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Trust in water

Bioresources and water resources market information consultation

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About this document

We are consulting on our proposed requirement for companies to publish market information for both bioresources and water resources. For bioresources, we are asking companies to publish information to enable potential market participants, including water companies, to identify opportunities to supply services in the treatment, transportation and disposal of bioresources. We are also asking companies to provide certain market information to us (rather than publish) to enable us to monitor how the bioresource market develops. For water resources, we are asking companies to publish information to support the development and operation of markets in water resources, demand management and leakage services.

This consultation arises from the new condition M1 (Information Remedies) for the conditions of the appointment ('licence') of each of the 17 largest water companies in England and Wales. All 17 water companies agreed to the modification. Condition M1 is a new requirement for these water companies to publish or make available specified information in relation to bioresources and water resources.

This consultation document should be read in conjunction with each of the two draft guidance documents; the first relates to bioresources (['Bioresources market information guidance'](#)); the second to water resources (['Water resources market information guidance'](#)). We are asking stakeholders for responses to the questions set out at the end of this consultation document by 6 July 2017. All responses will be considered before we finalise the guidance documents (anticipated in October 2017).

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1. Introduction

We set out our decision to introduce market information remedies in ‘[Our regulatory approach for water and wastewater services in England and Wales](#)’, Ofwat, May 2016 (‘the May decision document’). In that document we noted the important role that revealing information within bioresources and water resources has in helping to improve the value of the services provided and encouraging new innovative ways of delivering services. This will bring benefits to customers, companies, investors and the environment and help achieve our vision of trust and confidence in the water sector in England and Wales.

The development of markets in bioresources and water resources will enable companies to look beyond traditional company boundaries and their own in-house solutions for opportunities for sharing existing resources or co-ordinate the development of new resources to maximise the value of the services provided. Considering the full range of market options will help minimise costs to customers. Vibrant markets for these services also enhance resilience by increasing the pool of service providers.

Our approach to developing these markets is aligned with the draft strategic policy statements (SPSs) of both Defra and the Welsh government. We will review our final market information requirements in the light of any developments in those SPSs.

In England, by promoting markets in bioresources and water resources we expect to see increased trading between incumbent water companies and between incumbents and third party providers. This will allow companies to select the bioresources and water resources options which deliver the best value for money over the long term, taking into account the wider costs and benefits to the economy, society and the environment.

In Wales, increased use of markets will help make use of finite resources more efficiently and effectively and will assist in meeting sustainability goals. Maximising renewable energy production from bioresources treatment and careful use of treated bioresources products for example will enhance the economic, social and environmental wellbeing of people and communities across Wales. Similarly having a better understanding of the value of water resources and the scope for trading those resources where it is beneficial to do so, will ensure that the resilience, quality and quantity of water resources are sustainably managed.

Case study: Mutual aid trading of bioresources

During recent winter floods, some of one company's bioresources treatment facilities were adversely affected by flood waters and could not be operated for a considerable period of time. The affected company negotiated with its neighbouring companies and other bioresources service firms and secured a number of short term contracts to ensure its sludge was effectively treated and recycled.

Case study: Water trading on the River Severn

In February 2016 Severn Trent Water purchased abstraction rights for 31MI/day on the river Severn. The purchase from EoN represents the largest water trade in England and Wales to date. The acquisition of new resource brings a range of benefits including the deferral of some planned, long term water resources schemes outlined in Severn Trent Water's water resources management plan 2014, improving operational flexibility, meeting environmental needs and increasing drought resilience.

2. The legal framework

2.1 Overview

The package of key policy decisions set out in the May decision document, were enabled by a change to the licences of the 17 largest companies ('Water 2020 licence changes'). The Water 2020 licence changes reflected an 18 month process of close and constructive engagement with companies on our future regulatory framework and the modifications themselves. All 17 companies agreed the Water 2020 licence changes following a consultation under section 13 of the Water Industry Act 1991, which allows Ofwat to modify the conditions of licences with the agreement of the companies concerned.

