Department
for Environment
Food & Rural Affairs

Improving our management of water in the environment

Consultation proposals

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Ministerial foreword

Water is essential to our lives and the environment. Too little or too much water damages people, property and business. The government's 25 year plan for the environment committed to both delivering clean and plentiful water and reducing risks from environmental hazards, such as flooding and drought.

In the UK, we take for granted a plentiful supply of clean water for homes and businesses. Yet our high population density means the available water per person is actually less than in many Mediterranean countries. The experience of last summer, and the evidence of the latest climate projections, reinforces the need to make our water supplies more resilient to a changing climate in the future so that there is enough water for people, business and the environment.

We also need our drainage and wastewater infrastructure to be better prepared for extreme rain events to reduce the risk of sewer flooding of homes and businesses, and sewage overflows into rivers and the sea. To do this we need to work more effectively across water companies, local authorities and regulators to understand the risks and how we can work together to reduce and mitigate them.

We want to update our regulatory system to manage water more flexibly in response to climate change and other pressures. This consultation seeks views on a number of policy measures to provide for better planning and up-to-date regulation.

We propose giving water resource planning a stronger regional focus, and putting drainage and wastewater planning on a statutory basis to provide a more robust planning and investment process to meet future needs, including housing growth.

We propose changing the abstraction licensing system, in line with the government's plan for abstraction published December 2017 and aligning Environment Agency powers to amend licences with the overall goals of the 25 year environment plan.

Tackling local flooding by enabling the extension of existing or creation of new Internal Drainage Boards can support local flood management actions. We want to formalise the Somerset Rivers Authority as a flood risk management authority.

Improving the regulation of our water sector to deliver more for customers and for the environment has been an issue that the government has prioritised. We believe that the regulation set-up of other utilities offers a model of how we could do this, particularly in relation to the ability of Ofwat to modify water company licence conditions in the public interest.

I am confident that abstractors, environmental groups, water companies, drainage bodies, local authorities and the public will respond to this consultation with constructive and challenging responses to help us in our commitment to provide clean and plentiful water now and for future generations.

DR THERESE COFFEY MP

Parliamentary Under Secretary of State for the Environment

1. Introduction

We have seen a significant improvement in the water environment and in resilience to flood and drought in recent years. In 2018, 97.9% of bathing waters passed minimum quality standards with 92.4% of these achieving the highest standards of Good or Excellent status. The number of serious pollution incidents caused by the water industry reduced from over 500 per year in the early 1990s to 57 in 2016, and leakage levels are down by around a third since 1994. Water industry investment since privatisation has been around £140 billion, equivalent to around £5 billion annually. The government is investing £2.6 billion from 2015 to 2021 in flood and coastal defence projects, and already 147,000 homes are better protected.

However, there is more to do to achieve the commitments of clean and plentiful water and reducing the risks of harm from environmental hazards, as set out in 'A Green Future: Our 25 Year Plan to Improve the Environment'[1]. There are challenges to restore many of our waters to as close to natural state as possible, and to improve water and flood resilience. The combination of climate change and population growth will make these challenges even more difficult.

Existing regulatory processes can help us rise to the challenge. The Environment Agency have consulted on the approach to the next round of river basin management plans to determine how we can meet our target for the water environment. Water companies are planning to invest £50 billion over the next five years, which will improve water quality and increase flood and drought resilience.

We have identified opportunities to modernise our regulation to enable better long-term planning and give regulators the powers that they need to improve our water environment and water services. This consultation sets out our proposals for:

- Better long-term planning for water resources and drainage through:
    - improved water resources planning to facilitate collaborative regional planning and consider all sectors of water users; and
    - statutory drainage and wastewater planning to assess fully wastewater network capacity and to develop collaborative solutions with local authorities, who are responsible for parts of the drainage system.
- Modernising water regulation by:
    - reforming elements of abstraction licensing to link it more tightly to our objectives for the water environment. In particular, we propose to clarify the conditions under which the Environment Agency can amend licences to secure good ecological status for water bodies;
    - amend existing legislation to enable a new charging methodology for Internal Drainage Boards. Internal Drainage Boards are flood Risk Management Authorities and carry out an important duty in managing water levels in Drainage Districts. The proposed change will enable government, where there is local support, to create new or expand existing Internal Drainage Boards;
    - enabling the Somerset Rivers Authority to be incorporated and establishing it as a flood Risk Management Authority and a major precepting authority so it can work more effectively with other

[1] https://www.gov.uk/government/publications/25-year-environment-plan

organisations to protect better the residents and local environment from flooding;
- we are also taking the opportunity to begin discussions around enabling new local funding to be raised to tackle flooding and coastal erosion; and
- modernising the process for modifying water company licence conditions to bring them in line with other utilities and to strengthen Ofwat's ability to improve the way that water companies operate.

Long-term planning of water in our environment

Effective water resource planning should help to ensure that a long-term balance between supply and demand is maintained. Every five years, water companies have to set out their intended approach in a Water Resources Management Plan. For the most part, this has worked well, but water transfers between water companies remain low, and few strategic water schemes have been developed. To improve long-term planning, we are proposing to amend the existing provisions for Water Resources Management Plans to require companies to plan at a regional level, including future needs of the environment and other water using sectors.

Water companies have legal responsibilities for ensuring effective drainage and sewerage. However, they are not legally required to put in place long-term plans for managing wastewater. Failure or overloading of the sewerage network can result in significant environmental impacts and sewer flooding of properties. This will increase unless action is taken to manage effectively our ageing sewerage network. Many drainage assets are the responsibility of local authorities, and water companies need to understand better how and what water these assets feed into their networks. The water industry has already begun a non-statutory process of developing Drainage and Wastewater Management Plans. We seek views on whether and how we could put Drainage and Wastewater Management Plans on a statutory footing. This could enable water companies to secure and prioritise investment on drainage and wastewater more effectively than through a non-statutory approach. This should also facilitate a more joined-up approach with other parties, including local authorities, and assist customers' understanding of the sewerage services they receive. Better management and planning for drainage networks should help protect the environment and provide the capacity for future growth and economic development.

Modernising and strengthening our regulatory tools

Water abstraction is the process of taking water from any water source, such as a river or aquifer, for purposes such as irrigation or, after treatment, as drinking water. Taking too much water can damage the environment, for example preventing water bodies from achieving good ecological status for surface water or good status for groundwater. The Environment Agency regulates abstraction and we seek your views on two proposals: to broaden the circumstances in which a licence to abstract water can be varied or revoked without compensation being payable to the licence holder when the environment is at risk; and to allow under used abstraction licences to be varied without compensation being payable to the licence holder.

Managing water levels in rural and urban areas is crucial for flood risk management. Internal Drainage Boards, where they are established, carry out this important function across England on behalf of local communities. We are seeking views on developing a new charging methodology for Internal Drainage Boards to enable the creation of new or the expansion of existing boards.

The government has invested a record £2.6 billion into flood and coastal erosion risk management and there has also been record levels of partnership funding from other public and private bodies. The government is beginning a discussion on new ways of enabling local communities to raise funding to better manage the local risk and how this might be achieved across England. More specifically in Somerset this means supporting the work of the Somerset Rivers Authority, enabling it to be formalised and to secure its future.

Ofwat is the economic regulator of the water sector in England and Wales. It can modify the licence conditions under which a water company operates in agreement with the company. If agreement cannot be reached, Ofwat can refer the matter to the Competition and Markets Authority to seek to make the change. This is a costly and time-consuming process, and the alternative of seeking consent from a water company by negotiation, can create divergence between companies' licence conditions and lacks transparency for either customers or the public. Other utility sector regulators can modify conditions without agreement, provided they can be justified. Companies can then appeal to the Competition and Markets Authority against the regulator's modification. We seek your views on bringing the process for modification of water company licence conditions in England in line with other utilities. We also wish to modernise the way in which the regulator and companies can send information, to include a provision for email, and to strengthen Ofwat's ability to obtain information from water companies in England.

Cross border: England / Wales

The cross-border nature of some of our rivers mean we share some water resources with Wales. We will continue to work with the Welsh Government as we develop these proposals further to take account of any cross-border issues. This will include any additional actions needed as we prepare to implement the Wales Act 2017 provisions, which will amend the executive and legislative competence for water and sewerage so that responsibility is split down the English / Welsh border.

Impacts of proposed measures

Each of the policy proposals explained in this consultation includes a summary explanation of costs, benefits and other impacts, where appropriate. We will publish full statements of impacts on each of the proposals if we proceed with them. As part of this consultation however we welcome your views on any specific evidence we should consider as part of our continuing assessment and final decisions on the proposals.

Question 1: Do you have any specific evidence that you think could assist Defra in our assessment of the costs, benefits or other impacts of these possible measures? If yes, please provide details.

2. Long-term planning of water in our environment

Climate change, population growth and changes in consumer behaviour are putting increasing pressure on both the water sector and the environment in England. The sector needs to innovate and adapt to make sure that it can continue to meet the needs of people, businesses and the environment; and the regulatory framework needs to adapt too. Parts of the country face unacceptable levels of risk from drought, while neighbouring regions have surplus water. Surface and wastewater can cause risks to the environment and homes, especially at times of heavy rainfall.

Water supply

Water companies currently determine how to balance supply and demand over a minimum of 25 years through the statutory water resources management planning process. This requires companies to identify all the options that are available to them to meet demand over the long-term and show how they have decided which options to take forward. As part of this process, companies engage with their customers to determine the frequency with which they plan to use supply restrictions to reduce demand during droughts, namely the 'level of service' that they will provide.

The government supports a 'twin track' approach to improving the resilience of our water supplies, with investment in new supplies complementing measures to reduce the demand for water. Many options for meeting future water supply needs are complex, requiring co-ordination across water companies, regulators and even between sectors. In many cases, there are institutional, cultural and other barriers to trading water across company boundaries and to the development of shared water resources and effluent reuse schemes.

Drainage and wastewater

In contrast with water supply, companies are not under a specific legal requirement to plan their long-term wastewater needs as transparently or robustly. In 2017, there were 1,351 pollution incidents caused by unexpected failures and 3,659 properties that suffered sewage flooding[2] within the home. The lack of transparent, integrated planning means that customers do not fully understand the sewerage services they receive, and how they can affect them. Also, the need to work with partners who use or have an impact on wastewater networks, such as local authorities and developers, can be overlooked.

