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Natural Resources Wales' response to Ofwat's consultation on the outcomes framework for PR19

Natural Resources Wales welcomes the opportunity to comment on the consultation.

As the principle environmental regulator in Wales, our purpose is to both: pursue sustainable management of natural resources (SMNR) in relation to Wales, and apply the principles of SMNR; in the exercise of our functions. The Well-being of Future Generations (Wales) Act 2015 also places a duty on NRW to apply the principle of sustainable development in our work.

The context for our consultation response is the legislative framework set out in the Wellbeing and Future Generations Act and the Environment (Wales) Act. Together this legislation puts sustainable development at the heart of decision making across the public sector in Wales, including Welsh Ministers. Key issues:

Promoting sustainable outcomes and behaviours

We believe there is a risk that the outcomes framework drives short term reactive behaviour, with a focus on headline targets and certainty. In-period performance commitments might further drive short term planning and a focus on quick wins, at the expense of long term sustainable solutions. It would be helpful to place further emphasis on promoting long term and sustainable outcomes, collaborative and integrated working, and building ecosystem resilience, in line with Welsh legislation. We would also like to see the outcomes framework develop so that it actively promotes best practice and innovation, for example rewarding companies where they address the root cause of issues through behaviour change, or where they contribute to wider outcomes.

Sustainable solutions can take longer to implement and have a higher degree of uncertainty. It would be useful if Ofwat would consider how the framework can account for risk and uncertainty so that companies do not focus on short term rewards and penalties, which may stifle creative and innovative approaches. We believe that currently some performance commitments are driving wider negative outcomes. For example, companies may aim to meet drinking water quality targets

by switching to alternative supply catchments which require the pumping of increased volumes of water and therefore increased greenhouse gas emissions, rather than by addressing the issues at source by working with land managers.

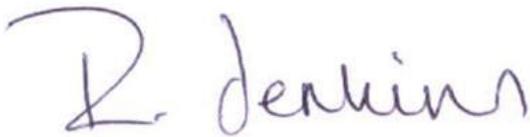
Statutory obligations

We agree that all performance commitments must be compatible with statutory obligations. All companies should aim for 100% compliance with environmental permits and licences, and zero serious pollution incidents. We feel it is also important that companies are not unduly rewarded for delivering statutory requirements. Ofwat could consider the case for allowing financial rewards only where the company delivers progress towards compliance alongside wider delivery of goods and services in line with sustainable management of natural resources.

In Annex 1, we provide a detailed response to the consultation questions.

We look forward to continuing to work with Ofwat during the review process. Should you wish to discuss our response, please contact Geraint Weber on 07909 831421 or geraint.weber@cyfoethnaturiolcymru.gov.uk.

Yours sincerely,

A handwritten signature in purple ink that reads "R. Jenkins". The signature is written in a cursive style.

Ruth Jenkins

Head of Natural Resources Strategy and Planning

Annex 1 - NRW response to consultation questions

Q1: What is your view on the use of improved information, including comparative performance information, to make performance commitments more stretching?

We agree that there is a need for improved and more accessible performance information. Making comparative information more easily available, such as historical performance, comparisons between companies, and with other sectors, can all help to provide a context for stretching targets and allows us to more effectively appraise a company's ambition. However, there is a challenge ensuring information is genuinely comparable, for example methods for gathering data can change over time, and at face value signal a change in performance. Therefore it is important that Ofwat and companies develop an appropriate level of understanding, and provide explanation and narrative for all performance commitments, in order to facilitate scrutiny and challenge. Common performance commitments for the industry will help ensure genuinely comparable information is available.

In previous planning cycles we have raised concerns that some company performance commitments were not stretching, and allowed trade-off of good and poor performance, or grouped unrelated activities within basket measures.

Q2: What is your view on the common performance commitments we are suggesting for PR19?

A balance should be struck between common and bespoke commitments. The focus needs to be stretching targets for all commitments. Where performance commitments relate to statutory requirements, 100% compliance should be the context for any target.

It is important Ofwat works with environmental regulators in Wales and England to develop a robust measure for wastewater pollution incidents. We will amend our incident categorisation in 2017 in line with NRW responsibilities, as outlined in our published Incident Management Enabling Plan (see <https://naturalresources.wales/about-us/strategies-and-plans/incident-management-enabling-plan/?lang=en>). We are working with the EA to ensure the Environmental Performance Assessment (EPA) provides common performance measures across companies. We think there is a good opportunity to align any proposed common performance commitment for pollution incidents with this work.

In our Water 2020 consultation response we noted that currently no water company wholly or mainly in Wales has proposed an AIM site and the environmental information we currently have does not suggest there might be a need for them to do so. We therefore expect the AIM will only apply to water companies wholly or mainly in England.

