

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Dŵr Cymru	Welsh Water
EB 54	EB 54



Dŵr Cymru Welsh Water response to the Environment (Wales) Bill Consultation

Thank you for the opportunity to comment on the Environment (Wales) Bill and supporting Explanatory Memorandum/Regulatory Impact Assessment (EM/RIA) that were introduced into the National Assembly for Wales on 11 May 2015.

This submission is from Dŵr Cymru Welsh Water, the statutory water and sewerage undertaker that supplies over three million people, mostly in Wales. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders where all financial surpluses are returned to customers. Between 2001 and 2015, we have returned some £250 million to our customers through customer dividends, social tariffs and accelerated investment. We provide essential public services to our customers by supplying their drinking water and then carrying away and dealing with their wastewater. In this way, we make a major contribution to public health and to the protection of the Welsh environment. Our services are also essential to sustainable economic development in Wales. Welsh Water supports £1 billion per annum of economic activity and some 6,000 jobs.

General

In October 2013 the Welsh Government published a White Paper, *"Towards the Sustainable Management of Wales' Natural Resources"*, outlining its proposals for an Environment Bill. Our response of January 2014 was generally supportive of the Welsh Government's proposals in relation to this important new piece of Welsh primary legislation. That remains the case.

Dŵr Cymru will need more time to examine and consider in detail the provisions in the draft Bill introduced in May 2015 and the associated EM/RIA before we can reach an informed view of the full implications for us. That is a theme that underpins many of our comments below. We are particularly mindful that any new duties or burdens being placed upon us will coincide with a period during which we have undertaken to have falling water prices relative to inflation for our customers.

We stand ready to support the Committee's scrutiny of the Bill and would be happy to appear before it if Committee Members would find that useful. Looking ahead, we have some detailed comments on particular clauses within the Bill which we would be happy to share with the Committee in due course when it is examining the Bill at a clause by clause level.

Part 1

Although we have yet to consider in detail the implications of Clauses 1-5 which set out the Bill's principles and an associated change to the purpose of Natural Resources Wales (NRW), Dŵr Cymru is committed to sustainable development and is a Charter signatory. The nature of our business means that we must plan for the long-term, so we are generally supportive of measures designed to encourage everyone to consider the longer term consequences of their actions.

Clause 6 will place a new biodiversity and resilience of ecosystems duty onto public authorities. The definition of public authorities for this purpose includes statutory undertakers, and explicitly covers water and sewerage undertakers (Clause 6(7)(f)). This change was not heralded in the 2013 Welsh Government's White Paper.

Dŵr Cymru is already under a number of biodiversity and conservation related duties, notably section 40 of the Natural Environment and Rural Communities Act 2006. We endeavour to deliver these duties as part of our business and operations. For example, much of our investment programme is driven by environmental legislation intended to secure benefits for ecosystems, particularly the Water Framework and Habitats Directives. In addition, we look to add value through our everyday activities,

such as the way we manage the land and water we own or through looking for opportunities to deliver biodiversity benefits through our flagship “*Rainscape*” sustainable drainage initiative.

We have not, though, yet had the chance to examine the extent to which the reworded duty being introduced via Clause 6 will represent an additional burden on us. For example, the proposed duty requires the promotion of the ‘*resilience of ecosystems*’, a phrase that is not defined within the Bill. Clarification will be required on what actions relevant public authorities are expected to undertake to deliver this new duty. We also note that paragraph 42 of the Explanatory Notes says the duty, “*applies to biodiversity in a global sense*”: whilst this is a very worthy aspiration, it may imply unrealistic assumptions about the skill sets available within Welsh public authorities, including Dŵr Cymru.

The EM/RIA says (at paragraph 250) that, “*It is not anticipated that the enhanced duty [in Clause 6] will result in net financial costs*” and argues that most of the public authorities on whom the new duty will fall will anyway be required to take many of the requisite steps by virtue of their new duties under the Well-being of Future Generations (Wales) Act 2015. However, the 2015 Act does not apply to statutory undertakers, so this is a new burden on us. There may, at the very least, be an increased reporting duty arising from Clause 6(5): the EM/RIA seems to dismiss this by saying (at paragraph 256) that, “*For the remaining public authorities not covered by the Well-being of Future Generations (Wales) Act 2015, it is expected that they could comply with the reporting requirements through existing reporting mechanisms, for example, any annual reports they produce*”.

More generally if, as the EM/RIA argues, the enhanced duty is, “*not an additional burden on public authorities*” (paragraph 250), we would question why the change is being proposed.

Much may depend on the way Welsh Ministers exercise their new duty under Clause 7 to publish lists of organisms and habitats that are of principal importance for the purpose of maintaining and enhancing biodiversity in Wales.

If enacted, this Part of the Bill will also introduce a regime of natural resource management planning. We welcome the proposed national natural resources policy to be produced and implemented by the Welsh Ministers (Clause 9) and we think that the state of the natural resources reports that NRW will publish periodically have the potential to be a very useful tool (Clause 8).

