 Do nothing

The ‘do nothing’ option would make no changes to legislation. All of the issues and detrimental consequences identified in section 2 above would not be corrected. Ofwat does not believe this is an acceptable outcome, and it does not meet Ofwat’s policy objectives.
Ofwat has used the ‘do nothing’ option as a reference case when assessing the costs and benefits of its proposals.

4.2 Implementing legislative change
Ofwat has assessed each of the three proposals outlined above:

1. Extend the time limit in section 22C to five years;
2. Extend powers to acquire information for enforcement purposes (section 203) to cover failures to meet the GSS; and
3. Introduce a new procedure for modifying conditions of all companies’ appointments by consensus.

Ofwat has assessed each proposal individually in section 5 below. Although in most cases Ofwat has been unable to quantify monetised costs and benefits, its assessment (see section 5 below) is that the proposed changes will not introduce significant monetised costs or benefits, but will bring tangible non-monetised benefits. Ofwat intends to review the changes within 3 years of commencement to verify the extent of benefits delivered.

Ofwat’s preferred option is to implement all three proposals, as this delivers all the policy objectives without imposing significant monetised costs.

5 Costs & benefits

5.1 ‘Do nothing’ option
As explained in section 4.1 above, Ofwat has assessed the costs and benefits of each proposal by reference to the ‘do nothing’ option. Therefore, the ‘do nothing’ option is assumed to have neither costs nor benefits.

5.2 Proposal 1 –Extend the time limit in section 22C
In assessing the costs and benefits of this proposal, Ofwat has considered two alternatives: an extension to five years or an extension to two years.

Costs
Under either alternative, the change will introduce no new obligations, so Ofwat does not consider that it will materially impact the administrative burden placed on companies in the day-to-day running of their businesses.

Whenever Ofwat suspects a past or ongoing contravention, it always investigate fully to understand the extent and duration of any failings, and the underlying causes of those failings. This enables Ofwat to determine the extent of any damage to consumers and to ensure they get full redress. Except in the limited cases addressed by proposal 3, it only take a decision on what, if any, further action is required once this investigation is complete. This helps ensure that both Ofwat and the company take all necessary steps to ensure future compliance and protect the interests of consumers.

The changes Ofwat is seeking will not change this approach in the future. Consequently, Ofwat does not believe that the change to the time limit will materially impact the level and depth of analysis required in individual cases, or result in a change in the number of contraventions which Ofwat investigates. This is supported by Ofwat’s experience of investigating long-term contraventions thus far, where it conducted full investigations despite being subject to the current 12-month limit.

Although this proposal will not alter Ofwat’s approach to investigating contraventions, it could alter the range of remedies available when Ofwat has determined that a breach has occurred. In particular, it could provide Ofwat with the scope to pursue financial penalties in some cases where time limitation would currently prevent such action.
Ofwat has limited data on which to base any assumptions about the number or level of additional penalties which it might be able to pursue. Ofwat has only had the ability to impose financial penalties since 1 April 2005. Since then, Ofwat has imposed 8 financial penalties totalling £74.3m and ranging from £42,000 to £34.7m (as a result of the seriousness and impact of the contraventions, and the large differences in turnover at the companies concerned). Ofwat has been prevented from imposing one further penalty by the time limit. Even where it did impose penalties, Ofwat has not always been able to penalise the most serious breach or take account of the whole extent of the issue.

It is not possible to quantify the penalties which might have been imposed in these cases if time limitation provisions had been different, as that potentially would have required Ofwat to consider a different contravention. In making its decisions on the quantum of any specific financial penalty, the Ofwat Board considers the seriousness and impact if the specific contravention.

Going forward, Ofwat will mitigate any impact of the proposed change by seeking transitional provisions in the legislation to ensure that contraventions which were previously ‘timed out’ for enforcement purposes remain outside the scope of any extended time limit.

