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Water UK represents major water and wastewater service providers in England, Scotland, Wales and Northern Ireland. Our vision is of a water sector that provides customers and communities with world-class services and enhances the UK's quality of life.

Following the publication of the Environment Bill in October 2019, Water UK have made the following recommendations for amendment and additions. This paper provided the basis for our submission to the EFRA Select Committee Inquiry on 1 November 2019.

The Environment Bill

Water UK and our members have strongly supported the Bill - and efforts to strengthen it - since its inception. We welcome its ambition, including the introduction of biodiversity net gain, conservation covenants, moves to tackle waste (especially plastics, which are a growing pollutant in our water sources) and the inclusion of provisions specific to the water sector.

The Environment Bill is crucial for allowing water companies to build on improvements made over the last thirty years. It facilitates a predictable, stable legal framework following Brexit; this is absolutely essential for enabling continued long-term planning, investment, and innovation.

We also applaud its potential to hold all industries, in addition to the water sector, to a higher standard than today. While water companies play an important role in protecting surface waters and preventing pollution, the majority of issues under the Water Framework Directive are today caused by more lightly-regulated sectors, so we welcome scrutiny of all those touching the water cycle.

As with much of this Bill, the Government's true ambition may only be known through the detail of secondary legislation and the targets it chooses to set. The Bill as drafted also misses some important opportunities to further strengthen environmental outcomes. This particularly applies to its lack of ambition on empowering the public to become more water efficient, and its weak approach to integrated long-term planning for drainage and wastewater, issues set to grow in importance thanks to drought and flooding from climate change.

Both omissions are important for adapting to climate change and both are notable omissions given the extensive treatment in the Bill of other provisions for the water sector.

Adapting to more frequent drought

The latest analysis by the Environment Agency shows that one of the single biggest factors determining our future ability to meet water needs - and to allow us to reduce abstraction to the benefit of the environment - is whether we can achieve small changes in the amount of water used per person. The Bill should take the opportunity to introduce a mandatory national labelling scheme for water appliances like dishwashers and washing machines, coupled with minimum standards. This would empower customers by giving them the information to make informed purchase decisions and not waste water in the home.

Adapting to more frequent flooding

It is universally recognised that drainage (which is set to grow in importance thanks to expected climate change increasing frequency of heavier rainfall and population growth further impacting runoff concentration) is a shared responsibility that requires co-ordinated action across a range of organisations. Yet the Bill only places obligations on water companies to do what they are already doing (indeed, to continue following a process they themselves developed), rather than establishing a real and robust framework for genuinely integrated long-term planning. This does not reflect the scale of the challenge from climate change, and that drainage is universally recognised to be a shared responsibility, with other organisations also responsible for managing surface water – and that co-ordinated action is required across organisations.

We outline below, these and other recommendations for improving the legislation, mostly focused on strengthening its environmental impact.

Governance and Environmental improvement

Enhancing the OEP to include climate change is important, as shown by the water industry's commitment to net zero by 2030, there is no more pressing goal. We recommend that:

- 1. The Government should confirm that the OEP will look at water resource management as an essential part of climate change adaptation – not just mitigation policy**

We share others' concerns that provisions concerning the OEP's powers and operations need further clarity to ensure its independence, and that enforcement properly replicates the current powers of the EU Commission. We therefore call on Government to

- 2. Ensure the OEP can hold the government to account against long term and interim targets**

Clarity of application

As identified by the EFRA Select Committee in their pre-legislative scrutiny earlier this year, the Bill as written results in a duplication of powers between regulators. The problem arises due to use of the term 'public authority' as a target for OEP enforcement, which may also apply to water companies and other private companies in some circumstances.

This creates clear potential for difficult interplays between existing statutory regulators of water companies (particularly with the Environment Agency), and of competition, duplication and confusion between bodies. While the Defra Bill team were clear that this was not the intention OEP during stakeholder engagement, the current Bill does not resolve this issue. It instead creates new

powers, roughly the equivalent of the Commission having an ability to bring directions and infraction proceedings against private companies, in addition to the enforcement powers already held by those companies' regulators. This could have an impact on the stability of plans and investment.

