

Draft River Basin Management Plan Consultation

Water UK welcomes the opportunity to respond to EA's consultation on the draft River Basin Management Plans. We are encouraged by the invitation in the consultation document to offer views so that the proposals in the draft plans can be improved for an effective first river basin management plan.

Water UK represents water and wastewater service providers in the UK and at EU level. Our members contribute to protection and enhancement of public health and the environment. We support the principles of river basin planning set out in the Defra and WAG Guidance (2006 and 2008) to the EA. Our expectation is that Ministers will consider the principles and content of the Guidance as well as Regulations 10 and 11 of the "Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 when reviewing the draft plans for approval.

WFD is the centrepiece of EU water legislation and the River Basin Management Plans (RBMPs) are the key implementation tool. Public consultation is a unique opportunity to gather vital inputs and contributions to improve the draft plans for the first cycle as there will be no repeat before 2015. The water industry has planned to deliver its contribution through the Periodic Review Process and its business plans. We are committed to playing our full part in improving the water environment, and we would want to see others play theirs too.

We believe that the EA has made progress in preparing these plans for consultation. The focus on easy wins is helpful, however there are still significant gaps in the plans that require improving in order to meet the aspiration in the document to have "an effective first river basin management plan". We believe that:

1. Lack of adequate and clear funding sources for all sectors to deliver WFD obligations, in particular for agriculture, government, local government and government agencies including the EA is a major deficit in the current draft plans.
2. Mitigation of climate impact measures in the draft plans is not adequate. For example we think comprehensive catchment management and improved control of pollution at source will improve resource efficiency and reduce chemical and energy use, and mitigate against climate change.
3. For solutions to be viable they must be holistic or integrated and sustainable in the long-term. Over reliance on traditional end-of-pipe treatment in the current draft plans is mitigating against sustainable solutions.
4. The current division of responsibilities and costs are not even-handed, contrary to the Ministers guidance (2006 and 2008) to the EA. This will hamper effective implementation of the right measures or combination of measures by all sectors.
5. All sectors must undertake and be assigned investigations (as measures) in Phase 1 so as to improve the evidence base and understanding of the problems and the efficiency of the measures needed for Phases 2 and 3. For example a broader and more equitable allocation of investigations relating to Priority and Priority Hazardous Substances and Heavily Modified Water Bodies reflecting the polluter pays principle is required in the revised plans.

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6. Clearer obligations need to be placed on sectors particularly those less involved so they can prepare to deliver their obligations.
7. Some of the measures attributed to other sectors are too generic and require detailed delivery plans which are currently lacking.
8. There is lack of clarity on the cost benefit analysis for schemes included in the plans. We think there is not enough evidence to justify if these measures are the most cost effective for society when comparing alternative measures to resolve the same problem. This prevents scrutiny of the process used and the validity of the outcomes.
9. Polluter Pays Principle has to be applied across the EU; it is a key requirement of the WFD that polluters should not be able to pass on the costs of their pollution to others. We do not believe this principle is currently properly reflected in the draft plans. We believe, on the basis of evidence to date, that it is usually cheaper to control pollution at source than to deal with downstream environmental issues or install additional end-of-pipe treatment.
10. Drinking water sources are Protected Areas under Article 7 of the Directive for which no specific objectives have been set for groundwater and surface water abstraction sources and associated catchments in current draft plans. Safeguard Zones and related objectives have not been established particularly for surface water sources. We acknowledge current proposals for Water Protection Zones and suggested limited pilots. We consider the lack of objectives for Drinking Water Protected Areas a major omission that contravenes the requirements of the Directive.

We call for these gaps to be addressed in the revised plans before they are submitted to Ministers for approval and subsequently to the European Commission in December 2009.

We respond to the specific questions in the consultation document as follows.

This plan sets out objectives for the water environment for the next six years and beyond. To what extent do you agree with what this plan sets out to achieve?

1. Do you agree with the assessment of the problems in water bodies?

Strongly agree Agree **Disagree** Strongly disagree Don't know

What would you change?

Assessment of problems for the following needs improving:

- Heavily modified and artificial water bodies – there are outstanding problems with consistency of classification of HMWBs for lakes and rivers including the characterisation of reservoirs as lakes, missing and incorrectly designated HMWBs and the inconsistency of GEP assessment between river basins.
- Transitional and Coastal Waters – causes of non-compliance, impacts of diffuse pollution need improving, interventions required and the impacts are still unclear, and measures to improve the evidence based in the current draft plans are also not obvious or absent.

