

Water today, water tomorrow

# Ofwat's policy on impact assessments

## April 2011

## Introduction

Ofwat is the economic regulator of the water and sewerage sectors in England and Wales. These sectors serve the water, sanitation and drainage needs of about 56 million people every day, delivering services through a network of pipes and sewers more than 500,000 km long. The water and sewerage companies have a combined annual turnover of more than £9 billion.

The decisions we take can have big consequences for:

- customers, whose interests we protect;
- the companies we regulate;
- the environment; and
- the UK economy as a whole.

In doing our job, we have to be particularly careful about what we do and how we do it. We need to balance the benefits of any action we take with the costs that may be imposed on customers, the companies we regulate or others. Ultimately, our decisions must allow those we regulate to deliver sustainable water and sewerage services now and in the future.

The decisions we take should be:

- **targeted** only at the areas where it is necessary;
- **proportionate** to the issues we are seeking to tackle;
- **accountable** to our stakeholders and ourselves;
- **consistent** so that we treat everyone fairly and equitably; and
- **transparent** and delivered in the clearest and most open way possible.

Our normal approach to making decisions includes considering all possible alternative approaches. We also consult on our decisions with those people or organisations with an interest in the subject matter. This helps us to be sure that our decisions are based on the best possible information and a wide range of views.

As part of our commitment to best regulatory practice, we have revised our approach to using impact assessments in our decision-making. This follows changes to our statutory duties following legislation such as the:

- Water Act 2003; and
- Regulatory Enforcement and Sanctions Act 2008.

In addition, it takes appropriate account of:

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- revised guidance and toolkit on impact assessments from the Department for Business, Innovation and Skills (BIS); and
- reports from the National Audit Office and the House of Commons Environmental Audit Committee on impact assessments.

This document sets out:

- what an impact assessment is;
- what information they will contain;
- when we will produce impact assessments – and when we won't;
- what our process is for developing and publishing them;
- when we will review the actual impact of our decisions; and
- where you can find out further information.

## 1. What is an impact assessment?

An impact assessment is a tool that helps us to make decisions that are soundly based and well informed. They are a standardised way of showing in our consultations and final decision documents:

- the action we propose to take in any given area of our work;
- why we are taking it and what we are trying to achieve;
- who or what might be affected by our proposed action;
- possible alternative actions we have considered; and
- the costs and benefits of our proposed action.

As well as being a valuable tool for us, impact assessments are a useful way for anyone with an interest in our decisions to view, check and challenge any action we propose. This is an important part of a transparent decision-making process.

## 2. What information will Ofwat's impact assessments contain?

All of our impact assessments will set out the reason for the proposed action we are taking. This will generally be related to delivering one or more of the priority areas from our [strategy](#).

As well as the purpose of the action we propose to take, the impact assessment will also set out:

- why we are proposing to take action in a particular area ('what is the problem?');
- the intended impact of the action we are proposing to take ('what do we want to achieve?');
- the options we have considered ('what alternative actions could we take?'); and
- our preferred option ('what action are we proposing to take?').

In addition, the impact assessment will normally contain detailed evidence of the action we are proposing to take. We will also compare the likely impact of our proposed action against the impact of taking no action (the 'do nothing' option). This shows whether any action by us is necessary at all.

A typical impact assessment might include the following evidence.

- The costs and benefits to consumers, particularly the contribution different options would make to delivering our consumer objective.
- The costs and benefits to those we regulate.
- The effect on competition.
- The costs and benefits to the environment, considering particularly the water environment.
- The contribution towards meeting requirements set out in guidance to us from Government Ministers ('ministerial guidance').
- The contribution towards long-term sustainable development.
- The contribution towards innovation.

### **3. When does Ofwat produce impact assessments?**

We will normally include impact assessments when we consult on major changes to our policies or other ways we do our job.

We will consider producing an impact assessment if the action we propose to take will:

- have a significant impact on water or sewerage customers generally or on specific types of customer;
- have a significant impact on the environment;
- have a significant impact on the structure of the water and sewerage sectors;
- have a significant impact on water and sewerage companies or licence holders generally or on specific types of company; or

- involve a major change in the way we regulate.

## 4. When won't Ofwat produce impact assessments?

There are circumstances where we would not expect to produce impact assessments. For example, where we are:

- carrying out formal enforcement action (for which specific procedures are laid down in law);
- using our formal powers to resolve complaints or disputes;
- implementing legislation (which will have been approved by Parliament and subject to impact assessment by the sponsoring government department) except where we have significant discretion about how it implements the statutory requirement;
- publishing proposals which draw together a range of options which have been subject to separate consultation or impact assessment; or
- proposing a policy that already includes a form of impact assessment, such as our reviews of price limits (but we may choose to carry out an impact assessment for components of the price review or policies within it, as appropriate).

We will explain the reasons for not producing an impact assessment.

## 5. If Ofwat does not produce an impact assessment, how will I be able to have my say about its decisions?

While we may not carry out an impact assessment all the time, it is likely that we will still carry out a formal public consultation. Therefore, anyone with an interest in our decisions will be able to tell us their views on the impact of the action we are proposing.

For information about how we consult, please see ['Having your say: Ofwat's code of practice on consultations'](#).

## 6. How does Ofwat develop impact assessments?

If we intend to carry out an impact assessment, we will begin developing it when we start considering the issue at hand. This helps us to consider the potential impacts of the options we are considering at an early stage.

We will normally include information about the costs and benefits of any action we are proposing to take within our impact assessments. We will always aim to do this using information we already have available.

If we need to request information from the companies we regulate or other third parties in order to develop our impact assessment, we will be careful not to impose unnecessary administrative burdens upon them.

If it is not possible to quantify costs and benefits, we will carry out qualitative assessments of our proposed actions.

In all cases, we will consider the type of information and the level of detail our impact assessments include.

In some cases, we may engage informally with our stakeholders to help us develop our impact assessment before we carry out our formal public consultation.

## **7. What is Ofwat's process for publishing impact assessments?**

We will normally include draft impact assessments when we consult publicly on action we propose to take. They will generally form part of the consultation document, often as an appendix.

We rely on the companies and other people and organisations we consult to develop our understanding of the impacts of our actions we propose to take.

Based on the responses we receive to our consultation, we will revise the impact assessment where appropriate and publish a final version when we publish our final decisions.

## **8. When will Ofwat review the actual impact of action we take?**

It is useful, after a suitable amount of time has passed, to review the impact of the action we have taken. This helps us to identify:

- whether our action has had its intended effect;
- any unintended consequences; and

- any areas for improvement.

If we believe it would be useful to carry out such a review, we will state this in our consultation or final decision documents. We will also give details on when and how we will carry out the review and whether we expect to publish the findings. If we do not intend to carry out a review we will say why.

## **9. Where can I find out further information about Ofwat's approach to impact assessments?**

If you have any questions about specific impact assessments we have produced, please use the contact details in the relevant consultation document. This will normally be in the chapter that tells you how to respond to the consultation.

If you have any questions about our overall approach to impact assessments, please contact:

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