We would like more assurance that companies are planning and investing in drainage and wastewater strategically. We need to be sure that they are doing so in a way that will manage the risks of pollution, flooding or spikes in future bills. These

[2] https://discoverwater.co.uk/sewer-flooding

could occur as a result of the pressures of climate change, population growth, changes in consumer behaviour and an ageing infrastructure.

Water companies have recognised the importance of long-term drainage and waste water planning and have started a non-statutory process for such planning. Our aim is to make this process as effective as possible, as soon as possible.

2.1 Water Resources Management Plans

Background

In 1999, water companies in England and Wales started to develop Water Resources Management Plans on a non-statutory basis. The purpose of these plans was to ensure that companies plan fully how to maintain secure water supplies for customers for a 25 year period.

Amendments to the Water Industry Act 1991 in 2003 made these plans a statutory requirement for companies to complete every five years, for at least a 25 year period. The plans have since developed and companies now also consider the implications of climate change, the environment and population growth.

The government, regulators and water companies have learnt a lot from the Water Resources Management Plan process since 1999, including ways in which it could be improved to make companies' plans more resilient and offer added benefit for the environment.

In August last year, the government and regulators set out in a letter to the water industry[3] what action was needed to build resilience in water resources in England. This letter included a vision of an improved water resources management planning process.

Issues

There are a number of issues that Water Resources Management Plans need to address to achieve this vision.

Lack of regional planning and few water transfers

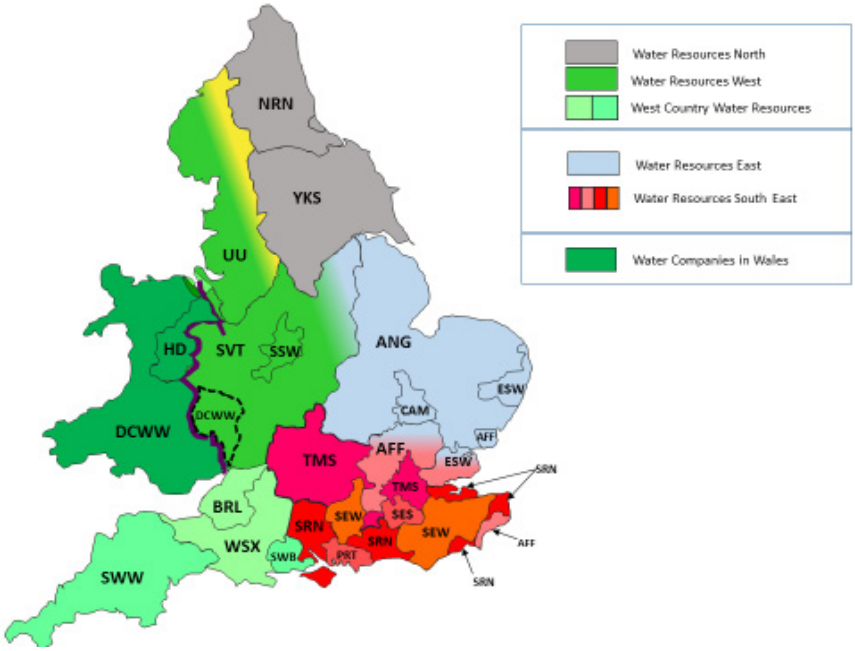
Greater regional planning should lead to better solutions overall; it opens up a wider range of options for companies to pursue and therefore allows them to find the optimal economic, social and environmentally beneficial solutions for the region. In particular, regional groups are able to identify where areas of existing and future water surplus can be transferred to areas of need. It also clears the way for cost-effective shared solutions, such as strategic reservoirs or other infrastructure that might efficiently supply multiple companies. In these cases customers are more likely to benefit from economies of scale.

[3] https://www.ofwat.gov.uk/publication/building-resilient-water-supplies-joint-letter-defra-environment-agency-drinking-water-inspectorate-ofwat-water-companies/

The National Infrastructure Commission's report "Preparing for a drier future"[4] highlighted that Water Resources Management Plans are not showing enough ambition or join-up, despite established regional groups and some bilateral operations. Similarly the report found that, although water companies cooperated to develop a long-term national perspective on water resources in 2016,[5] they have not fully reflected this in their Water Resources Management Plans for 2019. The government is now considering the report's recommendations.

There are currently a number of regional water resources planning groups. The oldest is Water Resources South East, which was established in 1996 following a recommendation by the Monopolies and Mergers Commission. Water Resources East was set up for the current round of water resources management planning, and a number of other regional groups are in initial discussions around their formation.

Figure 1: Map of existing or planned regional water resources groups



Key: Abbreviations are of water company names and show their areas of operation: AFF – Affinity Water; ANG – Anglian Water; BRL - Bristol Water; CAM – Cambridge Water; DCWW - Dŵr Cymru Welsh Water; ESW – Essex & Suffolk Water; HD - Hafren Dyfrdwy; NRN – Northumbrian Water; PRT – Portsmouth Water; TMS – Thames Water; SEW – South East Water; SRN – Southern Water; SSW – South Staffordshire Water; SES – Sutton & East Surrey Water; WSX – Wessex Water; SWW – South West Water; SVT – Severn Trent Water; YKS – Yorkshire Water; UU – United Utilities

While water companies have been encouraged to work together to identify solutions, this has generally not translated into solutions that are optimal for the region overall.

Other abstractors' needs

Currently water companies take account of the water needs of their business customers in their Water Resources Management Plans. This includes a wide range

[4] https://www.nic.org.uk/publications/preparing-for-a-drier-future-englands-water-infrastructure-needs/
[5] https://www.water.org.uk/water-resources-long-term-planning-framework

of customers from shops and offices to industrial businesses taking water supplies from the network.

However, water companies are not required to plan for the water needs of those who are not directly their customers, for example farmers who abstract water for their agricultural needs from the same rivers as water companies abstract for their customers. Working with all water users increases the opportunities to find better ways to increase supply, reduce demand and address environmental issues. This is especially important where a lack of water availability in an area is causing environmental damage and limiting business growth.

As set out in the government's abstraction plan[6], the government expects water companies to engage in catchments to develop local catchment solutions for abstractors' water needs. This provides an opportunity for the companies to engage with one another as catchment partners to find innovative solutions to the challenges they face, helping find the most efficient solutions as well as benefiting other local groups. Engagement in catchment partnerships will also help water companies understand the potential resource needs of others alongside their own, which could lead to the development of more efficient multi-sector solutions to improve access to water. The water companies can bring particular value because their water supply networks allow cross-catchment solutions not generally available to other abstractors.

Working together enables all water users to contribute to solutions to address water needs, and the solutions themselves should be more efficient. We are already seeing how this can work. Water Resources East[7] is taking an innovative cross-sector approach and making important links to improved water abstraction management, as set out in the abstraction plan.

The Environment Agency is developing a national framework that will provide strategic direction to regional groups in relation to all water users. The framework will use evidence to illustrate the regional and national challenge of water availability. It will set government expectations of regional groups in advance of them preparing regional plans. It will also identify the scale and likely growth in demand for water from a range of sectors, and in particular identify those high priority water users who are unable to meet their demand or are likely to need to expand.

Water companies also need to engage with those planning industrial growth in their regions, such as Local Economic Partnerships. This should enable a two-way conversation: water companies enabling industrial growth by developing joint water supply solutions and planners avoiding water-intensive industrial growth where water cannot be made available.

Bolstering water companies' responsibilities for delivering environmental improvements

The government wants water companies to take a leading role in the management of the natural environment and demonstrate that they value this when making water resources decisions. We want the environment's needs for water to be considered

[6] https://www.gov.uk/government/publications/water-abstraction-plan-2017
[7] http://www.waterresourceseast.com/

alongside those of the water industry and other abstractors, with water companies working proactively with catchment groups and the regulators to improve the environment through their Water Resources Management Plans.

Water companies are already required to have regard to the delivery of the environmental objectives set out in River Basin Management Plans, when carrying out their functions. For Water Resources Management Plan purposes, the Environment Agency specifies what abstraction changes or investigations are required in the Water Industry National Environment Programme.

We think there is opportunity for companies to design environmental improvements jointly with the Environment Agency, pooling expertise and resource and avoiding the conflict that arises between the water company's obligation to secure water supplies and the Environment Agency's objective to ensure enough water remains in the natural environment to support ecosystems and the environment.

Proposals

We are therefore looking to improve the Water Resources Management Plan process in England. We propose:

1. Giving the Secretary of State a power to direct water companies to prepare joint plans at a regional or possibly larger scale. The power could also be used to require water companies to take these regional plans into account when drafting and delivering their company level Water Resources Management Plans.

We would also intend that any direction given could specify how companies should take account of other abstractors' needs and those of the environment.

2. Changing Water Resources Management Plan legislation to make the water companies' plans a statutory measure that is used to deliver environmental objectives set out in legislation.

This could create a clear statement that companies are considered to be responsible for achieving environmental objectives through the planning and delivery of their Water Resources Management Plan, where relevant. This could give companies greater incentive to develop solutions in collaboration with the Environment Agency and catchment groups.

3. Improvements to the administration of the current regulatory regime.

The Water Resources Management Plan provisions require water companies to pre-consult government and regulators before they begin preparing their plans. Government and regulators issue guidance to water companies on how to prepare their Water Resources Management Plans. We propose to add to the pre-consultation process.

We propose amending the provisions to allow the Secretary of State to direct companies when to consult during the preparation of their draft plans, so that better and more timely advice can be given on how the plan is developing. We are also proposing to take powers to allow the Secretary of State to specify other bodies, for example Local Authorities or Local Economic Partnerships, with whom the company should develop its plan in consultation.

We propose expanding the current powers the Secretary of State has to make regulations to include the processes in section 37B (publication and representation) of the Water Industry Act 1991. Potentially the requirements for water companies to publish an accompanying statement alongside its Water Resources Management Plan consultation constrains how they carry out the consultation. For example, stating that responses must be sent to the Secretary of State, when online consultation platforms can enable responses to be directed to both the company and the Secretary of State.

We think there is potential to simplify the legislative approach in relation to how confidential information and anticompetitive concerns are dealt with before the publication of a plan. Also, the provisions on national security (at section 37B(10)(b)) are not required as the Secretary of State already directs and provides guidance to water companies on the control and release of sensitive information.