Most of these changes related to how we intended to set controls for water and wastewater sectors. Condition M1, the information requirement, was introduced as part of these licence changes although it is not directly related to the 2019 price review.

Under Condition M1, water companies will be required to publish or make available information in relation to bioresources and water resources.

A further safeguard for companies is that Ofwat is only allowed to set information requirements that we reasonably consider would not be contrary to the interests of national security or seriously and prejudicially affect the interests of any person (see paragraph 4(c) of the Condition M1).

This document is a consultation on the proposed guidance arising from new condition M1.

Table 1: List of the companies whose licences were modified to include condition M1

Who?	What will apply to them
<p>Water and sewerage undertakers: Anglian Water Services Limited Dŵr Cymru Cyfyngedig (Welsh Water) Northumbrian Water Limited Severn Trent Water Limited Southern Water Services Limited South West Water Limited Thames Water Utilities Limited United Utilities Water Limited</p>	<p>Information remedies for water resources and bioresources.</p>

Wessex Water Services Limited Yorkshire Water Services Limited	
Water only undertakers: Affinity Water Limited Bristol Water plc Dee Valley Water plc Portsmouth Water Limited South East Water Limited South Staffordshire Water plc Sutton and East Surrey Water Plc	Information remedies for water resources.

2.2 Purpose and Scope

Condition M1 gives Ofwat the power to require a water company to provide specified information about the regulated business to Ofwat or third parties (or a class of third parties) specified by Ofwat or to publish information for the purpose of:

- supporting the development and operation of a market in the provision, management and development of water resources, demand management or leakage services; and/or
- supporting the development and operation of a market in bioresources services.

In both cases, the information required might be wider than information about the activities that will be covered by separate water resources and bioresources controls from April 2020. This is because some relevant information might relate to activities covered by the network plus price controls – for example, information on demand management and leakage services will relate to activities within a network plus water control and information on where bioresources are produced will relate to activities within a network plus wastewater control.

Condition M1 defines “Demand Management” as activities connected with the promotion of the efficient use of water and reduction of demand for water. “Leakage Services” are defined as activities connected with the discovery and repair of unplanned or unintended leaks of water from pipes (which will reduce demand for water). Condition M1 also provides that Appointees shall permit the reasonable re-use of information by a recipient.

Condition M1 provides that the detail of the information which companies will be required to provide or publish, will be set out in Directions (guidance) that will only be issued or revised after consultation with the companies concerned.

This approach is broadly equivalent to the Regulatory Accounting Guidelines ('RAGs'), which are issued under with Condition F (Accounts and accounting information) of water companies' licences.

Condition M1 includes provisions which limit the information Ofwat can require companies to provide or publish to information which is reasonable and appropriate for the purpose (as set out above). In accordance with this condition, Ofwat is only allowed to set information requirements that we reasonably consider would not be contrary to the interests of national security or seriously and prejudicially affect the interests of any person (paragraph 4c of Condition M1).

Each company will have the ability to require Ofwat to refer to the Competition and Markets Authority (CMA) within one month of the issue of new guidance, the question of whether the information Ofwat is requiring is reasonable and appropriate for the purpose (set out above and in paragraph 3 of Condition M1).

This consultation is companies' opportunity to raise any company specific issues in relation to the draft bioresources market information guidance and water resources market information guidance attached to this consultation document, as well as any relevant industry-wide issues or concerns they may have.

2.3 Compliance with competition law

It is each company's responsibility to comply with competition law. Nothing in this draft guidance should be read as requiring companies to act in a way that is inconsistent with their competition law obligations. This draft guidance is a proposal to require individual companies to publish (or to provide to us) certain market information.

The draft guidance does not encourage companies to:

- agree to share with each other commercial information, in particular information relating to future commercial policies, costs and their future pricing intentions; or
- make commercial decisions collectively or in agreement with each other, rather than individually/unilaterally.

This type of conduct might raise competition law concerns.

3. Why market information?

The market information we are asking companies to produce is required to stimulate a market in services that have until now been dominated by incumbents. The information required will drive commercial behaviour and decisions to deliver value to customers, shareholders and the environment. This differs from information that is required as part of normal regulatory reporting, where we ask companies to provide information to track performance, or provide customers with information about their water company. For example in water resources we already ask companies to submit details of their water trades as part of our bulk supply register.

