



## Water White Paper released

The Government's widely anticipated Water White Paper, "Water for Life", was finally released by the Department for Environment, Food and Rural Affairs (Defra) earlier this month.

The White Paper sets out Defra's vision for future water management "in which the water sector is resilient, in which water companies are more efficient and customer focused, and in which water is valued as the precious and finite resource it is". But, do the proposals go far enough and will they bring about large scale change?

This alerter discusses some of the key proposals set out in the White Paper and looks at the timings for implementation. It is relevant to anyone with an interest in water and water management issues.

### The White Paper at a glance

- Reformed abstraction regime
- Re-affirming catchment approach
- Improving the regulatory interface
- No compulsory house hold metering
- No large scale change to industry structure
- Proposals to improve competition

### Background to the White Paper

Defra have described the White Paper as "a vehicle to drive forward the Department's Business Plan commitment to **reform the water industry to enhance competition, improve conservation and to protect poorer households**".

The White Paper draws on the conclusions of the Cave review (on competition and innovation in water markets), the Walker review (on charging for household water and sewerage services) and the recent outcomes of the Defra review of Ofwat (see Burgess Salmon's briefing 'Defra publish review of Ofwat and consumer representation in the water sector' - 8 July 2011 [http://www.burgess-salmon.com/Practices/environment\\_and\\_health\\_and\\_safety/water/Publications/](http://www.burgess-salmon.com/Practices/environment_and_health_and_safety/water/Publications/)

[default.aspx](#)). The White Paper also strongly references the increasing future pressures from climate change and a growing population. It is released alongside an Environment Agency (EA) paper on the impacts of these factors on supply and demand and a report on reforming water abstraction produced by the EA and Ofwat <sup>1</sup>.

### The key proposals

The White Paper is described as a "call to action". It sets out Defra's thinking on tackling water pollution and over-abstraction, supporting growth and innovation, extending competition, improving affordability, tackling bad-debt and changing the way we use and value water. But how far do the proposals go? Some of the key proposals and their potential impacts are discussed below.

#### Reform of the Abstraction Regime

Reform in this area is fundamental if the UK is to build resilience in the system. However, thus far, change to the abstraction regime has moved at a glacial pace despite changes having been 'on the cards' for a number of years.

Problems with the current regime include too much water being abstracted in some catchments, abstraction charges not sending the right price signals and barriers to trading.

Defra plans to work with stakeholders to design a new abstraction system. However, as acknowledged by Defra, reform to this regime will be complex. Issues along the way are likely to varied and impact on a number of parties. For example, there are no proposals to fund compensation for any losses individual abstractors incur on the change to a new system. The agricultural sector have already voiced concerns about ensuring that farmers are not priced out of any reformed regime and this is obviously an area that those with current abstraction licences will monitor with interest.

The proposed timings for reform are somewhat disappointing - consultation on the proposals is not expected until 2013, legislation not expected until early in the next Parliament and the new regime not in place until the mid to late 2020s! However, Defra acknowledged at a recent CIWEM event on 15

<sup>1</sup> <http://www.environment-agency.gov.uk/research/planning/135501.aspx>

December that change is required now as well as in the longer term. This includes Ofwat's work on Future Price Limits and the use of Water Act 2003 powers to remove/vary licences causing serious damage from 2012 (for which a consultation is expected shortly).

In order to ensure that the changes that are required to the current regime actually materialise and to allow those on the ground to make the regime work better for all, clear guidance and regulation is required. It remains to be seen whether these proposals for change will filter down to workable improvements at individual decision level.

### Improving water quality and the catchment approach

The new catchment approach to dealing with water quality and wider environmental issues is re-affirmed in the White Paper. Defra also note that they will provide clearer guidance for farmers on the basic measures required to safeguard water courses and continue to tackle other rural diffuse pollution sources. This is likely to be welcomed by the water industry if it assists them to manage behavior which improves environmental management and thus, for example, reduces chemical treatment costs.