We propose that the information provisions (section 37C) should apply to information that water companies should be expected to share with each other, for example, where undertakers are working on a regional plan together. Again we also think there is potential to simplify the legislative approach taken in these provisions.

Impacts of measures

The measure may impose some minor administrative costs on water companies from familiarising themselves with new arrangements and planning in a new way (though companies in the south-east and east of England already collaborate on plans and remaining companies plan to). However, regional plans (where directed) are expected to replace some of the work for individual company plans, leading to direct savings over time.

We expect any additional regional planning costs to each water company (which will vary by company, depending on size and complexity of water resources, of £250,000 per year) to result in reduced individual Water Resources Management Plans costs. These savings are likely, as options can be developed and assessed jointly at a regional level rather than companies developing options individually.

More significantly, we expect the delivery of new regional plans to include investment options and other actions such as water trading which are more efficient in their geography, meaning they are lower cost and more effective in delivering supply resilience without causing unnecessary local environmental damage. For example, against a backdrop of around £20 billion of expenditure in 2014 price review on wholesale water supply[8], work by Ofwat suggests that the benefits of greater interconnection of water resources could reduce industry costs by around £900 million[9] over the typical lifetime of supply assets. Our proposals should increase the likelihood that these and other benefits are realised.

Question 2: Do you agree that the Secretary of State should be able to direct companies to plan on a regional and inter-regional basis? Please provide reasons.

[8] https://www.ofwat.gov.uk/wp-content/uploads/2015/10/det_pr20141212wholesale.pdf, Table A3.4
[9] https://www.ofwat.gov.uk/wp-content/uploads/2015/12/pap_tec20151210water2020app2.pdf

Question 3: Do you agree that the Secretary of State should be able to direct water companies to take account of other abstractors' needs? Please provide reasons.

Question 4: Do you agree that the water resources management planning process should be recognised in legislation as a measure to deliver environmental objectives? Please provide reasons.

Question 5: Do you agree with our proposals to improve the legislation governing Water Resources Management Plans? Please provide reasons.

Question 6: Do you have any further suggestions about how we could improve the primary legislation that governs water resources management planning? These could be either administrative improvements, such as how confidential information is dealt with, or to achieve better water resources outcomes. Please provide reasons for your suggestions.

2.2 Drainage and Wastewater Management Plans

Background

Decisions made today about investments in drainage and wastewater management can have an impact on the service provided to customers and on the environment for generations. Those decisions also need to be future proofed to address challenges, such as climate change, which is likely to increase heavy rainfall events, and put further strain on drainage and wastewater systems.

Water companies have a number of duties in relation to drainage, wastewater and sewerage. They have a specific duty[10] to "effectually drain" within their areas of operation, to provide and maintain sewer systems and to adopt new sewers if certain conditions are met. However, they have no specific, statutory duty to plan for the management of drainage and wastewater networks.

In the 2011 Water White Paper, the government said that it would work with Ofwat and the Environment Agency to ensure a more strategic approach to drainage planning[11]. Following this, Ofwat and the Environment Agency worked together on a framework for water companies to use in planning long-term strategies for their drainage systems. It set out high-level principles and best-practice for water companies to develop a drainage strategy for a particular catchment. The drainage

[10] Section 94, Water Industry Act 1991
[11] Water for Life, December 2011
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69480/water-for-life-market-proposals.pdf

strategy framework was intended to help companies, working together with other organisations, to plan better their drainage needs. The framework assisted in this respect, but inconsistency in the quality and coverage of plans and the pace they have been produced, has identified that more detailed guidance was required. Drainage owned by water companies is of course only part of the issue and the risks and impacts on the wider drainage network, needed to be considered more fully.

Through its 21st Century Drainage Programme, Water UK (the water industry representative body) has since been working with water companies, UK and Welsh governments, Ofwat, and the environmental regulators[12] to improve long-term planning for both drainage and wastewater.

In September last year, the programme launched the Drainage and Wastewater Management Planning framework[13]. The intention is that, under the non-statutory framework, water companies will establish the capacity of their sewerage network (both sewers and sewerage treatment works), the resilience of those networks and assets, the risks that they pose to the environment and how to mitigate them, together with any planning and assets needed for the future, taking account of increasing populations and climate change. Working with other organisations, such as local authorities, water companies will also better understand the capacity of other drainage networks which feed into their assets. This is because some drainage systems belong to other organisations or individuals, such as local authorities or riparian owners (who own land next to rivers, lakes, and other watercourses).

Not all drainage networks are able to cope with extreme rainfall and some can become inundated with groundwater. This can lead to surface water or sewer flooding. Surface water flooding is complex and often includes flooding from water courses, sewers and drainage networks at the same time.

Issues

In the government's July 2018 Surface Water Management Action Plan[14], we explained that Drainage and Wastewater Management Plans would be developed on a non-statutory basis for water companies wholly or mainly in England, with initial plans by April 2020 and final plans in place by April 2023. Government committed to consider putting plans on a statutory footing if sufficient progress on plans had not been made.

Since then, we have explored with water companies and other stakeholders and sought their views of Drainage and Wastewater Management Plans becoming statutory. There has been broad support for this, including views that a statutory approach may actually be required to ensure that there is sufficient progress in delivering plans.

Planning process status

[12] The Environment Agency, Natural England and Natural Resources Wales
[13] https://www.water.org.uk/policy/improving-resilience/21st-century-drainage/long-term-planning
[14] Surface Water Management Action Plan, July 2018 - https://www.gov.uk/government/publications/surface-water-management-action-plan. The plan sets out the steps the government is taking, with the Environment Agency and others, to manage the risk of surface water flooding.

Firstly, drainage and wastewater planning is the only key planning process without a "formal" statutory status in the water sector. As a result of this, there is a risk that actions identified in plans do not receive appropriate consideration through the Ofwat Price Review process. The result could be a less ambitious and effective plan. A statutory provision should therefore help deliver more of the actions identified as needed to address the risks that some assets may pose to the environment or customers. This should also help to deliver improved resilience over the long-term to assist with planning for population and economic growth.

An example of a risk to the environment is the use of combined sewer overflows which were highlighted by the EFRA Select Committee as an area of concern in their recent report about the regulation of the water industry[15]. Combined sewer overflows provide a controlled point of relief from the combined sewerage system. When heavy rainfall events occur that force a large amount of additional water into the system that exceeds the capacity of the pipework, a discharge of untreated wastewater out to sea or into a river can occur to reduce the risk of sewer flooding of homes and land. The Environment Agency regulates combined sewer overflows and there are strict controls for their use. Better drainage planning will help water companies better manage combined sewer overflows to tackle future risks.

Collaboration and partnership

Drainage and Wastewater Management Plans could be more effective if they are developed in partnership with other organisations responsible for existing or future assets that may drain into water company networks. This could include local authorities as well as homebuilders regarding future developments. Establishing a comprehensive picture on drainage needs was recognised in the development of the non-statutory Drainage and Wastewater Management Plan framework, as another key element to the process. As we look to the future, and as with Water Resources Management Plans, the water sector and other organisations should look to strengthen links with each other, and co-ordinate and share information more effectively.

Our Surface Water Management Action Plan highlights that more work is needed in collaborating and sharing information to help identify risks and address issues of surface water flooding. Drainage and Wastewater Management Plans can play a vital role in this area and help support the development of statutory local flood plans through partnership working and information sharing. However, while Drainage and Wastewater Management Plans are on a non-statutory basis there is a risk that priority is given to statutory local flood plans and opportunities are missed to work collaboratively to develop solutions to drainage needs that can also address surface water flooding risks. Some water company, regulator and local authority drainage partnerships highlighted through the 21st Century Drainage Programme, have shown very effectively the potential that working together can achieve.

[15] https://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/inquiries/parliament-2017/regulation-of-the-water-industry-17-19/publications/

The Northumbria Integrated Drainage Partnership experience demonstrates that integrated and collaborative planning, as envisaged by the new Drainage and Wastewater Management Planning framework, can provide opportunities for multiple stakeholder benefits – with the greatest benefits achieved when all partners are actively involved in the process.

Since 2014, the Northumbria Integrated Drainage Partnership has brought together Northumbrian Water, the Environment Agency and the thirteen Lead Local Flood Authorities covering the north east of England, to take a collaborative and integrated approach to long-term planning for drainage. Working together, they have developed and implemented a shared view of priorities for the community, while recognising and respecting each individual organisation's role and responsibilities. Each partner organisation has benefited through sharing expertise and information, and the pooling of funding from multiple sources to deliver projects with multiple benefits. This has resulted both in lower costs for partner organisations and better outcomes for communities and the environment.

For example, Northumbrian Water, the Environment Agency and North Tyneside Council are together investing over £5 million to manage surface water at Killingworth and Longbenton. The risk of flooding is being reduced for over 3,500 properties – as well as enabling growth, improving river water quality and providing amenity benefits to the community.

Partnership working has enabled delivery of a scheme that would have been difficult for any individual organisation to take forward.

The National Infrastructure Commission's July 2017 assessment of our future infrastructure needs[16] highlighted the importance of joint water company and local authority plans to manage surface water flooding risk. The government is now considering the report's recommendations.

Consistency and minimum standards

While the existing non-statutory framework is a comprehensive guide for the development of Drainage and Wastewater Management Plans, water companies are not mandated to follow it fully, and there is no minimum statutory standard for the plans.

A statutory process could help enable improved long-term planning to a consistent, minimum standard. This is important in terms of collaboration and partnership working because some local authorities may be within the operational area of up to three water companies. Each of the companies could be developing a Drainage and Wastewater Management Plan to a slightly different format and standard. A statutory process should assist with developing a consistent standard.

[16] https://www.nic.org.uk/assessment/national-infrastructure-assessment/reducing-the-risks-of-drought-and-flooding/

Proposals

If we make the drainage and wastewater management planning process statutory, we would propose to do so by placing a new statutory duty on water companies through the Water Industry Act 1991. The duty would require the development and publication of a Drainage and Wastewater Management Plan every five years.

In order to make the process flexible and responsive for future needs, we would propose to provide detail on the process in secondary legislation. This would include rules about the process to be followed when producing a Drainage and Wastewater Management Plan, such as the timeframe the plan should provide for, the form the plan should take, and potentially provision in relation to when companies should consult and when they should revise their plans.