As the markets develop we expect the type of information we require companies to provide or publish will evolve. We also anticipate that the information will provide opportunities for third parties to add value to the published information and make data services available to market participants.

We explain below the purpose market information will have in bioresources and water resources markets.

3.1 The purpose of the information in the bioresources market

Bioresources activities do not have the characteristics of a natural monopoly so there is opportunity for greater diversity of suppliers of bioresources services. Making market information available will allow incumbents and potential new entrants to identify opportunities to provide bioresources services in a different way.

For bioresources, at present there is no readily available supply side information on where bioresources are produced, their quantity or quality. Revealing this type of information will help identify opportunities for trade. We said in May, that evidence shows there is scope for increased optimisation of activities across the companies and, looking further ahead, greater participation from firms operating in wider waste markets. Credible and easily accessible information would enable markets to develop and evolve, and would enable comparison that could lead to market choice.

We expect markets to develop, for example by organic waste firms or neighbouring water companies offering combined treatment and recycling services to the incumbent water company. Contracts could include the full range of bioresources services – transport, treatment and recycling.

Alternatively there could be contracts covering any subset of these services, for example transport only, transport and treatment (with the incumbent company taking

back treated bioresources to recycle itself), recycling only contracts, or treatment and recycling contracts.

Location is likely to be an important factor in bioresources trading. This is why we are asking companies to publish granular local information about both their bioresources production sites (wastewater treatment works) and their bioresources treatment facilities (sludge treatment centres).

3.2 The purpose of the information in the water resources market

Market information will support the effective optimisation of water resources, including demand management and leakage services, across England and Wales. In our May decision document we noted that third parties, who can either be other incumbents or independent third parties, interested in identifying new opportunities face 'search costs' as well as information barriers compared to incumbent water companies. This means that trading is below its optimal level, and taking steps to reduce identified barriers (such as creating greater transparency) could lead to significant benefits to customers, companies, investors and the environment.

Third party options can be:

- **Supply side options:** transfer of water between water companies, a water trade with a non-water company.
- **Demand side:** a water efficiency scheme provided by a third party, a leakage reduction scheme provided by a third party or provision by a third party of reclaimed water.

Increased information would enable and encourage third parties to identify where these opportunities might be beneficial. As a starting point we want companies to provide greater visibility and accessibility to existing information. This includes key assumptions and economic data that underpin incumbents' water resources planning and investment processes. The information we have identified draws on, but is wider than, the information prepared for the **water resources management plan** (WRMP) process.

WRMPs are prepared every 5 years and cover a planning period of at least 25 years. All appointed water companies have a statutory obligation to prepare a WRMP. The WRMP shows:

- how the company plans to maintain the supply-demand balance for water over the planning period.

- highlights any options (both supply and demand) necessary to meet changes in the balance and provide sufficient resilience.

Through WRMPs, water resources are managed and new investment planned by the companies at a water resources zone (WRZ) level. A WRZ is the largest area of a company's supply system where all customers have the same water supply risk. WRZs are reassessed for every WRMP round and can change over time.

As part of the five yearly WRMP cycle, some information is revealed and engagement with third parties occurs. However, while the WRMP process provides a useful framework for revealing market information in the period leading up to the preparation of the plans, it does not show all changes to the supply-demand balance and new opportunities for third parties which may arise during the five yearly WRMP process. These changes could be as a result of new information which impacts on the outturn and/or forecast or operational or programme changes. To ensure this information is uncovered, where appropriate, we expect key data to be updated on an ongoing basis to provide greater transparency.

This is linked, but will be distinct to the annual review of the WRMP. Companies are required to review their published WRMPs annually. This report should be supplied to the Secretary of State or Welsh Ministers on or before the anniversary of the publication of the final WRMP. The annual review is also the process by which material changes to the WRMP are identified. Not all changes to the supply-demand balance described above are captured under this, for example acquisition of abstraction rights for 31MI/day by Severn Trent (see the Case study: Water trading on the River Severn, above).