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- Road drainage - location, condition (state), improvement needed, quality of water and treatment necessary
- Highway drainage - location, condition (state), improvement needed, quality of water and treatment necessary.
- Land drainage – location, condition (state), improvement needed, quality of water and treatment necessary.
- Drinking water abstraction source quality – The extensive work done by the water industry for surface water and groundwater are not adequately reflected in the plans
- Causes of pollution from specific products and processes containing priority substances, priority hazardous substances and other specific pollutants
- Apportionment on diffuse pollution to particular water catchments and water bodies so that measures can be targeted to remove or reduce the problem.
- Specific causes of pesticides pollution of water bodies including drinking water abstraction sources
- Causes of fish failures and links with other parameters. We are aware of a significant number of compliance failures for fish nationally. We would appreciate clarification on the assessment methodology for determining whether fish meet the WFD standards.
- Phosphorus standards and the biological response/indicators. We think the interaction between the chemistry and biology is ill-defined.
- Interactions between point source and diffuse pollution and impact on effectiveness of measures. For example we have evidence to suggest that for some rivers irrespective of compliance with very low BODs consents for point source discharges the overall BOD level in the river remains largely unaffected. Similar evidence is available for P standards
- Organic pollution of drinking water abstraction sources, bathing water, and shellfish waters and the apportionment of such pollution.

2. Do you agree with the proposed objectives?

Strongly agree Agree **Disagree** Strongly disagree Don't know

What would you change?

We suggest the following improvements:

- Drinking Water Sources are Protected Areas under Article 7 of the Directive for which no specific objectives have been set for groundwater and surface water abstraction sources and associated catchments. Safeguard Zones and related objectives have not been established particularly for surface water sources. We acknowledge current proposals for Water Protection Zones and suggested limited pilots. We consider the lack of objectives for Drinking Water Protected Areas a major omission and contravene the requirements of the Directive.
- Capture better contributions from sectors such as agriculture and land managers, local authorities, highway agencies, manufacturing industries of products and

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processes that need to be controlled at source, local catchment schemes and third sector projects to increase current levels and compliance by 2015.

- Set objectives that provide better and more even profiles than the current back-end-loaded objectives.
- We do not believe the costs, benefits and justifications for disproportionate cost and extensions particularly for second and third cycles have been adequately addressed.

3. For some water bodies we have proposed objectives with deadlines after 2015 or a lower overall target. Do you agree with these changes we have proposed?

Strongly agree **Agree** Disagree Strongly disagree Don't know

What would you change?

- Increase contributions from key stakeholders, other than the water industry, such as farmers, local authorities, highway agencies, manufacturing industries of products, chemicals and processes that need to be controlled at source, local catchment schemes and third sector projects to increase current level and compliance by 2015
- Remove skewed back end loaded programmes or provide justification or plans to achieve current objectives.
- Drinking Water Sources are Protected Areas, they should not be subject to exemptions, and should be achieved by 2015. Quality deterioration of these sources should not be observed, implying the objective and related measures must protect these sources so that drinking water can be supplied to meet the Drinking Water Directive requirements without recourse to additional treatment. This is not currently reflected in the objectives of the water bodies.
- Other Protected Areas such as Habitats, Bathing Waters, Shellfish Waters should not be subject to extended deadlines.

We have set out the actions required to meet the objectives. To what extent do you agree that the right actions have been identified (ones that are proportionate and feasible)?

4. We have followed a process to assess (appraise) these actions. This process is described in detail in annex E. Do you agree with how we have done this?

Strongly agree Agree **Disagree** Strongly disagree Don't know

What would you change?

We would like to see the following improvements in the revised plans:

- *Selecting and appraising measures* - We do not believe the cost effectiveness of measures was properly applied, particularly as the costs of some of these measures have not been assessed. We do not believe the cost effective assessment for the combination of measures is adequate. For example we do not believe effectiveness of the combination of measures (for nitrates, phosphate and chemicals such as

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DEHP and Cadmium) such as source as product control, control at source and contributions from agriculture, local authorities, land managers and water industry have been properly addressed.