We would propose to align the timing for the Drainage and Wastewater Management Plan cycle with Ofwat's existing price review mechanism, with the statutory process starting after December 2022. This will enable us to learn from the current work underway to produce non-statutory Drainage and Wastewater Management Plans, in time for the 2024 price review.

We will take on board the learning from how the existing statutory Water Resources Management Plan process has operated in making the Drainage and Wastewater Management Plan process statutory.

Under the Flood and Water Management Act 2010, water companies and a number of other bodies are statutory flood Risk Management Authorities. Drainage and Wastewater Management Plans should help local authorities and others fulfil this role, as they will build on existing requirements for cooperation and information sharing, including on drainage networks. We believe this should enable organisations to work more closely together and have the potential to deliver more joint solutions to reduce flooding and environmental problems, reducing overall costs.

Impacts of measures

The direct business cost of introducing the statutory requirement should be limited to modest planning costs in a few companies. For context, the total cost of developing plans is estimated in the region £50,000 to £400,000 per company per cycle. Most companies are already pursuing Drainage and Wastewater Management Plans on a non-statutory basis so much of this cost is already being incurred. If a company did have to incur the full costs of a plan at the upper end of the estimated range, the direct costs would still be modest and spread over a number of years ahead of the proposed first statutory Drainage and Wastewater Management Plan cycle.

Furthermore, other parties involved in drainage planning already have duties to collaborate so additional resource requirements (e.g. on local authorities) should in principle be negligible.

The measure has benefit to the extent that some of the water companies are lagging in drainage planning. The measure should also introduce further clarity to the price review process. Delivery of plans should therefore be funded with more certainty, and be subject to Ofwat scrutiny of value for money, which should benefit customers.

The wider benefits of better drainage planning are significant in terms of reduced flood risk. Around 3 million properties in England are estimated by the Environment Agency[17] to be at risk of surface water flooding, and several serious recent flooding events have been at least partially attributable to inadequate drainage. For example, the summer 2007 floods, which cost the economy £3 billion[18], had a significant surface water component. Better drainage and wastewater management also delivers significant environmental and health benefit. For example, we know that the public place value on the reduction of Combined Sewer Overflow discharges in urban areas and at the coast. In the case of one very significant infrastructure project, the Thames Tideway Tunnel 'super sewer', this has been illustrated by the estimated aggregate long-term 'willingness to pay' to secure environmental and health benefits of £7-12 billion[19], significantly in excess of the cost of the tunnel of circa £4 billion.

Question 7: Do you agree that Drainage and Wastewater Management Plans should be made statutory and produced every five years? Please provide reasons.

Question 8: Who should a water company consult with, and obtain information from in developing their Drainage and Wastewater Management Plans and at what stage in the development of their plans?

Question 9: What, if any, are the lessons we could use from the water resources management planning process in making Drainage and Wastewater Management Plans statutory?

Question 10: Is the current non-statutory Drainage and Wastewater Management Plan framework clear and complete, and are there any changes/lessons learnt which we should take on board in making the process statutory?

Question 11: Should there be government or regulator oversight in the Drainage and Wastewater Management Plan process and review of plans? What level and type of oversight should this be? Please provide reasons.

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17 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/381939/FCRM_Long_term_investment_scenarios.pdf

18 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/291190/scho1109brja-e-e.pdf

19 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/471845/thames-tideway-tunnel-costs-benefits-2015.pdf

3. Modernising and strengthening our regulatory systems

Climate change and population growth also affect our environment and regulatory systems for managing our water, and our water industry in England. They highlight the need for our systems to be more flexible and adaptable to respond to current and future challenges.

The **water abstraction** licensing system, which sets limits and thresholds for the abstraction of water to protect abstractors and the environment, is over 50 years old. It has been amended and developed since first established. However, many older licences can still pose a risk to the environment during particular times of the year. For some of these older licences, the Environment Agency must pay compensation to change them, for example to add a restriction to a licence to stop abstraction at a period of low flows. The Environment Agency is not liable to pay compensation in certain circumstances, including: if the licence being amended or revoked is a water company licence; if the licence change is necessary to protect the environment from 'serious damage'; or if the licence has not been used in the last four years. We propose to enable more changes to be made to older licences without compensation being payable where they pose a risk to the environment, to be consistent with the position for newer abstractors. We also are considering making changes so that, with appropriate safeguards, under used licence volumes can be removed without compensation being payable to the licence holder.

Internal Drainage Boards are responsible for managing water levels and flood risk in areas of special drainage need. As a flood Risk Management Authority, Internal Drainage Boards are a key partner in flood risk management at the local level and there are currently 112 Internal Drainage Boards across England carrying out this function.

Due to incomplete data, that is required under the Land Drainage Act 1991, new Internal Drainage Boards cannot be created and existing Internal Drainage Boards cannot expand their boundaries. The government therefore proposes to make the necessary minor and technical amendments to remove these obstacles.

Reducing the risk of flooding and coastal erosion involves a large amount of investment – the government is investing £2.6 billion between 2015 and 2021. There is also record levels of partnership funding from public and private bodies.

In addition to the current investment level the government now wants to begin discussing whether additional or modified powers to **raise more local funding to tackle local flood and coastal risks** are needed, and if so what approaches might be most appropriate. Alongside this, one specific way to raise local funding, is the **Somerset Rivers Authority**, which was set up in 2015 following the devastating flooding in 2013-14. The government is proposing to take forward the necessary legislation to begin the process of formalising the Somerset Rivers Authority.

The regulatory system for the water industry was set out in the Water Industry Act 1991. Again, this legislation has been added to over the years, but one aspect of it that has largely remained the same is the way in which the economic regulator, Ofwat, can modify **water company licence conditions**. The system for other utility

regulators has changed over time, to create a more flexible and transparent process that helps to avoid the possible divergence in standard licence conditions that could otherwise occur across companies. We seek your views on bringing the process for modifying water company licence conditions in line with other utilities.

We also wish to modernise the way in which the regulator and companies can send information, to include a provision for email, and to strengthen Ofwat's ability to obtain information from water companies.

3.1 Water abstraction

Background

A water abstraction licence is required by those who take (abstract) more than a certain volume of water from the environment. The licence sets limits and thresholds for the abstraction to protect other abstractors and the environment. The Environment Agency is the regulator of the abstraction licensing regime. Some of the licences in use today were granted up to 50 years ago and some of that abstraction is unsustainable, compromising our ability to meet our commitments to improve the environment.

In December 2017, we published our abstraction plan[20]. This set out government action being taken to reform the management of water abstraction and to respond to the three main issues facing our current abstraction management system:

- some older licences allow abstraction that can damage the environment
- the current approach is not flexible enough to cope with the pressures of increasing demand for water and climate change in the long-term, or to allow abstractors access to additional water when it is available; and
- the abstraction service is outdated and paper-based.

Our approach to address these issues has three main elements:

- making full use of existing regulatory powers and approaches to address unsustainable abstraction and ensure around 90% of surface water bodies and 77% of groundwater bodies meet the required standards by 2021;
- developing a stronger catchment focus – bringing together the Environment Agency, abstractors and catchment groups to develop local solutions to existing pressures and to prepare for the future. These local solutions will:
    - protect the environment by changing licences to better reflect water availability in catchments and reduce the impact of abstraction;
    - improve access to water by introducing more flexible conditions that support water storage, water trading and efficient use at a catchment level.
- supporting these reforms by modernising the abstraction service - making sure all significant abstraction is regulated and bringing regulations in line with other environmental permitting regimes.

[20] https://www.gov.uk/government/publications/water-abstraction-plan-2017

We are seeking your views on two additional powers that could help the Environment Agency to protect the environment from unsustainable abstraction.

Increasing the circumstances in which the Environment Agency can vary or revoke a licence without paying compensation

The Environment Agency is liable to pay compensation[21] to certain licence holders if changes are made to their abstraction licence, or if their licences are revoked. Compensation is not payable in respect of:

1. expired time limited licences, which are not renewed or are renewed on varied terms;
2. water company licences;
3. licences which have been unused for four years or more; or
4. where the changes are necessary to protect the environment from 'serious damage'.

This creates a system where the Environment Agency is liable to pay compensation to some licence holders but not others.

The Environment Agency collects money through the Environmental Improvement Unit Charge component of its charging scheme to pay compensation to (1) non-water company licence holders whose licence is changed as part of the Restoring Sustainable Abstraction Programme, (2) for some historically exempt licences. In the abstraction plan we set out that there were around 100 surface water bodies where the pressures of unsustainable abstraction will be challenging to address using existing regulatory approaches.

The Environment Agency works in catchments with abstractors, other local stakeholders and catchment partners to co-develop solutions that achieve long-term sustainable abstraction. We would prefer that licence holders come to agreed voluntary solutions to achieve sustainable abstraction and there have been examples where this has been the case. However, abstractors with compensation rights have less incentive to engage in dialogue about voluntary solutions. Collecting additional compensation from abstractors to fund these changes is unpopular, as all abstractors effectively pay for the problems created by unsustainable licences. In many cases therefore, the Environment Agency must rely on voluntary action from licence holders. This may limit the success of catchment work, such as the Catchment Based Approach for water resources.

Out of around 13,000 abstraction licences which do not have time limits, there may be over 1,500 which are unsustainable – 1,000 of these licences affecting surface water bodies and 500 affecting groundwater bodies. The Environment Agency cannot change this position without potentially being liable to pay compensation to the licence holder.

The Water Act 2003 (section 27) currently allows the Secretary of State to direct the Environment Agency to revoke or vary certain licences granted before 1 April 2006

[21] Compensation is to cover the financial loss or damage caused by the licence change.

without the payment of compensation if the revocation or variation is necessary to protect from 'serious damage' to the environment.

We propose to extend the circumstances in which abstraction licences which are causing or could cause environmental damage can be revoked or varied without compensation being payable to the licence holder.

We propose linking what constitutes environmental damage to circumstances where there is a failure to meet water body environmental objectives and other environmental conditions.

This would allow the Environment Agency to recommend the revocation or variation of licences that are causing long-term damage to the environment, either directly or in combination, but do not meet the current threshold of 'serious damage'. The removal of the Environment Agency's liability for compensation in relation to certain licences is also likely to provide an incentive to abstractors to do more to prevent damage to the environment if there is no compensation available if their licence is varied or revoked.