4. Proposed market information requirements

We have developed the draft guidance following continued engagement with incumbent companies, potential market entrants and wider stakeholders. We have engaged through both formal consultation and discussions in the bioresources and water resources working group meetings. Slides and minutes of the working group discussions are published on [our website](#).

The guidance documents set out the proposed requirements for companies to provide or publish information and we also provide drafts of the data templates that incumbents will need to complete.

4.1 Bioresources market information

The [draft bioresources market information guidance](#) sets out the detail of the bioresources market information that we propose companies must publish or provide to Ofwat.

Our thinking on the proposed information requirements has been informed by our engagement with the 10 water and sewerage companies, potential market entrants and wider stakeholders to consider what information would be beneficial to promote the development of bioresources markets. The engagement has taken place through both formal consultation through the December 2015 and May 2016 documents and on multiple occasions through our bioresources working group.

We propose asking that companies publish at least annually:

- Information about the quantities and location of bioresources production and bioresources processing facilities, and some associated information about the quality of the bioresources at the various stages of its production and treatment; and
- Information about contracts that water companies enter into with other parties providing bioresources services to them.

This information is set out in a number of separate tables:

- **Table 1: Large wastewater treatment works (WwTW)** - to include a range of information including parameters indicating sludge quality which may affect costs of transport and treatment.
- **Table 2: WwTW classification** - is a list of wastewater treatment processes which companies use to populate Tables 1 and 3. The wastewater treatment

process used will affect the treatability and energy generation potential of the sludge produced at the site.

- **Table 3: Small WwTWs** - basic information on location and quantities only.
- **Table 4: Sludge treatment centres** - to include information about processing facilities and throughput.
- **Table 5: Data requirements on contract information** - outline information where contracts are already in place.

We have also proposed asking that companies annually provide us with (but not publish):

- **Table 6: Data requirements on market activity** - information on market activity to help us to monitor market development. This will allow us to identify whether the market is functioning well or whether we need to take further action to address any unintended consequences or further barriers to the development of the market.

4.2 Water resources market information

The [draft water resources market information guidance](#) sets out the detail of the water resources market information that we propose that companies publish. The market information is set out at the WRZ level, as this is the level at which water resources are managed and new investment planned by the companies. We propose that companies publish this information as their draft WRMPs are published, and update it as any significant changes are made to those plans (see sections 5.2 and 5.3).

The proposed data requirements have been developed following continued engagement during 2016 and 2017 with the 17 companies, potential third parties and wider stakeholders to consider what information would be beneficial for promoting the development of the water resources market. The engagement has taken place through our water resources working group where the market information was discussed at the July 2016 and December 2016 meetings. This included presentations from various companies and potential third parties on market information and group activities on the appropriate data.

The majority of the information which we are proposing companies publish is already contained in companies' WRMP data tables. The data that is outside these data tables is information companies collect as part of their water resource planning process to inform the planning process. We are asking for information on other planning considerations and constraints, like treatment capacity, for example, as this may influence the choice of solutions for the WRZ.

The aim of requiring companies to publish the market information is to provide greater visibility and accessibility to existing information, with the key drivers identified with clear explanations of the published data. This will complement information we already publish, for example our bulk supply register which records incumbent's water trades.

Our data requirements are structured around geographic data and eight data tables:

- **Geographic data** - companies should publish a Geographic Information System (GIS) shape file (or equivalent) for each WRZ. This file can be used for geographical mapping of the WRZ boundaries.
- **Table 1: Key information summary** - a high level summary of information about the area and location of the WRZ, the current water resources, a summary of treatment capacities and constraints and any other considerations which might impact solutions. Note this table is predominately based on data outside or supporting the WRMP process, in contrast the other seven tables link to existing WRMP19 data tables
- **Table 2: Baseline supply forecast** - a more detailed overview of the baseline supply situation for the WRZ. This gives a breakdown of supply availability forecasts for the company's planning period and known reductions in supply. Supplies include water available from the environment from reservoirs, rivers or groundwater (boreholes) whilst also accounting for treatment and transport constraints. These baseline forecasts assume no new investments or interventions by the company.
- **Table 3: Baseline demand forecast** - a more detailed overview of the baseline demand situation for the WRZ. This gives a breakdown of demand forecasts for the company's planning period. Demand includes the amount of water required to supply customers whilst also meeting other demands (e.g. leakage) as part of this activity. These baseline forecasts assume no new investments or interventions by the company.
- **Table 4: Baseline supply-demand balance** - a more detailed overview of the baseline supply-demand balance for the WRZ. This takes the demand forecasts from the supply forecasts to calculate whether a zone is in a surplus or a deficit over the planning period. This baseline forecast assumes no new investments or interventions by the company.
- **Table 5: Final plan supply forecast** - a detailed overview of the final plan supply situation for the WRZ. This gives a breakdown of the final plan supply availability forecasts for the company's planning period. These final forecasts are based on the company's preferred options (new investments and interventions) being completed.
- **Table 6: Final plan demand forecast** - a detailed overview of the final plan demand situation for the WRZ. This gives a breakdown of the final plan demand forecasts for the company's planning period. These final forecasts

are based on the companies preferred options (new investments and interventions) being completed.

- **Table 7: Final plan supply-demand balance** - a detailed overview of the final plan supply-demand balance for the WRZ. This takes the final plan demand forecasts from the final plan supply forecasts to calculate whether a zone will be in a surplus or a deficit over the planning period. This final plan forecast is based on the companies preferred options (new investments and interventions) being completed.
- **Table 8: Final plan option costs** - a cost breakdown of the feasible options in the companies' WRMP to solve a planning period deficit. An option is feasible if it has passed through the companies screening process and is technically workable. These may be to increase available supply or reduce forecast demand (both would benefit the supply-demand balance). The costs are broken down into components such as capital costs (Capex) and operating costs (Opex) provided as a discounted total for the life of the solution (Net Present Value). Also, included is the incremental cost of providing these solutions reported as a cost (p) per additional unit of water delivered or saved (m³).

5. Publication of information

In this section we set out:

- assurance requirements;
- the timing of the initial publication of the market information;
- the timing of updates to the market information; and
- the process for changing the information requirements.

5.1 Assurance requirements

We expect companies to provide appropriate and proportionate levels of data assurance to the market information that will be used to enable third parties, including water companies, to identify opportunities to supply services in the provision of new water resources, demand management and leakage services as well as bioresources services.

We want water companies to publish information that stakeholders can have trust and confidence in, easily understand and navigate.

Ultimate responsibility for assurance lies with companies' boards. Companies need to appropriately assure their data to give stakeholders trust and confidence in what they publish, including this market information. We expect companies to have processes in place to ensure this information can be trusted.

Requirements to provide market information are within the scope of our company monitoring framework (CMF) process. We expect companies to include this information in their Risks, Strengths and Weakness exercises when developing their audit plans. If we find that a company's published market information is unreliable or inaccurate we will consider this alongside the quality of the other information that it has provided to decide which category its assurance processes should fall into, through our CMF annual assessment.

Under the CMF process, we could in the future choose to undertake a targeted review of the published market information.

5.2 The timing of initial publication of the market information

We set out below the provisional dates for water companies to first publish market information on their websites subject to the responses to this consultation. These dates will be finalised when we publish our final guidance documents in October.

We have chosen these dates to facilitate the early development of markets while minimise the compliance costs of water companies by aligning them with the timetables we use for other regulatory information. However, we are interested to hear if there are alternative timetables that would be more helpful for other market participants. For bioresources, from 2018 we are asking companies to publish market information and provide us with market activity information with their Annual Performance Report (APR). For water resources, we are asking companies to publish market information at the same time as their WRMP is issued for public consultation to stimulate third party engagement.

Market information relevant dates

Bioresources:

- Autumn 2017 – Companies voluntarily publish their 2016-17 bioresources information.
- July 2018 – Companies publish their 2017-18 bioresources information and provide Ofwat with their market activity information.