**Benefits**

Either alternative would remove the current perverse incentive (explained in section 2.2 above) on companies to delay reporting suspected problems until after the time limit for imposing a financial penalty has passed. Under either alternative, a company could not delay reporting a contravention until after the time limit without knowingly reporting incorrect information in at least one annual return. This is a serious offence in its own right (for which Ofwat has imposed significant penalties). Removing this perverse incentive should improve the effectiveness of financial penalties as a deterrent to future contraventions, and thereby increase compliance within the industry.

However, the key benefits of extending the time limit all arise from the increased flexibility provided to Ofwat in determining the appropriate remedies for a contravention. These include:

- limited scope to pursue financial penalties where it currently could not; and
- when pursuing financial penalties, more scope to take account of long-term contraventions and to address the key consumer detriment.

This improved flexibility will allow Ofwat to ensure that all penalties imposed reflect the gravity of the contravention. This will further improve the effectiveness of financial penalties as a deterrent.

All of these benefits will be greater with a five-year timescale (as opposed to two years). A further benefit of the five-year alternative is that it would allow Ofwat to capture the affects, if there are any, on the preceding review of prices, whenever the contravention occurs in the price control period. Regulated price limits are set on a five-year cycle.

A two-year time limit would only allow effects on price controls to be captured if a contravention is detected in the first two years of the price control period.

**Conclusion on alternatives**

It is Ofwat’s view that both alternatives will have similar small impacts on the costs incurred by Ofwat and the industry. However, the extension to five years produces significantly more non-monetised benefits (better scope to address key consumer detriment and longer-term contraventions, ensuring effects on regulated prices are in scope) than the extension to two years. Ofwat therefore recommends an extension to five years, and have taken this forward as part of the preferred option.
5.3 Proposal 2 – Extend powers to acquire information for enforcement purposes to cover failures to meet the GSS

Although section 203 of the WIA91 allows for Ofwat to request information from ‘any person’ in respect of a suspected contravention by a water and/or sewerage company, Ofwat does not anticipate that the proposed change will result in any increased administrative burden or additional data requests from Ofwat. This is because the water and sewerage companies are required (by other legislative provisions) to keep detailed records of performance against the GSS. Ofwat has other tools at its disposal (such as Condition M of the companies’ Conditions of Appointment which governs provision of information to Ofwat) which allow it to gather the required information from companies.

However, these other means to collect the required information do not address the practical consequences of the limitations on the section 203 powers. As explained in section 2.3 above these limitations mean that, in order to impose a financial penalty for contraventions of the GSS, Ofwat must propose a penalty within 12 months of the contraventions.

Where the full facts are not clear at the point at which it must propose a penalty (because time limitation has left Ofwat unable to complete its investigation), Ofwat must propose a nominal penalty and subsequently vary (or even withdraw) that penalty once its investigation is complete.

This additional procedural step introduces some additional administrative burden. Ofwat must produce and publish a notice of variation; this introduces additional costs in staff time, management time and external legal fees for Ofwat. The company under investigation will need to make additional representations in response to the varied proposal, again incurring additional costs in staff time, management time and legal fees.

The proposed change will unquestionably make the enforcement process more efficient by removing this additional, unnecessary procedural step, together with any associated costs. Ofwat has limited data on which to base any assumptions about the likely costs incurred by Ofwat (and none on those of companies). However, even assuming that Ofwat imposes one such penalty every year, any savings are unlikely to exceed 0.5% of Ofwat’s annual budget (which was £17.9m for 2008-09).

In addition, the proposal will remove the need for Ofwat to propose a penalty prior to completing its investigation. This better accords with the principles of natural justice and would improve the transparency and consistency of Ofwat’s enforcement process.

5.4 Proposal 3 – Introduce new procedure for modifying conditions of appointment by consensus

In order to modify the conditions of appointment for all companies under the current legislation, Ofwat must:

- secure the consent of all companies to the proposed modifications;
- consult the public and interested parties (including the Secretary of State) on the proposed modifications; and
- subject to any representations made or directions from the Secretary of State, introduce the modifications.

The need to secure agreement from every company prior to proposing the modifications is a significant constraint on Ofwat’s ability to make modifications to appointments, and has led to a piecemeal approach to introducing updates to conditions, primarily when companies change ownership.