The legislation governing the abstraction licensing regime will be amended to make it consistent with other activities affecting the environment that are subject to the Environmental Permitting Regulations. Increasing the number of licences that can be varied or revoked without compensation liabilities arising, should create greater equity between abstractors with time limited licences (where compensation is not payable if the licence is not renewed) and those that do not have a time limited licence, and increase the Environment Agency's ability to tackle unsustainable abstraction.

Proposals

1. Environmental damage

We propose to amend the existing abstraction licensing regime to provide that the Environment Agency would not be liable to pay compensation for any variation or revocation of an abstraction licence that is causing, or potentially could cause, (either directly or in combination with other licences), unsustainable abstraction. We propose relating unsustainable abstraction to:

1) failure to meet water body environmental objectives, as defined in the legislation that implements the Water Framework Directive and set out in each River Basin Management Plan prepared under that legislation;
2) not being able to conclude no adverse effects on integrity of European sites as defined in Conservation of Habitats and Species Regulations 2017 and sites protected under the Convention on Wetlands of International Importance (1971) (commonly known as Ramsar sites[22]);
3) likely damage to a site of special scientific interest designated under the Wildlife and Countryside Act 1981; and

22 Ramsar sites are protected under policy – see National Planning Policy Framework updated July 2018, para 176 - https://www.gov.uk/government/publications/national-planning-policy-framework--2. They are listed here : http://jncc.defra.gov.uk/page-1389

4) likely inconsistency with the purpose of conserving biodiversity [23] including any living organisms or types of habitat which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity as set out in the Natural Environment and Rural Communities Act 2006.[24]

2. Underuse of licences

A large number of licence holders consistently take much less water than they are authorised to take. Over 2,000 licence holders (about 12% of all licence holders) consistently take less than half and almost 3,000 licence holders (about 17%) consistently take less than three quarters of their licensed volume. This causes two issues:

1) In catchments where no water is available for additional licensing, other abstractors cannot get access to water. Removing the unused (and not needed) portion of existing licences could make more water available to other abstractors in these catchments.
2) In some catchments there is risk of the environment deteriorating if licensed abstraction increases. By removing the unused (and not needed) portion of existing licences the Environment Agency could reduce this risk to the environment. In some catchments this may also mean that licence holders who have a justifiable need for headroom on their licences can increase their abstraction further before there is a risk of the environment deteriorating.

Some licence holders have good justification for not taking their full volume every year. For example, many farmers need large licences to meet their irrigation needs in dry years but will use much less in wet years, and crop rotation patterns may mean that a licence is not used for several years. Similarly, water companies need headroom in their licences so that they can maintain supply during dry years and respond to operational incidents such as sources being temporarily unavailable. Sometimes licence holders need the additional water on their licence as they intend to expand their business in the future. However, even taking account of these needs for some headroom, many licence holders are holding on to licensed water that they will not use.

Nationally between 20% and 25% of catchments have restricted water available for additional licensing. In many cases, varying under used licences in these catchments could free up water for other abstractors[25].

The following are recent examples where under used licences led to the Environment Agency issuing licences on more restrictive terms:

- Cambridgeshire: spray irrigation. The licence that the Environment Agency granted effectively limited abstraction to times of high water flows.

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[23] As set out in the NERC Act 2006, s40(3) “Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.”
[24] Natural Environment and Rural Communities Act 2006 - http://www.legislation.gov.uk/ukpga/2006/16/section/40
[25] In some catchments where there is no additional water available for licensing, water removed from under used licences may need to be returned to the environment if the abstraction was also unsustainable.

- Kent: to fill a reservoir for spray irrigation. The licence that the Environment Agency granted limited abstraction to time of high groundwater levels, to protect the groundwater and flows in nearby surface water and the environment.

- Yorkshire: the Environment Agency granted a licence which limited abstraction to times of high flow. This significantly reduced the economic viability of the abstractor. Subsequently, a large unused licence was revoked. The licence holder then applied for a licence variation so that it could abstract more water which the Environment Agency granted.

We are considering therefore to allow the Environment Agency to make proposals to vary a licence to remove the unused part without being liable to pay compensation. For example, if 50% of the annual licensed volume has been unused for a number of years, the Environment Agency could propose the removal of up to 50% without incurring a liability to pay compensation to the licence holder.

Our preliminary view is that the appropriate period of under use should be set out in legislation and that the provision would apply to any proportion of non-use. However, we would like your views on the appropriate period of under use, the appropriate proportion of non-use, and the safeguards that would be needed to protect necessary headroom.

This provision would be a counterpart to Section 61(4) Water Resources Act 1991, which allows an abstraction licence that is unused for four years or more to be varied or revoked without the payment of compensation.

The Environment Agency would need evidence of under use in order to make any proposals to change licences. Abstractors would have the right to object to the Environment Agency's proposals under the Water Resources Act 1991.

Impacts of measures

1. Environmental damage

In practice, compensation paid to abstractors for variation or revocation of licences is paid from a fund contributed to by non-water company licence holders. So although abstractors currently causing environmental damage will forego compensation under the proposals, this business cost is offset by a reduction in the licence charge contributions from abstractors. As such the direct business cost of the proposal is neutral overall.

We estimate that the number of abstractors to be negatively impacted would not exceed 1,500 (about 9% of licences). The benefit to the environment is provisionally estimated at £9 million each year in terms of enhanced nature, recreation, amenity and other positive impacts on communities and businesses (e.g. through tourism) in the affected catchments, as measured through the National Water Environment Benefits Survey.

2. Underuse of licences

It is a similar position for varying under-used licences. This provision would be the counterpart to the provision that allows an abstraction licence that is unused for four

years or more to be revoked without the payment of compensation. The consultation seeks views on removing compensation for abstractors if their licence had been varied due to underuse. This is likely to have benefits for other business in the catchment with a need to abstract which may now be able to abstract more to support their business, leading to a more efficient allocation of resources. We are consulting on the time period for underuse, and percentage thresholds for what can be varied and following this we will have a clear picture of how many licences would be affected. However, 3,000 licence holders (about 17%) consistently take less than three quarters of their licensed volume. Not all of these licences would be varied, only those in catchments where there is a need for access to water or for environmental protection, in line with the objectives of the abstraction plan.

Question 12: Do you agree that the Environment Agency should be able to vary or revoke any licence that is causing unsustainable abstraction without paying compensation? Please provide reasons.

Question 13: Do you agree with our proposal to link unsustainable abstraction to various environmental duties as set out in this consultation? If not, how would you determine what constitutes unsustainable abstraction and why?

Question 14: Should the Environment Agency be able to vary under used licences in the case of unsustainable abstraction to remove the underused portion, with suitable safeguards to protect necessary headroom? Please provide reasons, including possible safeguards you consider appropriate.

Question 15: Should the Environment Agency also be able to vary under used licences where there is unmet need for additional water in the catchment, to remove the underused portion, with suitable safeguards to protect necessary headroom? Please provide reasons, including possible safeguards you consider appropriate.

Question 16: Should the Environment Agency be able to change any under used licence, once necessary headroom is taken into account, irrespective of proportion of under use? If not, what proportion of under use is appropriate?

Question 17: What do you consider is the appropriate length of time for a licence to be under used before the Environment Agency could use this power? Please provide reasons.

Question 18: Do you think anything more is needed in primary legislation to deliver the aims of the abstraction plan? Please provide reasons.

3.2 Land Drainage: Internal Drainage Board charging methodology

Background

Effective and efficient management of water is crucial for protecting and improving our environment, which brings huge benefits, but there are also risks that we must manage effectively.

Reducing the risks of harm from environmental hazards is an important issue, as set out in the 25 year environment plan – too little or too much water harms people, the environment, property and business.

This is a key part of the work of Internal Drainage Boards. They are responsible for managing water levels and flood risk in areas of special drainage need. Not everywhere in England is an area of special drainage need, only around 10% of England is covered by Internal Drainage Boards.

Historically land drainage has predominantly been undertaken for agricultural benefit, ensuring the land can be farmed, but since then Internal Drainage Boards have evolved to play a much wider role, including expanding into urban areas.

As a flood Risk Management Authority, Internal Drainage Boards remain a key partner at the local level. As a Risk Management Authority they have the same duties placed upon them as other Risk Management Authorities including that they must have regard to the Environment Agency's National flood and coastal erosion risk management strategy for England[26].

Internal Drainage Boards are mainly funded locally through drainage rates paid directly by agricultural landowners and special levies issued to district or unitary authorities. In order to determine the special levy charge, the Land Drainage Act 1991 ("the 1991 Act") refers to rateable values shown in a "non-domestic rating list of a charging authority on 1st April 1990" and "valuation list on 31st March 1990".

Internal Drainage Boards use this information to calculate the value of all "other land" (mostly urban) in their district as part of their annual calculation undertaken in order to apportion their expenses between drainage rates and special levies.

The 1991 Act also sets out the apportionment calculation which determines how much is paid via drainage rates and how much via the special levy.

Issues

[26] https://www.gov.uk/government/publications/national-flood-and-coastal-erosion-risk-management-strategy-for-england

The 1991 Act sets out how Internal Drainage Boards can determine their charges, but does not allow for any other valuation list to be used, and some of the crucial data is missing or incomplete in some parts of England. This limits where new Internal Drainage Boards can be created or existing ones expanded. Therefore the 1991 Act requires a technical change to update it.

Proposals

There is a desire in parts of the country to create new Internal Drainage Boards or for existing Internal Drainage Boards to be expanded, and the government welcomes these proposals where they are supported by the local community and partners. However, missing ratings data restricts the government's ability to take these forward.

The government has worked with stakeholders on this issue and is developing a non-contentious technical amendment to the 1991 Act to allow the special levy to be apportioned via an alternative methodology. This update, via regulations (secondary legislation), will mean that the special levy is calculated using up to date council tax and business rates data. It may also include provisions on:

a. how the annual value for land should be determined;
b. the basis for determining the annual value (e.g. estimates, assumptions or averages) of land;
c. using an existing ratings valuation list to help set the annual value of land; and
d. making adjustments to the value of land.