### Regulatory Interface

Key commitments in the White Paper include:

- Defra will work with the EA, Ofwat and the Drinking Water Inspectorate to minimise burdens on companies from the separate planning processes in the water sector. Water companies will no doubt welcome a more joined up approach from regulators, which should reduce the frustrations (and costs) caused by different regulatory processes not fitting together as they could. This also reflects one of the key recommendations from the recent review of Ofwat.
- Defra, the EA and industry will consider whether strategic national infrastructure projects are necessary to ensure that water supplies remain resilient and if there are barriers to their delivery that should be removed. Again, any steps to reduce unnecessary barriers will be welcomed by the industry.
- Defra will consult shortly on national standards for sustainable drainage and mandatory build standards for new sewers. Clarity in this area will be welcomed by water companies and developers alike.

Defra do not propose to introduce compulsory metering across the country and emphasise that water companies are best placed to find solutions at the local level. Some will see this as an opportunity missed for real change in the public's attitude towards water consumption and efficiency.

### Affordability

As part of measures to develop a customer focused water industry, Defra plans to:

- Publish final guidance to companies on the introduction of social tariffs early in 2012 and ensure water companies

have the freedom to offer enhanced terms to WaterSure customers through social tariffs from April 2013.

- Controversially some may argue, provide funding to South West Water to enable it to cut bills by £50 /year for all household customers until at least the end of the next spending review period.

### Reforming the market and increasing competition

Plans in this area are not as radical as some in the sector may have predicted. Fundamental structural change to the industry is not planned and Defra will not take forward the proposals for separation of the retail businesses of water companies that was proposed by the Cave review. Investors fearful of the uncertainties that radical change could have brought will welcome this decision as it should maintain stability in the sector. Ofwat has however already warned that the plans could prevent companies engaging in retail mergers and delivering economies of scale.

Despite concerns that the plans do not go far enough, reform to the existing Water Supply Licensing (WSL) and inset regimes is proposed by:

- Expanding the WSL market in England by reducing the threshold at which business customers can switch supplier from **50 million litres** per annum to **5 million** (with plans to reduce the figure to zero and extend the WSL regime to sewerage services in a future Water Bill).
- Establishing a new market for retail water and sewerage services in partnership with the Scottish Government.
- Removing the need for new entrants to negotiate terms with incumbent water companies (future Water Bill) and legislate for Ofwat (and others) to establish statutory market codes to increase transparency.
- Unbundling of the combined WSL licence so that, for example, new entrants wishing to input water resources to a company's system will no longer be obliged to provide retail services.
- Extending new entrants access rights to water companies treatment and storage systems, rather than just mains and pipes.
- Amending the special merger regime - consulting on proposals for a higher £70million threshold to exclude more mergers from automatic reference to the Competition Commission.

These changes will go some way to increasing competition across the sector. The first of these changes is the reduced WSL threshold to 5 megalitres (regulations to enable this came into force on 15 December 2011). This will allow approximately 26,000 customers to potentially change water supplier and is a useful first step for increasing competition. How the remaining proposals pan out remains to be seen.

## Delivery

Two key documents will be produced next year:

- A draft Water Bill for pre-legislative scrutiny in early 2012, with a Water Bill as soon as Parliamentary time allows.
- A new strategic policy statement for Ofwat (picking up on the findings from the recent review of Ofwat and the priorities for the sector as set out in the White Paper) and social and environmental guidance during 2012.

Immediate steps in implementing the White Paper will also include:

- Supporting catchment pilots across the country with 25 to be evaluated in early 2013;
- Working with stakeholders on designing a new abstraction regime in early 2012 and publishing information on progress on the Restoring Sustainable Abstraction programme in 2012;
- Publishing final social tariff guidance in early 2012; and
- Producing draft guidelines for the next water resources management planning round during 2012.

## Conclusions

The Water White Paper is an important document setting out the Government's plans for the future in this sector which has been met with mixed reviews. Whilst a number of the White Paper actions will see immediate steps being taken, others will see changes introduced over a much longer period. During this interesting time for the sector we will be monitoring the implementation of the various proposals as they roll out and reporting on relevant developments in due course.

## Assistance and further information

If you would like further information about the impacts of these proposals or have received this briefing from a colleague and would like to be added to our water mailing list, please contact: Michael Barlow, William Wilson or Joanne Attwood.



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