

Welsh Government response to “Reliable services for customers – consultation on Ofwat’s role on resilience”

**1. Is our basic understanding of resilience aligned with your own – are we addressing the right things in the right way?**

Broadly, yes. However, at the heart of our approach to water policy in Wales are our principles for sustainable development, and resilience is just one part of this. The Well-being of Future Generations (Wales) Act 2015 sets these out and aims to enhance the economic, social and environmental wellbeing of people and communities across Wales, achieving a better quality of life for our own and future generations in ways which promote social justice and equality of opportunity, and enhance the natural and cultural environment and respect its limits.

We were disappointed to note therefore, that Ofwat do not seem to have made the link, in this document, between their new duty to further the resilience objective and the existing secondary duty – set out in section 2, sub-section (3)(e) of the Water Industry Act 1991 – to contribute to the achievement of sustainable development.

**2. Do you agree with our view of what Ofwat should deliver, including where we might step in, and what is for others to deliver?**

Ofwat’s proposed approach to the resilience duty appears to be in line with their new, more flexible, customer focussed approach to regulation and this would seem appropriate. However, while we largely agree with the statement that it would not be appropriate for Ofwat to mandate a single approach to resilience, we feel that Ofwat will need to maintain an understanding of service resilience across the industry in order to properly fulfil the new duty. Any work in relation to furthering the resilience objective must not undermine the current statutory requirements for resilience e.g. drought plans, water resource management plans, and must continue to support current duties.

**3. What views do you have on how the water and wastewater sector might measure its performance in delivering resilient services – and the best way for us to demonstrate that we are carrying out our role?**

We feel that there needs to be more consistency around definitions used by water companies, particularly in their dialogues with customers. While there was obviously some useful and interesting research carried out during the PR14 process, there was also a general sense that each company approached the question of resilience and customer acceptability in a slightly different way. In the next Price Review, it would be helpful if Ofwat could provide guidance to the companies on how best to seek views from customers on resilience, perhaps even producing a pro-forma that could be used to ensure that the whole industry is using the same ‘definition’ and all customers are able to give their views on all elements.

It is true that setting a baseline for resilience may not be possible; however, setting a 'baseline' for customer opinion and understanding around what is meant by resilience, might be, and this would be useful for monitoring purposes i.e. identifying indicators based on which areas customers highlighted as being most important.

#### General comments on the proposals:

On page 10, there is a box which provides an overview of the Well-being of Future Generations (Wales) Act 2015. While what is included in the box is correct, we feel that providing a summary of all seven well-being goals and the sustainable development principles, as set out by the Act, would provide more context and highlight the Natural Resource Management approach which the Welsh Government are taking to water resource management.

We have concerns about several statements throughout the document which refer to market reform – a common theme that has been noted throughout several recent Ofwat consultations. For example, on page 13, the statement *“it also includes making sure that the retail market, which opens in England in 2017, delivers what customers want (and that we protect customers in Wales that will not be able to choose their service provider)”* implies that Welsh customers will be at an immediate disadvantage once the retail market opens; however, we feel it necessary to point out this is, as yet, an untested policy and the Welsh Minister's chose to not move forward with market reform from 2017 as it was felt that the evidence base in favour of doing so was not yet strong enough. In the Water Strategy for Wales, we have committed to monitor the costs and benefits of market reform which will inform our future policy about services for non-household customers served by water companies located wholly or mainly in Wales. Therefore, we feel it is important to note that this should not be a competition between two Government policies and we want an aspiration from Ofwat and the water companies alike that they will achieve the outcomes that customers want and expect, regardless of whether that is via competition or regulation. Likewise, in section 2.2 on page 16, Ofwat state that they *“will regulate in a way that promotes the development and better functioning of markets – markets can support resilience by ensuring a wider choice of providers an resources, allowing greater flexibility and sustainability”*, which will work in England but gives no indication of how they intend to achieve the same outcome in Wales.

#### Corporate resilience:

One of the Welsh Government's sustainable development principles states that we will consider and plan for the long-term interests of Wales. In terms of water policy, we have stated that we will carefully consider the impact of policy proposals, both individually and cumulatively, to ensure that we can invest for the long-term, whilst keeping the current costs of water bills at a realistic level. Our policies and investments must result in long term benefit to the people of Wales, whilst also seeking to ensure that we are making the most of

the benefits and economic opportunities that arise from water. We must not delay investment to make short term savings at the expense of future bill payers. Water companies have existing duties to have robust plans in place to ensure effective management, maintenance and development of our water resources and supply systems. We will develop a planning and regulatory framework for water companies which will support the application of our principles for the sustainable management of natural resources in Wales. We will review existing planning functions including the timing and alignment of these plans. This will ensure company business plans have a more strategic approach and where appropriate actions from various plans can feed into each other, facilitating collaboration between the water companies and other key water industry stakeholders. This approach will also help regulators prioritise areas and processes that need improving to increase benefits to the people and environment of Wales, and in turn enable the water companies to identify where future investments will need to be focused. As the economic regulator, we will work closely with Ofwat to ensure that you accept this approach in relation to price reviews and to tie it in with the resilience duty as there are clear crossovers.

#### Climate Change:

We are surprised that climate change is not highlighted as much in the document as it is a key driver of the changes for Ofwat and the one of the main reasons to build resilience in the sector.

Climate change is mentioned three times in the document, but no detail or even summary of the potential impacts and how service providers may need to adapt. There is no mention of the Climate Change Risk Assessment – which included a chapter on Water and on which Ofwat was extensively consulted. The consequences for water resources are potentially significant. The Welsh Report of the UK Climate Change Risk Assessment (2012) highlights that warmer weather is likely to result in increased consumer demand and greater evaporation from our many reservoirs. More intense rainfall will cause more surface water and fluvial flooding and wash more pollutants into our streams, rivers and coastal waters. It will also reduce the recharge of water into our underground water resources in the areas of Wales where these are important. Although there is some uncertainty about future rainfall, we are likely to see lower summer river flows and higher river temperatures.

Under the Climate Change Act 2010 Ofwat has also produced a report (Ofwat's climate change adaptation report) under the Reporting power provisions by the Secretary of State on how they are assessing and preparing for the threats and opportunities from climate change. We note the document does not refer to this, which is a key evidence base on the need to build resilience.

In terms of resilience of the wider measures e.g. *“manage water resources in sustainable ways, and to increase efficiency in the use of water and reduce demand for water so as to*

*reduce pressure on water resources.*” - there is little reference to emission reduction which can help save long term cost and energy.

In terms of the Wales perspective, the document covers the relevant legislation by mentioning the Well-being of Future Generations Act and Welsh Government duty to Sustainable Development, including definition of ‘A resilient Wales’ from the Act (which also includes specific reference to adaptation to climate change). It also sets out how the Water Strategy for Wales and Environment Bill cover the principles of ecological resilience. However, it does not mention the UK Climate Change Act and reporting power provisions.