To ensure that the apportionment calculation is up to date, and to reduce the risk of imbalance on either side of it the government has developed a further amendment to the 1991 Act to allow the drainage rates (paid directly by agricultural landowners) to be apportioned via a new alternative methodology. This will be set out in regulations (secondary legislation) that may include provision on:

a. how the annual value for each property should be determined;
b. the basis for determining the annual value (e.g. estimates, assumptions or averages);
c. using an existing ratings valuation list to help set the annual value;
d. using a hypothetical transaction (e.g. a sale or tenancy agreement) to set the annual value; and
e. enabling a person, named in the regulations, to determine the annual value on behalf of an Internal Drainage Board and to determine any adjustments. These regulations will be developed with stakeholders, followed by a detailed consultation before further parliamentary scrutiny.

The new methodologies use existing tax data and in itself are not a new form of taxation. However, where communities support and propose a new Internal Drainage Board local beneficiaries within the area would be required to contribute via the drainage rates or the special levy. This is why the government will only support proposals for new Internal Drainage Boards where there is local support.

There would be no new burden imposed on local authorities. Any proposals for new Internal Drainage Boards, or the expansion of an existing Internal Drainage Board, will only be taken forward where there is local support including from local authorities.

Impacts of measures

Our current analysis shows where there is an existing Internal Drainage Board the overall costs and benefits to households, businesses, farmers and landowners will not change, as the measure is designed to maintain existing cost recovery, but individuals may notice their individual contribution goes up or down.

In the event that a new Internal Drainage Board is proposed, or an existing Internal Drainage Board expands, there will be new costs and benefits for households, businesses, farmers and landowners included in the new area. There is currently no firm evidence for how many new Internal Drainage Boards, or changes to existing Internal Drainage Boards, could be proposed but analysis suggests a potential maximum cost to business and farms of £3.1 million per annum based on a scenario where Internal Drainage Board area increases by 7.5% in England. This equates to around eight new Internal Drainage Boards which would be at the upper end of expectations.

Similarly our analysis assumes that the benefits accruing from the work of Internal Drainage Boards are similar to wider flood and coastal erosion risk management analysis (£8 worth of benefits for every £1 spent) and therefore based on a similar scenario would equate to benefits of around £25 million per annum.

Question 19: Do you agree that the Land Drainage Act 1991 should be amended to enable a new charging methodology to determine special levies? Please provide reasons.

Question 20: Do you agree that the Land Drainage Act 1991 should be amended to enable a new charging methodology to determine drainage rates? Please provide reasons.

Question 21: Do you agree with the list of provisions that the alternative methodologies could include? Should anything else be taken into account? Please provide reasons.

Question 22: With regards to both these methodologies what could the impact of provisions (a) and (b) be and are there any issues that government should take into account before making the regulations?

Question 23: Should the new charging methodologies include exemptions for existing Internal Drainage Boards? For example the new charging methodologies could apply automatically to all Internal Drainage Boards, or existing Internal Drainage Boards could remain on the existing charging methodologies or could decide between the new or the old charging methodologies.

3.3 Flood and Coastal Erosion Risk Management: Raising local funds

Background

Flooding and coastal erosion can be devastating and the government is better protecting people, homes, businesses and infrastructure through its record investment of £2.6 billion in flood and coastal management. This investment also supports a thriving economy as well as enhancing our environment. To take this further the government, as set out in the 25 year environment plan, wishes to see the public, private and third sectors work with communities and individuals to reduce the risk of harm from natural hazards.

The government is considering future flood and coastal erosion policy to ensure that the country is better prepared for the challenges ahead. It will be publishing a Policy Statement on this in 2019.

Alongside the government's record investment, there are other existing forms of local funding. These include, but are not limited to, local authority spend, the Environment Agency levy (paid by all local authorities to Regional Flood and Coastal Committees), the Internal Drainage Boards levy (where applicable), tax relief for businesses that invest in flood and coastal defences.

The amount and effectiveness of these funding streams varies by region but all enable communities to better prepare and adapt for the local risk.

But there could be other opportunities to increase the amount of local funding available to support flood or coastal erosion management. Any proposals will need to ensure a balance between the costs and benefits for local taxpayers (residents and businesses), which may include recognising any correlation between reducing the risk and local recovery spend.

One such approach is the bespoke solution for Somerset via the creation of the Somerset Rivers Authority. The Somerset Rivers Authority came about following the devastating flooding in 2013-14, with a new method to coordinate existing local flood Risk Management Authorities, utilise expertise of individual partners and uses a local shadow precepting arrangement to raise additional funding and support flood risk management works which may not otherwise be possible.

The Somerset Rivers Authority adds to but does not replace existing flood Risk Management Authorities (e.g. the Environment Agency, Lead Local Flood Authorities, etc.) or their funding.

The Somerset Rivers Authority (unincorporated) was created in January 2015, is funded by Somerset's residents (through a shadow precept), and has begun delivering greater flood risk management to the county.

Issue

In the face of increasing population and climate change, flood and coastal management cannot be the responsibility of central government alone. To ensure the country is able to better manage the risks, and minimise the risks of harm from flooding and coastal erosion, the government wants to begin discussions on how

local communities can raise funds for flood and coastal risk management that can complement the national investment. This could include modifying, or rationalising, an existing regime.

Whilst developing this further the government also wants to secure the Somerset Rivers Authority's future.

Proposal

We are beginning to consider more widely the powers or mechanisms that could help raise additional local funds for flood and coastal risk management.

For example, mechanisms that could operate at the right strategic spatial scale, including if appropriate across multiple local authority areas, as flooding and coastal erosion does not respect boundaries; and/or, mechanisms that could allow wider local beneficiaries, businesses or residents to contribute more to achieve greater overall resilience to flooding and coastal erosion in their areas. We will consider whether existing local funding powers or mechanisms could be modified or added to in a way which might minimise the need for creating additional public bodies or legislation, and link this with existing duties for flood and coastal risk management.

We will be considering all of this as part of preparing the Policy Statement on flood and coastal erosion risk management and in parallel to taking forward the specific proposal outlined in this consultation for putting the Somerset Rivers Authority on a statutory footing.

The government proposes to secure the future of the Somerset Rivers Authority with the necessary legislation. This will establish the Somerset Rivers Authority as a flood Risk Management Authority and also provide the necessary precepting powers to raise funds locally. The government recognises that the Somerset Rivers Authority is a specific solution for Somerset and is not currently considering establishing Rivers Authorities in other parts of England.

Including the Somerset Rivers Authority as a flood Risk Management Authority will ensure that it has the same duties placed upon it as other flood Risk Management Authorities, including that it must have regard to the Environment Agency's national flood and coastal erosion risk management strategy for England.

Adding the Somerset Rivers Authority to the list of major precepting bodies in England will secure its ongoing funding and enable it to raise funds annually from local taxpayers. Once primary permitting legislation is in place local partners in Somerset will be able to make a proposal to incorporate formally the Somerset Rivers Authority. The legislation would include the required process for creating a new public body and set out the functions and governance of such a body, and contain the powers to make the necessary secondary legislation.

Impacts of measures

Flood and coastal erosion risk management has significant benefits, with the average return per £1 of investment by the Environment Agency in the region of £8 in terms of reduced damages to households, businesses and other benefits. Opportunities to increase local funding available to support flood or costal management will therefore deliver significant benefits to communities by allowing

more cost-beneficial work to proceed where it currently cannot. As the policy develops, further analysis will be undertaken on the potential costs and benefits falling to households and businesses.

The Somerset Rivers Authority is currently funded by a shadow precept which is paid for only by council tax payers, i.e. the domestic sector. We do not anticipate any direct costs to businesses but in any event they will benefit from reduced flood damage.

Question 24: Do you agree that there is a need for new or modified powers or mechanisms to raise additional local funding to manage local flood and coastal erosion risk management risks? Please provide reasons.

Question 25: Do you have any views on how best additional local funding can be raised fairly to better manage these risks and which existing public body is best placed to take on this function?

Question 26: Do you support legislating to enable the Somerset Rivers Authority to be formalised (as a flood Risk Management Authority with precepting powers)?

3.4 Modernising the process for modifying water company licence conditions

Background

Water companies and licences to operate

The water industry in England and Wales was privatised in 1989 through powers in the Water Act 1989. The Water Industry Act 1991 consolidated the Water Act 1989 and other legislation and sets out the regulatory framework for the privatised industry.

Since privatisation, the water industry has invested around £140 billion. This is equivalent to around £5 billion annually, almost double the pre-privatisation level. Customers are five times less likely to suffer from supply interruptions and 100 times less likely to have low pressure. Bills are now falling in real terms and will continue to do so, with further reductions expected in 2020-2025 depending on the outcome of the upcoming price review.

Opaque financing arrangements, perception of high stakeholder dividend payments, and executive remuneration, and some operational failures have, however, combined to lead to an erosion of trust in the sector. The 72% of customers in

England and Wales that think that they are getting value for money has remained static in recent years and compares poorly with the energy sector at 76%.[27]

Ofwat, the economic regulator of the water industry, has developed a programme of reforms to improve outcomes and increase trust in the sector. Ofwat's role and statutory duties are set out in the Water Industry Act 1991. In summary they:

- make sure that the water companies properly carry out their functions
- ensure that the water companies can finance their functions
- protect the interests of consumers, where appropriate, by promoting competition
- securing long-term resilience of water company services.

As part of the regulation of the industry, water companies are granted licences to operate (known as "instruments of appointment") which set out a number of conditions with which the companies have to comply. The current process for modifying licence conditions can be slow and resource intensive, leading to several problems, as follows, it can:

- constrain responsiveness to policy priorities;
- increase regulatory uncertainty for Ofwat and water companies;
- create divergence between water companies' licence conditions; and
- result in some socially sub-optimal licences if Ofwat negotiates a lesser change than it has ideally required or does not make a change at all.

Currently the regulator is therefore hampered in delivering the reforms through an outdated licensing regime.

Licence conditions

Ofwat enforces licence conditions and can, under provisions in the Water Industry Act 1991, modify the conditions following consultation and agreement with the individual company.[28] These conditions cover a range of issues. For the main water companies these include: terms and expressions used in the Instrument of Appointment (Condition A); the formula for calculating price limits (Condition B); charging for first time provision of a water supply or sewerage services (Condition C).

The types of modifications that Ofwat have looked to make in the past have been to modernise the terms in a condition, to address new challenges as the sector develops, to simplify a condition, or, as in recent changes of company control[29], to make sure that any change of control does not compromise effective company management.

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[27] CCWater, Water Matters report, July 2018.