- *Effectiveness of the M3 and M4 measures* – We would like to see strengthening of the WFD specific measures for other sectors as these are currently rather weak. For example it is difficult to see effectiveness of measures relating to other sectors that are reliant on phrases such as “promotion”, “increase level of enforcement...”, “comply with published advice...”, “influence location of development...”, “influence local government policies...”, “seek inclusion of water efficiency measures...”, “engage with local authorities...”, “help prevent...”
- *Mechanisms are tools that must be used* – The draft plan includes mechanisms for which no real measures or actual actions have been defined and hence cannot be costed. For example what does “General Binding Rules – New regulatory approach from implementation of Ground Water Daughter Directive” that is applied “across the whole RDB” actually mean and how has such a mechanism been costed in the Impact Assessment?
- *Local Measures (M4)* – We think the process and appraisal of existing and new local measures, particularly catchment measures has been a weakness that should be improved and captured in the revised plans. At a recent Water UK WFD conference there was a presentation of a range of integrated catchments schemes by the National Trust which are not included in the current draft plans.
- *Disproportionate Cost and Technical Infeasibility* – Improved process of estimating costs, benefits, clarity on what constitutes disproportionate cost is essential. The process for local measures is also unclear and will benefit improving.
- *Prioritisation of measures* – We think it will be beneficial to prioritise the measures using criteria involving assessment of effectiveness of the measures.
- *Measures Appraisal process for Drinking Water Protected Areas* – We do not believe that the assessment process for drinking water protected areas for surface water sources in particular is adequate, as it appears to focus on groundwater. We also think that the Water Protection Zones (which will be limited initially to less than 10 pilots) are insufficient, and the extent of formal safeguard zones as an addition mechanism is not adequately covered in the current draft plans.
- *Level of Ambition and Scenarios A, B and C* – We think the relatively low level of ambitions in the current draft plans and related scenarios brings into question the effectiveness of the appraisal process. We think Scenarios B and C should be improved and implementation costs assigned to key sectors other than the water industry. We would like to see the level of compliance against good status for each Scenario.

5. What comments do you have on these actions? Are there any actions that have been missed, or any changes you'd propose?

- *Delivery Plan for each Sector* – The current draft plans contain high level statement for most sectors, other than the water industry. It is unclear how these actions integrate and what and how much they will actually contribute to the status of specific water bodies, if at all. We therefore recommend the EA works with sectors to prepare implementation plans for each sector, similar to the Water industry Asset

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Management Plans. Short of this the EA should ensure that measures are specific, outputs are measurable, achievable, realistic and WFD time related. We do not believe the current plans particularly outcome of measures in Scenarios B and C are SMART enough.

- *Water Industry* - Some water companies have advised that a number of their AMP4 and AMP5 environmental programmes are not included in Scenario A. There are also measures included in the draft RBMPs that are not included in companies Final Business Plans. These misalignments should be corrected in the final RBMPs. This misalignment could mean the cost contributions by our sector need to be updated in the revised plans and associate Impact Assessments.
- *Agriculture and rural land management* – This sector is the major contributor to not achieving good status in many waterbodies and yet the measures and actions are among the weakest and in some cases just too generic. Examples of some of the actions most of which are ongoing are as follows:
 - Follow advice on nitrate control
 - Follow Code of Good Agricultural Practice
 - Integrate resource protection into agric-environment/environment stewardship objectives
 - Produce a NVZ action plan including provision of advice and enforcement
 - Promote greater public awareness through production and identification of guides....
 - Advice on reduction of nitrate and other pollutant inputs through CSF
- We recommend that these generic statements are translated into catchment specific SMART actions, with relevant collaborations with sectors such as the Third Sector, Railways, Local Authorities and Highways clearly identified and adequate funding provided or funding process put in place.
- We believe agriculture and land management can do a lot more with the current level of resources however the right incentive systems need to be established. For example farmers and land managers that are willing to deliver more for the environment could be incentivised using existing Cross Compliance and Agri-environment schemes, while funds could be taken from those that are not willing to do so.
- *Central Government* – We suggest a measure is included in the plans for a government-led group involving key players to work out a transparent funding process for environmental improvement for agriculture and land management including the ecosystem approach. This can include creating a market-based instrument to support existing funds and processes.
- *Government* should make it illegal to pollute the water environment from agriculture diffuse sources, even if the whole catchment should be taken to task. The current monitoring plans for diffuse agricultural pollution are inadequate. The government should require the EA to do more to find the sources and pathways of pollution and control them.
- *Government (Highway Authorities and Agencies)* – The plan should cover existing and new surface water (run-off) assets and infrastructure including treatment facilities such as SUDs that remove pollutants. The EA's monitoring networks should include outfalls of these assets to assess the relevant levels of compliance and

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contributions to WFD objectives. Highway drainage systems and assets must be included in the final River Basin Plans with responsibilities assigned to the relevant Agency area. The location of assets, their state of repair, as well as plans for new facilities should be adequately included in the final plans.