We think leakage and PCC should be the common performance commitments for water efficiency. Supporting text for PCC figures would be required though, as other factors such as the weather and the economy affect PCC figures. If only one is used, then we would prefer leakage to be used.

We don't think DI should be used as it's affected by many factors and water companies often plan to maintain DI relatively flat over the planning period.

We would like Ofwat to consider common performance commitments on:

- reducing greenhouse gas emissions.
- reducing volume or proportion of surface water entering the public sewer systems

We suggest renaming the water quality compliance commitment so that it is clear that it only relates to *drinking water quality compliance*.

Q3: What is your view on how we might apply comparative assessments at PR19?

The Environmental Performance Assessment (EPA) is an established and recognised water company performance report, and includes methods for setting stretching targets. NRW are working with the EA to develop our approach to the EPA in Wales.

Q4: To what extent do you agree with our proposed approach to leakage performance commitments for PR19?

We agree with the current proposal which aligns with policy in Wales.

Q5: What factors should we take into account in our guidance on setting performance levels for bespoke performance commitments at PR19?

Ofwat's framework needs to facilitate reporting, scrutiny and challenge of proposed performance measures and targets.

Q6: What is your view on our development of a new customer experience measure for PR19?

No views expressed.

Q7: What is your view on the options for increasing the power of reputational and financial ODIs at PR19?

Please see the key issues set out in our covering letter.

Q8: What is your view on our proposals for better reflecting resilience within the outcomes framework?

We support Ofwat's proposal to set resilience planning principles to provide clarity on expectations for the development of company business plans. We largely agree with the resilience principles outlined in the appendix, especially to ensure there is a line of sight between risk assessment and the business plan. We provide some further suggestions below:

The guidance should further emphasise the need to promote the resilience of ecosystems (e.g. catchments, watershed ecosystems) as a means to protecting and delivering resilience of water supply and sewerage services. In Wales Part 1, Section 6 of the Environment (Wales) Act places a duty on all water and sewerage undertakers to seek to maintain and enhance biodiversity so far as it is consistent with the proper exercise of those functions - and in so doing promote the resilience of ecosystems. In Wales it replaces and strengthens the previous Natural Environment and Rural Communities Act 2006 (NERC Act) duty. Welsh Government's interim guidance provides more detailed information about these duties:

<http://www.biodiversitywales.org.uk/Environment-Wales-Bill>

The guidance should emphasise the need for innovation and sustainable (long term) solutions which address the root cause of problems. Principles four and five in the appendix should be expanded to encompass best practice and lessons learnt, so that findings from incidents are learnt by the business and incorporated into their business plans. This would help ensure cost-effectiveness does not drive short term measures, which do not achieve best value in the long term. For example, a number of years ago, following a major environmental incident where a fiberglass pressurised rising main failed, water companies assessed similar infrastructure risks so they could put in mitigation and plan specific maintenance to address the risk.

Water companies are also Category two responders under the Civil Contingencies Act 2004, they have a duty to share specific information with the Category one responders to ensure resilience. There is an established risk assessment guidance and best practice library through the Cabinet Office and Civil Contingencies Secretariat that the risk assessment principles should reference to ensure commonality of approach. Infrastructure failure and pollution incidents, amongst others including flooding of course are recognised risks in the National Risk Register. Therefore any work water companies undertake for risk assessment has many uses.

NRW would welcome the opportunity to contribute further to Ofwat's work on resilience, in order to "join up" definitions and ensure that the new resilience measure drives the right behaviours for customers and ecosystems. We believe there would also be value in engaging with Public Health Wales.

Q9: What is your view on the options and our preferred approach to asset health outcomes?

We support Ofwat's preferred approach to asset health: to set asset health expectations and to include two common performance commitments for asset health (mains bursts and sewer collapses) which still allows companies to take innovative approaches to asset health.

Q10: To what extent do you agree with our proposals for making performance commitments more transparent for customers?

We broadly agree with the proposals. Transparency is an important factor in establishing stretching targets. Ofwat's framework also needs to facilitate effective reporting, scrutiny and challenge of proposed performance measures and targets.

Currently, Ofwat's published data on outcomes, performance commitments and ODIs is technical and difficult to interpret. There is need for greater consideration of the wider audience if this information is to facilitate scrutiny and challenge.

Discover Water is helping to make water company performance information more accessible. However, the technical nature of the metrics are challenging for even informed viewers to interpret and though some explanation is provided, further detail needs to be developed. NRW would like to understand Ofwat's future plans for making comparative data accessible. In particular, the role of their own published data versus the role of Discover Water.