[28] In the case of standard licence conditions in water supply licences, licence conditions can be changed by collective licence modification with the agreement of more than 80% of relevant companies (weighted by market share). This proposal does not concern collective licence modification.

[29] Change of control effectively means whenever there is a change in the persons who are Ultimate Controllers of the water company. Ultimate Controller means any person who or which (alone or jointly with others and whether directly or indirectly) is in a position to control, or to exercise material influence over, the policy or affairs of the Appointee or of any holding company of the Appointee (water company).

Modification of licences

Ofwat usually initiates general discussion with a water company about a possible licence condition modification and policy consultation, before undertaking any formal licence modification consultation. This helps inform any modification proposal. During the formal consultation period, the company and other interested parties can respond to the proposal.

After considering the consultation responses, Ofwat issues a final decision document on the proposed modification. If the company (or one or more companies in the case of modifications to more than one company's licence) does not agree with the proposal, it is open to Ofwat to re-consult on a lesser or different change, or they can refer the matter to the Competition and Markets Authority[30]. The Competition and Markets Authority then makes a decision on whether it is the public interest to modify the licence, and, if so, what change should be made.

As part of the Competition and Markets Authority process, they would consider the matter afresh and could widen the scope of the review, potentially beyond the scope of the specific matters in dispute. Furthermore, the remedy the Competition and Markets Authority may propose can differ from Ofwat's original proposal.

Reviews of existing licence modification model

Since 2010, the government has considered Ofwat's licence modification model on a number of occasions[31], including model options such as collective licence modification[32]. While the government decided during this time not to amend the model in England, this work established a clear case for the simplification and modernisation of licence conditions. Ofwat has been taking this forward since then, although no licence modification cases have been referred to the Competition and Markets Authority.

During our consideration of different models, water companies did raise the issue that revising the licence modification model and any subsequent, significant changes to the effect of the licences (wider than just simplification and modernisation) could have implications for companies' financing arrangements. Such arrangements generally include covenants restricting a company's ability to undertake certain actions and allowing for the repayment or renegotiation of the terms of a loan in the case of any material adverse change.

Issues

Licence modification model

In March, following the severe, cold weather and the effects on some customers' water supplies, the government asked Ofwat to consider what more could be done to

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[30] In the case of supply licensees, this occurs if there is a blocking minority 20% or more of licensees.
[31] UK and Welsh government 2010 review of Ofwat to ensure that it was fit to meet the challenges of the sector - www.gov.uk/government/publications/review-of-ofwat-and-consumer-representation-in-the-water-sector. 2013 consultation on process for amending licence conditions https://www.gov.uk/government/consultations/review-of-processes-for-modifying-the-appointment-conditions-of-water-and-sewerage-undertakers. 2016 further internal review of the model.

[32] Collective licence modification would enable Ofwat to amend specified conditions on all company licences if a majority of the companies agreed.

rebuild trust in the water sector and address certain aspects of some companies' behaviour. The Secretary of State also committed to update Ofwat's regulatory powers should this be needed to ensure that Ofwat could respond to these priorities promptly and efficiently.

The EFRA Committee also recently drew attention to regulatory powers. It recommended that the government consider giving Ofwat powers to bind water companies on governing principles for the sector through licence conditions.

Ofwat has been taking a number of actions to bring the sector back in balance, but given the limitations of the current licence modification system, government has looked again at the licence modification powers of Ofwat in England.

Other utility sectors such as telecoms (since 2003) and energy (since 2011) have a different regulatory framework for modifying licence conditions. These have evolved over time, to create a more modern, flexible and transparent process. In the energy sector, the economic regulator, Ofgem, can modify any licence held by an energy company following consultation, even if the company does not agree with the change. If the company does not agree, it, not the regulator, can appeal against the change to the Competition and Markets Authority on specific grounds. While the case is being heard, the company can apply to the Competition and Markets Authority to suspend or disapply the licence modification until after the appeal has been concluded. There is also a power for the Secretary of State to direct the regulator not to make the proposed licence modification.

The transparency of such a model for the water sector would address the limitations of the current model. It would create a more responsive, modern model enabling Ofwat to better regulate and amend licences, taking account of ongoing current and future priorities[33], including the environment. It would also increase regulatory certainty as both Ofwat and water companies would have to explain clearly their reasons for and against any proposed change, and any impacts it may have for the water company, customers or other parties.

Other areas for modernisation

Last year also highlighted the importance of the regulator being able to gather information promptly from water companies in a broad range of circumstances. During the March "freeze/thaw" incident, Ofwat carried out informal requests for information to assess the situation. As it did not have specific powers of enforcement in relation to requests for general information, Ofwat could not specify an enforceable deadline for receiving information, even though the issue was urgent. Ofwat's ability to obtain comprehensive and prompt responses was therefore compromised.

Documents that are issued under the Water Industry Act 1991 have to be sent to recipients in hard copy and there is no provision for them to be served electronically. This is costly, for example for price review documentation which can run to thousands of pages, and these documents then need to be physically stored. We

[33] We are not proposing to make any changes to the process for review of price control determinations under section 12, Water Industry Act 1991.

think that there is a case for modernising the provisions for the serving of documents, to enable them to be served by email.

Proposals

1. Model for modifying licence conditions

We therefore propose modernising the licence modification model in England to bring it in line with those of other utilities. We propose removing the right of veto that water companies currently have on licence changes proposed by Ofwat and replacing that with a water company right of appeal to the Competition and Markets Authority. The revised model would:

- still maintain the requirement for Ofwat to undertake a formal consultation on the proposed licence condition modification. In the consultation they would explain how the licence modification was consistent with its statutory duties, with any ministerial priorities set out in the statutory Strategic Policy Statement to Ofwat, was in the public interest, and, where appropriate, provide an assessment of the economic impact of the proposed change for the company or the sector.
- provide for the Secretary of State, during the consultation period, to direct Ofwat not to make the licence change.
- if Ofwat proceeded with the licence modification and the company did not accept it, the company could appeal against it to the Competition and Markets Authority. The Competition and Markets Authority could consider if Ofwat's decision was wrong on one or more of specific grounds, including Ofwat not having proper regard to their statutory duties, any ministerial priorities, and the change being in the public interest.
- the company could also apply to suspend the licence change taking effect until the appeal had been considered.

2. We propose also to:

- improve Ofwat's information gathering powers, modelling a new provision on Ofgem's information gathering power which allows them to compel companies and anyone else specified by the Secretary of State in regulations to provide information. We would propose that a company's failure to provide the information requested could result in a fine.
- modernise the way that water companies and Ofwat can serve documents, so that this can be done electronically. However, we wish to understand if any exceptions or safeguards may be required where documents are served on individuals, such as a person with a disability needing to receive a hard copy; and

Impacts of measures

The proposed changes to the model is primarily a measure to level the regulatory playing field amongst water companies (some of which have differing conditions, for example relating to maintaining investment grade credit ratings, because of the historic difficulty of modifying licences under current arrangements). The measure will support regulatory consistency by bringing licensing powers in the water sector into line with those of other economic regulators.

Ultimately Ofwat will have more control to make licence changes swiftly and be more responsive to shifting consumer needs, including ensuring more transparent financial and corporate behaviours.

We do not expect significant direct costs to water companies under the new framework. Water companies may incur negligible one-off familiarisation costs of around £16,000 (our 'best' estimate for this measure) to £72,000 ('high' estimate) associated with engaging with the new licence modification framework. The new powers may have a small, direct impact on credit rating agencies' assessment of the credit worthiness of the sector if they are perceived to affect the stability and predictability of the regulatory regime. However, by any objective measure the water sector will continue to remain an attractive destination for investment, as highlighted by the £50 billion investment proposed by water companies in draft 2019 price review business plans, an increase of 13% relative to the previous 2014 price review period.

The main indirect impact of this measure relates to potential for additional future appeals to the Competition and Markets Authority. In our central scenario, we assume on the basis of historic evidence and discussions with Ofwat that there will not be additional future appeals to the Competition and Markets Authority. However, in our 'high' cost estimate, we have considered a scenario of two potential additional appeals per year. This analysis provides a 'high' cost estimate for this measure of around £4.8 million.

Question 27: Do you agree with the case for modernising the way in which Ofwat modifies licence conditions? Please provide reasons.

Question 28: Do you agree with the proposal to base a modernised model on that currently used within the energy sector? Please provide reasons.

Question 29: Have you any other suggestions for a different model for licence condition modification? Please provide reasons and explain what this could be.

Question 30: Do you agree with the proposal to modernise Ofwat's information gathering powers? Please provide reasons.

Question 31: Do you agree with the proposal to modernise the way in which documents can be served, to include email? Please provide reasons, including any groups of people or type of documents for which email is not appropriate.

4. Next steps

Most of the policies explained in this consultation would require primary legislation to implement. Government is considering the possible legislative options available to implement if, following this consultation, we decide to proceed further with them.

5. How you can have your say

How to respond

This public consultation will run for eight weeks from 15 January to 12 March 2019. It is open to anyone with an interest in providing comments. Please provide answers that explain your opinions fully.

Please respond to this consultation using the Citizen Space consultation system: https://consult.defra.gov.uk/water/improving-our-management-of-water.

Responses by post or email should be clearly marked 'Improving our management of water in the environment – consultation response' and sent to:

Water Services

3rd floor, Seacole Building

2 Marsham Street

London

SW1P 4DF

waterservices@defra.gov.uk

A summary of the consultation questions is at Annex A.

The government will aim to publish a summary of responses within 12 weeks of the consultation ending.

Confidentiality and data protection

A summary of responses to this consultation will be published and placed on the government website at: www.gov.uk/defra.

The summary will include a list of names and organisations that responded but not personal names, addresses or other contact details. Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances.

If you want information, including personal data, that you provide to be treated as confidential, please say so clearly in writing when you provide your response to the consultation why you need to keep these details confidential. If we receive a request for disclosure under the FOIA, we will take full account of your explanation, but we cannot provide an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as a confidentiality request.

This consultation is being conducted in line with the Cabinet Office “Consultation Principles” and can be found at: https://www.gov.uk/government/publications/consultation-principles-guidance.