- 3. There needs to be a simple specific exclusion for statutory undertakers, or some other mechanism, to address this problem.**
 - **Another potential solution could be to include an addition to subsection 5 of Clause 20 (on how the OEP intends to avoid any overlap with the Committee on Climate Change in exercising its functions) to introduce reference to other statutory regulators as well.**

Driving continuous improvement

There is currently no obligation on the government to develop or implement enabling policies to achieve its outlined targets, which could allow decisions to be pushed back to future Secretary of States or Governments. While there are interim targets, there is currently no duty to meet these. Additionally, while there is a requirement to review progress towards targets every year and to review plans every five years there is no requirement to act if targets are not being met. This should be made explicit.

- 4. A requirement for the government of the day on ensuring that sufficient measures are in place, in total, to enable targets to be met should be included in the Bill**

While the Bill as drafted includes powers to set environmental targets for air, water, biodiversity and resources there is no clarity as to what these targets should seek to do. They will only be tested retrospectively. The Bill should

- 5. Define upfront environmental objectives to guide target setting over time – currently the process of setting targets could be unpredictable for the environment and economy**
- 6. Include specified matters which should be considered when setting targets (equivalent to the provisions in the Climate Change Act) to build confidence and transparency on target setting**

Target setting and review

There is a potential concern of how the Secretary of State may both set targets and recommend changes at the 5 yearly reviews under the current drafting.

While recognising the importance of ensuring EIPs are kept up to date with the latest available evidence, there is concern that under current drafting that a change in political direction may result in a sudden change of policy direction. If this occurs, this would impact billions of pounds of investment planning and undermine confidence in future EIPs. The water industry for example will invest around £1bn per year on environmental schemes alone.

- 7. In setting and revising targets, provision should be included for full consultation with professional bodies, NGO's, academics and the sectors concerned, in a full and transparent fashion.**

There is no obligation on regulators to take into consideration the targets and requirements under the Environment Bill in the operation of their sectors. However, several sectors – including water –

have their investment decisions and environmental plans hugely influenced by their regulators. Therefore

- 8. The Bill needs to include provision to ensure all regulators of environmentally important activities, such as the water sector, are required to ensure Environmental targets are fully factored in to their operation over their sectors.**

Maximising the opportunity from 'whole environment' planning

The Bill needs clarity over local delivery of the targets to ensure a coherent framework, currently a framework for Local Nature Recovery Strategies is included, but there are 37 existing spatial instruments that could apply in any one area.

The Bill presents the opportunity to join these up over time getting much better value for the environment and much more effective decision making

- 9. Measures to support integration of relevant plans into a single framework should be considered.**
- 10. There should be a duty on the Secretary of State to report within 12 months on how to bring together final plans and organisations at local level**

Waste and Resource Management

While some elements are welcome, we believe there is more scope for greater ambition on waste and resource management provisions.

We support action on littering and problem plastics through mechanisms to improve waste and recycling collection, the ability to roll out charging for single use plastics, and making producers responsible for disposal of products and waste. However, we also need to see:

- 11. Confirmation that the intended Deposit Return Scheme will be an 'all-in' scheme and to be implemented on a more ambitious timeframe than currently indicated**
- 12. The power of administrators to use funds received to promote awareness and run education campaigns about correct disposal**
- 13. A duty on the Secretary of State to review banned products (currently microbeads in cosmetics, plastic cotton buds, stirrers and straws) every 5 years to determine whether further action is required to address problem plastics and other avoidable single use items, in addition to the introduction of charging on single use plastic**
- 14. Mandatory, clear labelling for end of life of management for products (to support separation of waste) should be included in the provisions for waste and resource management and to maximise the effectiveness of waste management and recycling**

Water Specific Provisions

Drainage, addressing the current gaps

We strongly support putting Drainage and Wastewater Management Plans, which we developed, on to a statutory footing. There are two key issues however which need to be amended.

Firstly, it is unfortunate and confusing that, after the Defra and the entire sector has spent years developing the framework for Drainage and **Wastewater** Management Plans (DWMPs), which is now being implemented, the Bill refers to Drainage and **Sewerage** Management Plans.

The reason is that the terms ‘sewerage’ and ‘wastewater’ are not interchangeable in general usage, with sewerage often being understood to have a narrower meaning not encompassing all environmental impacts on river and bathing water quality. Using this term risks, at best, misunderstandings and inconsistencies regarding the scope of application of the provisions and missing out on the inclusion of stakeholders with responsibilities in the waste water system whose focus – like ours – is to protect and enhance the environment.