- *Government* – Control of priority substances particularly cessation of priority hazardous substances should be clearly signalled in the final plans so the manufacturers and the supply chain can start developing alternatives. We acknowledge that the EA is consulting on its Pollution Reduction Plans but on the basis proposals of the consultation we consider that further measures needed.
- *Environment Agency* – We think lack of a national source apportionment tool is hampering the environment agency's ability to properly identify the right sources of pollution and assign them to the right sectors. It is vital that sectors are not given the wrong impression of what they have to do in the revised plans otherwise they can't plan properly and allow the right resources to do the work.
- *Environment Agency* – the current plans is allowing pollution from agriculture and industries (including chemical) to be passed on to others. This is a contravention of the requirement of the WFD. Industries that make most products and use the chemicals that should be controlled at source should be assigned the right obligations in the draft Plans.
- *Environment Agency* - There should be a transparent and publicly available plan to deliver some of the high level statements in the draft River Basin Management Plans. For example the revised plan should set is expected to be achieved and what are meant by measures such as "EA role in Pesticides Safety Directorate approvals", "EA role in Veterinary Medicine Directorate approvals" and "Maintain NetRegs, External education on groundwater pollution legislation".
- *Environment Agency* - The Environment Agency is the steward for the environment, so we expect them to lead and push for truly sustainable solutions. This is why we think source control should be more prominent in the draft plans. The Directive requires it and the final plans should be improved to control the range of polluting chemicals and pesticides at their very sources.
- *Industry, manufacturing and other businesses* – Measures and actions for these sectors particularly for priority and priority hazardous substances must include control at source. This should be more prominent in the revised plans so that the makers can plan for alternatives or strategies for cessation or progressive reduction. We believe this is a WFD and EQS Directive requirement and the final plans should be improved to control the range of polluting chemicals and pesticides at their very sources.
- *Local Government* – We do not believe the current draft plans are clear on what is required of Local Authorities from their land, parks and amenities in terms of chemical and micro-organic pollution. The contribution of roads and local infrastructure to failure of WFD status are not clear in the draft plans. We think further clarity is required and if necessary measures should be included to develop source apportionment and catchment control schemes for local authorities. Clear links must also be provided to explain how current national targets for Local Authorities will or will not contribute to achieving WFD objectives, otherwise WFD specific targets should be included in the future reviews.

There are some extra actions that could be put in place if there were more certainty that they would be effective. These are listed under scenario C, and we would like to know if you can help us to make these actions happen.

6. What comments on Scenario C actions do you have, including any additional information you can supply about specific actions?

- *Uncertainty of costs, benefits and disproportionate costs* – Measures should be included in the final plans to improve the costs and benefit assessment and related disproportionate cost evaluation.
- *Even Handedness and Obligations on other sectors* – We think the level of ambition in the current draft plans is lower than they should be primarily because of a lack of even handedness and assignment of clear obligations to other key sectors.
- We suggest *diffuse pollution measures* in Scenario C and HMWB/AWB be moved into Scenario B.
- *Source Control* – We call for improved control of chemicals, micro-organic pollutants at their very origins and sources. The key stakeholders should be government, chemical manufacturers and their supply chain, agriculture, local governments, the EA, HSE (REACH Competent Authority). Where cessation is required measures and evidence needed should be clearly stated.
- *Heavily Modified and Artificial Water Bodies* – This is a very substantive issue which is not adequately captured in the current plans. EU and UK processes and definitions are still incomplete or unclear and require further work. We suggest investigation and actual measures (such as those identified in the Draft Flood and Water Management Bills for local government and the EA, as well as ongoing scoping work by the EA) are included in the final plan to enable all key stakeholders to carry out their obligations.
- *Take back schemes* – We suggest measures are included for take back schemes for all unused products including pharmaceuticals, paints, pesticides, herbicides and DIY products. Relevant supply chain responsibilities should be assigned and incentivised as part of the measures in the final plans.

7. What support can you offer, such as undertaking any actions or providing resources to help deliver more for your environment?

- *Drinking Water Source Protection* – We have helped and supported the EA with the WFD Article 7 reviews. We think integration of existing and new control instruments are still outstanding. We will be happy to continue to support Defra and the EA in this area.
- *Control of Pollution at Source* – We think this is a major and significant area that needs substantial improvement. We would like to collaborate with Defra and the relevant government agencies and supply chain to develop the evidence base and instruments to effect changes needed.
- *Overall Funding and Funding Processes for WFD* – We would like to provide water industry expertise and resources to help a government-led group involving key stakeholders develop an improved transparent funding process for WFD for the 2nd and 3rd Cycles.