However, particularly at a time when NRW is facing significant budgetary pressures, we continue to have reservations about the potential burden that the preparation of Area Statements may represent for it (Clause 10). (Although Dŵr Cymru is not a “public body” for this purpose), these Statements will represent a potential new burden for the public bodies (listed in Clause 11) that may have a role in their implementation. The purpose and role of these Statements is not yet entirely clear to us. For reasons of practicality, we would like an assurance that the geographical coverage of the Area Statements will dovetail with the water catchments that are generally acknowledged – including by NRW itself – as the most appropriate building blocks for water environment planning functions.

We will need to consider in detail the implications of Clause 16 which relates to land management agreements. On the face of it, it looks significantly wider in scope than section 39 of the Wildlife and Countryside Act 1981 which it will replace. Although we note that agreements will generally still be voluntary, statutory water undertakers are currently obliged to enter into such agreements in the circumstances set out in section 156(4) of the Water Industry Act 1991 (the 1991 Act): clarification of the relationship between Clause 16 and section 156(4) of the 1991 Act will be needed.

Clauses 22 and 23 will confer on NRW an enhanced power to carry out research and experimental schemes. We welcome this provision and would like to work with NRW to explore various ideas, such as a different approach to permitting in coastal waters.

The EM/RIA suggests (e.g. at paragraph 143) that this provision would enable NRW to trial Payments for Ecosystem Services and General Binding Rules (GBRs). As we made clear in our response to the Welsh Government's White Paper, Dŵr Cymru is a strong advocate of GBRs as we believe that they would be a useful addition to the NRW's regulatory toolkit, offering a 'light touch' form of regulation of various potentially polluting activities such as the application of pesticides or the operation of septic tanks. There is a ready-made and well-established model in Scotland that seems to be working well, so we are disappointed that there are no specific provisions on the face of the Environment Bill to introduce a statutory system of GBRs here in Wales.

Part 2

We welcome the Welsh Ministers' continuing commitment to reduce greenhouse gas emissions from Wales. Dŵr Cymru is also committed to reducing our greenhouse gas emissions: in 2007 we voluntarily set ourselves the target of reducing our carbon footprint by at least 50% by 2035. We have already reduced our annual emissions by 18% since 2007/08. As a major electricity consumer, our emissions are greatly influenced by the carbon attributable to energy supplied through the national grid, but our additional investment in renewable energy has allowed us to meet our targets to date.

Part 3

We have no comments on the provisions relating to carrier bag charges.

Part 4

Dŵr Cymru has yet to consider the implications for us as a business of the Bill's provisions relating to waste collection, including its separation.

Within this Part there is a provision (Clause 67) prohibiting the disposal from non-domestic premises of food waste to sewer. Sewer blockages caused by fat, oil and grease entering our sewerage are a real problem: we spend about £7 million annually clearing sewer blockages, money that otherwise might be returned to our customers or spent more constructively on environmental improvements. Against that background Dŵr Cymru is very supportive of the Welsh Government's efforts to reduce this abuse of our public sewerage networks.

That said, much remains unclear to us about how Clause 67 will work in practice and, in particular, how effectively it is likely to be policed. Table 30 of the EM/RIA anticipates that sewerage undertakers will see £5.3 million savings because of "Avoided water treatment costs", but also says (at paragraph 542) that, "To ensure the separate collection of waste by business waste producers it has been assumed that NRW would inspect 1% of business premises per year. The total number of businesses in Wales is assumed to be 88,000. NRW would confirm that food wastes were not being disposed of to public foul sewer at these visits", so a very small number of businesses will be visited by the regulator. One of the main sectors that should be targeted is the fast food industry, but we doubt that it will be high on the NRW's priority list of business sectors to inspect.

While we have, as noted above, yet to consider the provisions in detail, we wonder whether there may be a good case for involving local authority Environmental Health Officers (EHOs) in policing the prohibition. EHOs already routinely visit such establishments, so might be better placed to carry out these sorts of checks. In our response to the 2013 White Paper we suggested that General Binding

Rules might have a role in tackling this problem by requiring that fast food outlets install sink strainers and grease traps: this is one of the reasons why we are disappointed that there are no specific provisions relating to General Binding Rules on the face of the Bill.

Given the relationship with our sewerage infrastructure, we would have liked to have seen an obligation placed on NRW to consult Dŵr Cymru when investigating potential offences and considering prosecutions under Clause 67. We also believe there is a good case for conferring on statutory sewerage undertakers like ourselves concurrent powers to enforce this prohibition.

As part of our further consideration, Dŵr Cymru will need to consider the implications of the Bill's definition of food waste. We will also want to examine the relationship of the new provisions with the existing trade effluent regime and our other powers in the 1991 Act that enable us to protect our sewerage infrastructure.

Parts 5

Although we need to examine this in more detail, our initial review suggests that this Part will not impact on us.

Part 6

Generally we agree that our regulators should be able to recover the costs they reasonably incur in administering regulatory regimes. However, until we know the levels of charges and scope of services to which the charges will apply, we cannot assess the potential additional burden on us.

Part 7

We would welcome the establishment (under Clause 82) of a Flood and Coastal Erosion Committee for Wales to advise Ministers. An independent committee such as this would help to ensure greater transparency in decisions made by Ministers and provide an opportunity for appropriate representation to be made by the wider academic and engineering world. Dŵr Cymru would be keen to work with the Committee.

We have yet to review in detail the other miscellaneous provisions in this Part of the Bill but it looks unlikely that they include anything that will affect Dŵr Cymru directly.