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Dear Mr Harrison

Welsh Government Consultation Document
Statutory Guidance on sewerage undertakers' duty to connect properties to the public sewerage system under the Water Industry Act 1991 Section 101A

Ofwat is the economic regulator of the water industry in England and Wales. We have duties to protect customers and to enable water and sewerage undertakers to finance their functions. As explained in the consultation document, in the specific context of the provision of first time sewerage in Wales under s101A WIA1991 our role is one of enforcement.

Thank you for the opportunity to respond to this consultation. The consultation document states that 4% of properties rely on independent privately owned and operated drainage systems. However, this is a national (England and Wales) figure and the corresponding figure for Wales alone is significantly higher. We are aware of various estimates that put the proportion of such properties in Wales at around 7%^{1,2}. Accordingly, we recognise that the consultation addresses a matter of particular importance in Wales.

As you know, in 2013 Welsh Government convened a Task and Finish Group to agree in principle new Welsh Government Guidance prior to the current consultation exercise. The object was to improve the process to ensure the most effective outcomes for the environment, applicants and the generality of water and sewerage bill payers. Through participation in the Task and Finish Group we have already had the chance to help formulate the new guidance and are pleased to see that the consultation draft incorporates our contributions. Consequently, this response is generally supportive of the revised guidance and does not raise any substantive issues.

¹ 218,300 of 3,118,300 population served by Welsh Water not connected to mains sewerage. Source: Review of Rural Water Supply and Sewerage, DoE, 1994.

² 93% of population served by Welsh Water connected to sewer and sewage treatment. Source: Waterfacts 2000, Water UK.

We welcome the proposed update / replacement of the current guidance which dates back to the introduction of section 101A WIA1991 and is now almost 18 years old. We concur with the views expressed by others in the Task and Finish Group that the current guidance is outdated and in need of significant revision.

We consider that the section entitled 'Timescales for deciding if a duty applies' – a matter not addressed in the current guidance – is particularly helpful in conditioning expectations of applicants. Furthermore, we consider that the timescales proposed are broadly reasonable and strike a fair balance between the entitlement of applicants for a public sewer under section 101A and the interests of the wider customer base that pay through their bills for it. While some may view 5 to 7 years from application to scheme delivery as being too long it is important that s101A schemes should not be prioritised over other schemes in an undertaker's investment programme which deliver greater environmental benefit.

We would only suggest that the final guidance clarify a slight inconsistency regarding the time within which the Regulator will aim to determine a dispute. On page 11 it states this should be "within 12 months of the receipt of such information [required to evaluate the dispute]" while the text on page 15 is less clear and could be taken to suggest that the 12 month period commences upon "notification by the undertaker" or upon lodging of the dispute with the Regulator.

We also support the proposal (on page 15) that applicants should be saved from having to raise a second dispute in the event that the timing of a section 101A scheme cannot be agreed with the undertaker. However, as currently drafted, the text suggests that an applicant can only also request that the Regulator specify the time by which the s101A duty to provide a public sewer should be complied with, "*if this is in dispute*". We think this qualification is unhelpful and should be removed as timing of scheme delivery will not be an issue, let alone be "in dispute", before the need for the scheme has been established.

Overall, however, we consider that the revised guidance will help meet the objective of delivering optimal outcomes for the environment, applicants and the generality of water and sewerage bill payers.

Yours sincerely



Kevin Ridout
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