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- *Source Apportionment* - The water industry is working with the EA to develop a working source apportionment tool. We will continue to support this initiative and expect to test the concept in a field trial next year. It is vital that this work proceeds or we will be in the same situation in the next cycle.
- *Integrated Catchment Schemes* – We support the EA and Government to develop integrated catchment schemes to deliver some of the high level statements on the current draft plans.

Any other comments you may have on this plan

8. Do you agree with our assessment of how climate change will affect the pressures on the water environment?

Strongly agree **Agree** Disagree Strongly disagree Don't know

What would you change?

- The proposed approach to dealing with climate change in RBMPs is welcome. It is consistent with the considerable amount of work the industry has already undertaken in this area, e.g. the Water UK framework for adaptation and asset management. For a summary of this work, see <http://www.water.org.uk/home/policy/climate-change>
- The most important aspect of the plans from our perspective is that they must be consistent and compatible with climate change objectives. This relates to both mitigation and adaptation. We want to ensure that the measures do not unduly or inappropriately increase greenhouse gas emissions. We are also interested in the extent to which measures will be robust and resilient to the anticipated impacts of climate change.
- There should be an assessment of the carbon footprint of the Programme of Measures.

Greenhouse gas emissions

- We think it is extremely important that RBMPs do not result in unnecessary increases in greenhouse gas (GHG) emissions. It is essential that the RBMPs align with the government's strategy, *Future Water*, which sets out a vision of "a water industry contributing fully to the achievement of national emission reduction targets".
- We also expect plans to show how they align with Defra's summary response to the consultation on draft guidance to the Environment Agency in relation to river basin planning in England and Wales (August 2008). Section 10.11 states that: "Through the Environment Agency's climate proofing of the programme of measures, an assessment on the impact on climate change will be undertaken, to ensure no measures are taken forward that could have a detrimental effect in future on climate change."
- We would also expect plans to be consistent with the recently released EC revised RIA guidelines. These state that "it is important to identify environmental impacts where relevant, and then to place a monetary value on them. An example of an area where this can be done is for the release of a unit of carbon dioxide (or other

greenhouse gases).” This will mean that all RBMPs have to quantify and value (using the shadow price of carbon) all greenhouse gas emissions. The effect of this will be to increase the value of options with low carbon impacts relative to those with larger carbon impacts. This approach should be consistent across all sectors impacted by RBMPs.

Adaptation

- There are some areas where the approach described is rather vague and would benefit from some further detail. For example, rating impacts as ‘medium’ or ‘high’ may not provide sufficient information on whether and how impacts should be taken in to account.
- Further examples are found in Annex H ‘Adapting to climate change’. The priorities identified in this section talk about ‘considering’ the risks and impacts of climate change, and the contribution to greenhouse gas emissions. For such an important issue, we do not believe that ‘consideration’ is sufficient. We would expect a more robust quantified methodology to be proposed and used.
- In addition, some of the actions identified, e.g. tighten controls in times of drought’ and ‘designation of SPAs’ are rather general. More detail around what actions might entail, their costs and benefits, would be welcome.
- A further consideration is that the WFD objectives themselves will be impacted by current and future climate change. We expect to see evidence of how objectives in plans (e.g. good ecological status) will be impacted by climate change over the period of the WFD, and how measures will be revised or adjusted accordingly.

9. Do you have any other comments on this draft plan that you haven’t already given?

- *Long term sustainability and affordability* - The water industry is facing increasing affordability and long term sustainability problems and we fear the WFD is adding to it and exacerbating the problem. We would want a better and transparent process for all sectors.
- *All sectors to have WFD Delivery Plans* - We believe there are no hard measures for sectors such as local authorities, highway authorities, dredging, mines and agriculture, because there is currently no national source apportionment tool and, consequently, no hard evidence to support measures. We think this is fundamental to future development and sustainable delivery of WFD objectives. We would like to see all sectors to have their plans on the table or funding mechanisms identified.
- *Process of dealing with errors in the plans* - Please could you confirm the process for dealing with errors in the plans and how you will assess which comments warrant amendments to be made to the plan and which you will disregard.
- *Resolution of disputes* - We require clarification over what process will resolve disputes caused by conflicting opinions between groups of stakeholders and between stakeholders and the EA.
- *Process of updating draft plans* - Please outline the process for amending the plans between the close of the consultation period and the release of the final plan on the

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22nd December, and how any outstanding errors may be amended following the release of the final RBMPs.