If you have any comments or complaints about the consultation process, please address them to:

Consultation Coordinator

Area 1C, 1st Floor

Nobel House

17 Smith Square

London, SW1P 3JR

Or email: consultation.coordinator@defra.gsi.gov.uk

Annex A - Summary of consultation questions

Impacts of measures

Q1. Do you have any specific evidence that you think could assist Defra in our assessment of the costs, benefits or other impacts of these possible measures? If yes, please provide details.

Long-term planning of water in our environment

Water Resources Management Plans

Q2. Do you agree that the Secretary of State should be able to direct companies to plan on a regional and inter-regional basis? Please provide reasons.

Q3. Do you agree that the Secretary of State should be able to direct water companies to take account of other abstractors' needs? Please provide reasons.

Q4. Do you agree that the water resources management planning process should be recognised in legislation as a measure to deliver environmental objectives? Please provide reasons.

Q5. Do you agree with our proposals to improve the legislation governing Water Resources Management Plans? Please provide reasons

Q6. Do you have any further suggestions about how we could improve the primary legislation that governs water resources management planning? These could be either administrative improvements, such as how confidential information is dealt with, or to achieve better water resources outcomes. Please provide reasons for your suggestions.

Drainage and Wastewater Management Plans

Q7. Do you agree that Drainage and Wastewater Management Plans should be made statutory and produced every five years? Please provide reasons.

Q8. Who should a water company consult with, and obtain information from in developing their Drainage and Wastewater Management Plans and at what stage in the development of their plans?

Q9. What, if any, are the lessons we could use from the water resources management planning process in making Drainage and Wastewater Management Plans statutory?

Q10. Is the current non-statutory Drainage and Wastewater Management Plan framework clear and complete, and are there any changes/lessons learnt which we should take on board in making the process statutory?

Q11. Should there be government or regulator oversight in the Drainage and Wastewater Management Plan process and review of plans? What level and type of oversight should this be? Please provide reasons.

Modernising and strengthening our regulatory systems

Water abstraction

Q12. Do you agree that the Environment Agency should be able to vary or revoke any licence that is causing unsustainable abstraction without paying compensation? Please provide reasons.

Q13. Do you agree with our proposal to link unsustainable abstraction to various environmental duties as set out in this consultation? If not, how would you determine what constitutes unsustainable abstraction and why?

Q14. Should the Environment Agency be able to vary under used licences in the case of unsustainable abstraction to remove the underused portion, with suitable safeguards to protect necessary headroom? Please provide reasons, including possible safeguards you consider appropriate.

Q15. Should the Environment Agency also be able to vary under used licences where there is unmet need for additional water in the catchment, to remove the underused portion, with suitable safeguards to protect necessary headroom? Please provide reasons, including possible safeguards you consider appropriate.

Q16. Should the Environment Agency be able to change any under used licence once necessary headroom is taken into account, irrespective of proportion of under use? If not, what proportion of under use is appropriate?

Q17. What do you consider is the appropriate length of time for a licence to be under used before the Environment Agency could use this power? Please provide reasons.

Q18. Do you think anything more is needed in primary legislation to deliver the aims of the abstraction plan? Please provide reasons.

Land drainage: Internal Drainage Board charging methodology

Q19. Do you agree that the Land Drainage Act 1991 should be amended to enable a new charging methodology to determine special levies? Please provide reasons.

Q20. Do you agree that the Land Drainage Act 1991 should be amended to enable a new charging methodology to determine drainage rates? Please provide reasons.

Q21. Do you agree with the list of provisions that the alternative methodologies could include? Should anything else be taken into account? Please provide reasons.

Q22. With regards to both these methodologies what could the impact of provisions (a) and (b) be and are there any issues that government should take into account before making the regulations?

Q23. Should the new charging methodologies include exemptions for existing Internal Drainage Boards? For example the new charging methodologies could apply automatically to all Internal Drainage Boards, or existing Internal Drainage Boards could remain on the existing charging methodologies or could decide between the new or the old charging methodologies.

Flood and Coastal Erosion Risk Management: Raising local funds

Q24. Do you agree that there is a need for new or modified powers or mechanisms to raise additional local funding to manage local flood and coastal erosion risk management risks? Please provide reasons.

Q25. Do you have any views on how best additional local funding can be raised fairly to better manage these risks and which existing public body is best placed to take on this function?

Q26. Do you support legislating to enable the Somerset Rivers Authority to be formalised (as a flood Risk Management Authority with precepting powers)?

Modernising the process for modifying water company licence conditions

Q27. Do you agree with the case for modernising the way in which Ofwat modifies licence conditions? Please provide reasons.

Q28. Do you agree with the proposal to base a modernised model on that currently used within the energy sector? Please provide reasons.

Q29. Have you any other suggestions for a different model for licence condition modification? Please provide reasons and explain what this could be.

Q30. Do you agree with the proposal to modernise Ofwat's information gathering powers? Please provide reasons.

Q31. Do you agree with the proposal to modernise the way in which documents can be served, to include email? Please provide reasons, including any groups of people or type of documents for which email is not appropriate.

Annex B - Glossary

21st Century Drainage Programme: A programme that consists of over 40 organisations, working to identify major future risks for drainage and provide options for how to address them.

Catchment Based Approach (CaBa): A community-led approach that engages people and groups to help improve water environments. Partnerships are now actively working in 100+ catchments across England and Wales

Competition and Markets Authority: A non-ministerial government department responsible for strengthening business competition and preventing and reducing anti-competitive activities

Conservation of Habitats and Species Regulations 2017: The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and wild fauna and flora (EC Habitats Directive), into national law, and also elements of EU Wild Birds Directive in England and Wales.

Data Protection Act 2018 (DPA): The Act updates UK data protection laws.

Drainage and Wastewater Management Plan: A framework that provides the basis for more collaborative and integrated long-term planning.

EFRA Committee: Parliamentary Committee for Environment, Food, and Rural Affairs. It examines the expenditure, administration, and policy of Defra and its associated public bodies.

Environment Agency: The Agency is responsible for the protection of natural water resources, flood warning and defence, fisheries, recreation, conservation and navigation, regulating waste and industrial processes, water quality and pollution prevention in England.

Environmental Improvement Unit Charge: A surcharge applied to a water abstractor's bill, which has been collected since 2008. It is used to pay compensation to abstractors when compulsory changes are made to their abstraction licences because of environmental damage.

Environmental Information Regulations 2004 (EIRs): They provide a statutory right of access to environmental information held by UK public authorities.

Environmental Permitting Regulations: These require regulators to control certain activities, including water discharge and groundwater activities, which could harm the environment or human health.

Flood and Coastal Erosion Management: An approach to flood and coastal erosion management bringing together academic researchers, engineering professionals, public bodies, NGOs and community groups.

Freedom of Information Act 2000 (FOIA): The Act creates a public 'right of access' to information held by public authorities.

Internal Drainage Board: An internal drainage board is a type of operating authority which is established in areas of special drainage need in England with permissive powers to undertake work to secure clean water drainage and water level management within drainage districts.

Land Drainage Act 1991: The Land Drainage Act 1991 requires that a watercourse be maintained by its owner in such a condition that the free flow of water is not impeded.

Natural Environment and Rural Communities Act 2006: The Act was designed to help achieve a rich and diverse natural environment and thriving rural communities through modernised and simplified arrangements for delivering government policy. The Act implements key elements of the Government's Rural Strategy, published in July 2004.

National Infrastructure Commission: Established on 5 October 2015 and responsible for providing expert advice to government on infrastructure challenges facing the United Kingdom.

National Planning Policy Framework: The National Planning Policy Framework (NPPF) consolidates over two dozen previously Planning Policy Statements (PPS) and Planning Policy Guidance Notes (PPG) for use in England. A revised NPPF was published by the Ministry of Housing, Communities and Local Government on 24 July 2018.

National Water Environment Benefits Survey: A survey commissioned by the Environment Agency to update the benefit values produced for the first cycle of river basin management planning.

Ofgem: The Office of Gas and Electricity Markets is the government regulator for the electricity and natural gas markets in Great Britain.

Ofwat: The body responsible for economic regulation of the privatised water and sewerage industry in England and Wales.

Ofwat Price Review: Ofwat undertakes price reviews every five years, which set the price, investment and service package that customers receive. This includes controlling the prices companies can charge their customers whilst balancing consumers' interests with the sector's ability to finance the delivery of water and sewerage services, and other legal obligations, including environmental and social duties.

Precepting authority: Precepting authorities levy a charge on local tax payers through council tax or business rates in the same way as the local authority for provision of services across the region. These precepts are collected by the local authority on behalf of the preceptor through council tax or business rate.

Ramsar sites: A Ramsar Site is a wetland site designated of international importance under the Ramsar Convention, an intergovernmental environmental treaty established in 1971 by UNESCO that came into force in 1975.

Restoring Sustainable Abstraction Programme: The programme is a four stage process that appraises problematic water abstraction, consisting of: screening; investigation; options appraisal; and implementation of licence and non-licence changes.

Risk Management Authority: Flood Risk Management Authorities in England are the Environment Agency, lead local flood authorities, district councils, internal drainage

boards, water companies and highway authorities. They work to address flood risk management in their areas.

River Basin Management Plan: A management tool in integrated water resources management to achieve the protection, improvement and sustainable use of the water environment.

Strategic Policy Statement: The Strategic Policy Statement sets out government priorities which Ofwat should keep under review and requires them to report on the steps they have taken in response to this steer.

Surface Water Management Action Plan: The Surface Water Management Action Plan sets out the steps the government is taking, with the Environment Agency and other bodies, to manage the risk of surface water flooding.

Water Act 1989: This reorganised the bodies responsible for all aspects of water within England and Wales.

Water Act 2003: An Act to amend the Water Resources Act 1991 and the Water Industry Act 1991; to make provision with respect to a number of water regulatory issues.

Water Industry Act 1991: The Act consolidated previous legislation relating to the water supply and the provision of wastewater services in England and Wales.

Water Industry National Environment Programme: This is a set of actions that the Environment Agency have requested all 20 water companies operating in England, to complete between 2020 and 2025, in order to contribute towards meeting their environmental obligations.

Water Resources Act 1991: The Water Resources Act 1991 regulates water resources, water quality and pollution, and flood defence in England and Wales.

Water Resources Management Plan: A plan sets out how a water company intends to balance water supply and demand over a period of at least 25 years.

Water UK: Water UK is a membership organisation which represents and works with the major water and wastewater service providers in England, Scotland, Wales and Northern Ireland.