Water resources:

- January/February 2018 - Companies wholly or mainly in England publish their water resources information alongside their draft WRMP
- March 2018 – Companies wholly or mainly in Wales publish their water resources information alongside their draft WRMP.

We are asking companies to publish their market information for bioresources for the year 2016-17, on a voluntary basis before the formal requirement for information is in place. This is because we know that water companies are keen to have discussions with third parties about potential trading opportunities. We are also pleased to see that one company has already taken the initiative to publish its information to encourage discussions on possible opportunities. Although there is no formal requirement around the assurance of the 2016-17 data we expect companies to do use their 'best endeavours' to ensure information is fit for purpose.

5.3 The timing of updates to the market information

For bioresources, we propose that companies publish their market information (including contract information) on at least an annual basis, although companies can update this information on a more frequent basis. We also expect companies to provide us with market activity information on an annual basis at the same time as their Annual Price Review (APR) submission. We would welcome feedback from water companies and other interested parties on the timing and frequency of this.

For water resources, as a starting point companies will need to ensure the market information contained in the draft WRMPs is updated. Subject to approval by the Secretary of State and Welsh Ministers companies will be publishing their final WRMPs in September 2018 (England) and February 2019 (Wales). We propose the market information should be updated in line with the final WRMP within one month of it being published.

WRMPs are prepared every 5 years. It is a statutory requirement for companies to produce an annual review during this period. We propose the market information is updated within one month of any change to the WRMP as a result of annual or interim review. In addition to the update of market information as part of the WRMP process, we expect companies to provide updates to the market information on an ongoing basis to capture key changes to the demand/supply balance, operational or programme changes (e.g. the preferred options). This will provide greater transparency which will enable third party providers to more effectively identify trading opportunities.

At the beginning of the next 5 year cycle of WRMPs we would expect the market information to receive a full update when a company's draft plan is published for consultation in line with the timetable set out above.

For both bioresources and water resources, we propose asking companies to summarise what changes they have made from one version of their data publication to the next. This will help stakeholders easily understand where new market opportunities may arise and what could be a few changes in a large data set.

The proposed frequency that companies will be required to publish information or provide information to us is set out in the draft guidance documents.

5.4 The process for changing information requirements

As the markets develop the information requirement may also need to change. For example, as the market evolves, we may consider that publication (or provision to

us) of some of the information specified in the draft guidance may not be necessary, while on the other hand we may consider that there may be a need for other information to be revealed.

One area where markets may develop is through the action of a broker or brokers. If this happens it is likely that brokers' will develop own data sets, which may change the dynamic of the market and hence the information required.

If in the future we choose to vary the information required. As required by Condition M1, we will consult the affected companies before issuing any new or amended guidance.

6. Our consultation questions

6.1 Overview

We would welcome any comments on this document and have raised a number of questions below. Please email your responses to them to water2020@ofwat.gsi.gov.uk or post them to:

Market information consultation response
Ofwat, Centre City Tower
7 Hill Street
Birmingham
B5 4UA.

The closing date for this consultation is **6 July 2017**. We will publish responses to this consultation on our website at www.ofwat.gov.uk, unless you indicate that you would like your response to remain unpublished.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation – primarily the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004. If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory ‘Code of Practice’ which deals, among other things, with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

6.2 Consultation questions

Q1. Do you consider that the information we propose requiring companies to publish is helpful and will provide sufficient transparency in the (i) bioresources market and (ii) water resources, demand management and leakage services market to support their operation and development? If not, please give reasons.

Q2. Is there any additional information which it would be helpful if companies published for (i) bioresources and (ii) water resources (within the remit of Condition M1)? Please explain why.

Q3. Do you agree with the proposed scope of the information on market activity to be provided to us for monitoring the development of the bioresources market? If not, please give reasons.

Q4. Do you consider that the publication of any of the information that we propose water companies publish would (i) be contrary to the interests of national security or (ii) seriously and prejudicially affect the interests of any person? If so, please identify the information concerned and give reasons.

Q5. Do you have any comments on the proposed timing of the publication and the frequency that the information should be updated for both the bioresources market and water resources market?