The proposal would introduce a new method for modifying the conditions of all appointments:

- Ofwat consults the public, interested parties and companies on proposed modifications;
- Subject to any representations, directions from the Secretary of State and objections by the companies, introduce the modifications.
The key advantage of this proposal is greater efficiency arising from the system of assumed consent – rather than needing to secure consent prior to making proposals, companies may object once Ofwat has made its proposals. Provided no more than a specified minority of companies object, then the proposed modifications may be introduced.

The system of assumed consent may reduce Ofwat’s costs (as it would no longer need to seek the express consent of all companies prior to making modifications). Ofwat does not have adequate data to enable it to reliably quantify the likely scale of these efficiency benefits, but do not anticipate they will be significant. Any saving would be a small reduction in the annual costs of making licence modifications, itself a small part of Ofwat’s work, so Ofwat considers that any savings are likely to be considerably less than 1% of Ofwat’s budget.

The existing regime allows individual companies to retain considerable control over the obligations in their licences, as only a reference to the Competition Commission or legislation can introduce a change that a company does not agree with. Modification by consensus could lead to some companies licences changing in a way they would not have accepted under the existing regime. However, under the current regime, a small numbers of companies can effectively block changes which the remainder feel are desirable or even advantageous. Modification by consensus would prevent this situation. On balance, we do not believe that modification by consensus will significantly compromise the control companies currently have over their licences.

The proposal may also reduce companies’ costs, as those companies which do not object to the modification would not need to take any action in response to the proposed modifications (whereas they would need to formally consent at present).

Ofwat would intend to use these new powers to bring all companies’ conditions of appointment in line with the most up-to-date provisions. This would require a one-off standardisation exercise. Ofwat would incur costs associated with preparing and publishing the required consultation, and those companies without up-to-date conditions might incur costs in making representations or objections to the proposals. Ofwat cannot reliably estimate these costs, but do not anticipate they will be significant for Ofwat (as it will not need to draft new conditions, merely use the most up-to-date versions of existing conditions).

This one-off exercise would bring the benefit of standardisation, ensuring that all companies had identical obligations, and create a level playing field for any potential new entrants.

### 5.5 Summary of costs and benefits

<table>
<thead>
<tr>
<th>Costs</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ongoing</td>
<td>None identified.</td>
</tr>
<tr>
<td></td>
<td>Net cost savings to government through more efficient procedures.</td>
</tr>
<tr>
<td></td>
<td>Reduction in administrative burden on companies and government associated with some enforcement action.</td>
</tr>
<tr>
<td></td>
<td>More proportionate enforcement action that reflects the severity of the breach.</td>
</tr>
<tr>
<td></td>
<td>Greater deterrence.</td>
</tr>
<tr>
<td>One-off</td>
<td>Small costs associated with standardisation of conditions of appointment.</td>
</tr>
<tr>
<td></td>
<td>None identified.</td>
</tr>
</tbody>
</table>
Specific Impact Tests

Ofwat has not conducted any specific impact tests. The policy proposals recommend limited changes to the enforcement regime for regulated water and sewerage companies. The proposals therefore have no effect on small firms, and do not raise any issues related to the environment, Legal Aid, health, equality, human rights, or rural areas. The limited extent of competition in the water and sewerage industries means that the small benefits to competition arising from standardisation of obligations across the sector are unlikely to materially affect competition.
Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

<table>
<thead>
<tr>
<th>Type of testing undertaken</th>
<th>Results in Evidence Base?</th>
<th>Results annexed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competition Assessment</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Small Firms Impact Test</td>
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<td>No</td>
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<tr>
<td>Legal Aid</td>
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<td>No</td>
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<tr>
<td>Sustainable Development</td>
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<tr>
<td>Carbon Assessment</td>
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<td>Other Environment</td>
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<td>Health Impact Assessment</td>
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<td>Race Equality</td>
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</tr>
<tr>
<td>Disability Equality</td>
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<tr>
<td>Gender Equality</td>
<td>No</td>
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</tr>
<tr>
<td>Human Rights</td>
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</tr>
<tr>
<td>Rural Proofing</td>
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