

MEMORANDUM OF UNDERSTANDING BETWEEN THE CONSUMER COUNCIL FOR WATER AND THE WATER SERVICES REGULATION AUTHORITY

Explanatory Note

This paper contains a Memorandum of Understanding between the Consumer Council for Water (CCWater) and the Water Services Regulation Authority (Ofwat) and sets out the principles and values which underlie the relationship between the two parties. The Memorandum is required under section 27B of the Water Industry Act (as amended by the Water Act 2003). This places a duty on the two parties to make arrangements with each other with a view to promoting:

(a) co-operation and the exchange of information between each pair of them;
and

(b) the consistency of treatment of matters which affect both of them.

The Memorandum will be laid by the Secretary of State before Parliament.

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Introduction

1. This memorandum of understanding sets out the understanding of on the one hand the Consumer Council for Water (the "Council" or "CCWater"), and on the other, the Water Services Regulation Authority (Ofwat), on the principles that will underlie relations between them.

2 The memorandum is required by section 27B(3) of the Water Industry Act 1991, as amended by the Water Act 2003 ("the Act"), to secure (a) co-operation and the exchange of information between Ofwat and the Council; and (b) the consistent treatment of matters which affect them both. The memorandum is not intended to cover every detailed aspect of the relationship between the two parties. Rather it is a statement of principles which will guide relations between the two parties to ensure sufficient arrangements are in place to enable each party to discharge its respective responsibilities effectively and to avoid duplication of effort.

3 This memorandum is not intended to be legally binding but to serve as a working document which will be subject to review by both parties in the light of operational practice.

4 Throughout this Memorandum Ofwat and CCWater will be referred to collectively as 'we' and the expressions 'our' and 'us' will be used accordingly.

Review of memoranda

5. Amendments to this memorandum may be made at any time by agreement of both parties. In addition, this memorandum will be reviewed at three-yearly intervals and updated as necessary, in light of experience of its operation in practice.

Roles and responsibilities

6. The Council is a non-departmental public body of the Department for Environment, Food and Rural Affairs (Defra) and the Welsh Assembly Government ("the Assembly") established under the Act to represent the interests of consumers by handling complaints, acquiring and publishing information, providing advice, and investigating matters of interest to consumers. The Council is supported by regional committees established under the Act principally to provide advice and information to the Council on consumer matters affecting the areas of the relevant water and sewerage undertakers ("undertakers") allocated to the committees.

7. *Ofwat is the independent economic regulator of the water and sewerage industry in England and Wales, and is a non-ministerial government department. Ofwat is responsible for regulating the sectors, acting independently of the industry, government and other stakeholders, while working within the government policy framework.*

Working relationship

8. We will seek to build on the good working relationship that already exists between us by:

- *having an open and constructive working relationship;*
- *working closely together at all levels, both on policy, and on strategic issues of importance;*
- *respecting each other's views, where different, after discussion to ensure proper understanding of the reasons for any differences;*
- *having a 'no surprises' policy, based on notifying each other well in advance, where possible, of significant announcements and developments in policy;*
- *identifying the areas of regulatory interaction and setting out what each expects of the other;*
- *minimising duplication of activity wherever possible; and*
- *informing stakeholders about our relationship so as to reduce regulatory uncertainty, including explaining that broadly (but not exclusively) Ofwat's role is to protect consumers in a monopoly market, whereas CCWater's role is to represent them and make their voice heard by decision makers.*

Co-operation

9. *We affirm our commitment to working together, where appropriate, on matters of mutual interest. We recognise the importance of co-operation across a range of areas, whilst at the same time maintaining our statutory independence.*

Exchange of information

10 We will each provide any information in our possession that may be reasonably requested by the other to enable it to carry out its regulatory and statutory functions, subject to necessary confidentiality constraints and safeguards and statutory bars on disclosure. We will exchange information in a timely manner where possible, provided that this is cost effective and the information is available in an accessible form. We will, in line with Freedom of Information Act requirements and guidance included in this MoU on information provided in confidence, refer back to the originating party any requests for information we hold but did not collect and which we are aware is confidential in nature. Each party will make the other party aware of any significant disclosure it intends to make to a third party of any information it received from that other party.

11. We will aim to minimise the information burden placed on undertakers and licensed water suppliers (companies). We will aim to avoid duplication by sharing publication schedules and plans to collect information from companies. Where appropriate, we will consult each other before considering an approach to companies to determine whether the required information is already held in a suitable form by the other party.

Treatment of matters of common interest

12. We are committed to the principle of good communication with each other on areas of mutual interest on a "no surprises" basis. This will be done through regular liaison and regular discussion on relevant issues. The intention is not to constrain the discretion of either party but to allow each to make representations to the other in sufficient time for those representations to be considered.

13. Against this background, and in confidence where necessary, we will:

- (i) alert the other as soon as practicable to relevant developments within our respective areas of responsibility, whenever possible prior to publication or exceptionally, where this is not possible, we will brief each other on any relevant announcements of mutual interest before they are made;
- (ii) give appropriate consideration to the views of the other; and
- (iii) have regard to advice from the other and act on it, as appropriate.

14 We will notify each other of formal press conferences and other public events hosted by one, but of interest to both.

15. Where appropriate, we will liaise, involve and keep each other informed as necessary on the drafting of key documents where relevant to the other's functions.

Disputes

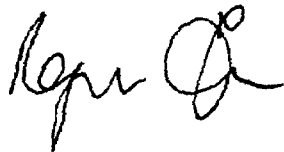
16. If there is a dispute about the interpretation and/or operation of the memorandum which cannot be resolved between us at working level, the Council's Chief Executive and the Ofwat Chief Executive will discuss the matter and decide what action to take.

Publication of memoranda

17. The Secretary of State for Environment, Food and Rural Affairs will lay this and any revised memorandums before Parliament.

18. An up to date version of this Memorandum will be published on the Council's website (www.ccwater.org.uk) and on Ofwat's website (www.ofwat.gov.uk). Hard copies will also be available on request from the Council on 0121 345 1000 and from Ofwat on 0121 625 1300.

Signed by:



Regina Finn for the Water Services Regulation Authority (Ofwat)

Date: 26/6/07



Tony Smith for the Consumer Council for Water

Date: 26-6-07