15. The terminology ‘wastewater’ as previously agreed by Defra and all other stakeholders in the development of these provisions should be used. If necessary, adding an appropriate definition for the term ‘wastewater’.

Secondly, the Bill only places obligations on water companies for something they are already doing. This does not reflect the scale of the challenge from climate change, and that drainage is universally recognised to be a shared responsibility, with other organisations also responsible for managing surface water - and co-ordinated action required across organisations.

As written, therefore, this is a significant missed opportunity that puts at risk the potential benefits which customers, society and the environment could otherwise gain.

While water companies will lead the production of DWMPs - and are already committing significant resources in carrying out this role - it is a fundamental feature of drainage and wastewater planning that water companies cannot do this in isolation, because drainage is shared with other ‘risk management authorities’ (RMAs) as defined in the Flood and Water Management Act 2010. There are, for example, large numbers of drainage assets that are not under the ownership of water companies, the management of which needs to be integrated into DWMPs.

This has been recognised by the National Infrastructure Commission in their recommendation that *‘water companies and local authorities should work together to publish joint plans to manage surface water flood risk by 2022’*.

16. As a minimum, all other risk management authorities should have a duty to co-operate in the production of DWMPs. This could be given statutory force by, for example, expanding the definition of ‘flood risk management function’ in section 4 of the Flood and Water Management Act 2010, and making other risk management authorities statutory consultees for DWMPs.

17. We also suggest that it would be helpful for Regional Flood and Coastal Committees to be statutory consultees for DWMPs. Consideration of how provisions apply to these additional bodies is needed.

Operating Licences

We note the changes to the process for modifying appointment conditions for water companies set out in Clause 76. Over the last 30 years, water companies’ operating licences and the current process for their modification have played a crucial role in providing investors with the confidence that they can make long term commitments to the water industry – which has enabled £150 billion of investment and resulted in very significant environmental improvements, while also enabling many changes to licences over this period.

It is therefore important that any changes to the process for modifying the conditions of these licences are carefully considered to avoid the risk of unintended consequences of increasing investors’ views of regulatory risk. While views vary on the degree of risk associated with this clause, this is an area that Parliament may wish to explore further.

Water efficiency: a missed opportunity

Water efficiency is not included in the Bill, despite being critical for environmental protection and enhancement, and the crucial ability to meet future water needs. This represents a significant missed opportunity.

Part 3 of the Environment Bill includes a section on Waste and Resource Efficiency and contains two clauses that may facilitate the introduction of regulations on water efficiency labelling (Clause 47 on resource efficiency information) and minimum standards (Clause 48 on resource efficiency requirements).

- 18. The application of Clause 47 and 48 to water resources needs to be confirmed.**
- **If these clauses do not apply to water resources the Bill should be amended to ensure its application to water resources.**

By far the most cost effective and reliable manner to reduce water consumption is to introduce mandatory labelling of water-using appliances (like dishwashers) with minimum product standards. This needs a policy change by Government but has the added benefits of informing customers about environmental and bill impacts before they purchase a machine. We recommend

- 19. Inclusion of mandatory labelling and minimum product standards for water using appliances**
- 20. Additional provision should be included to amend building regulations (part G) to require measurements to be based on fittings, not calculated use, and to make standards on water efficiency mandatory**

The specific inclusion of water as a consideration in Environmental Improvement Plans is welcome.

- 21. As well as water quality, this needs to also include water demand management as water availability is a key indicator for improving ecological outcomes**

Restore and enhance nature and green spaces

We support the mandating of biodiversity net gain to align with ambitions of the 25 year Environment Plan and provide this with a statutory footing.

Clause 88 (Schedule 15) (through amendment to the England Town and Country Planning Act 1990 and amendment to section 40 of the Natural Environment and Rural Communities Act 2006) requires that a biodiversity net gain plan must be submitted to the relevant planning authority. The planning authority must only approve the plan where a 10% increase in biodiversity gain is achieved. This strengthens and improves the duty on public bodies to conserve and enhance biodiversity and will be an important way to enhance the Natural Environment.

With population growth and increasing consumption a significant factor in water demand, and water availability a key ecological indicator, the assessment of impact on water should be clearly included in any biodiversity gain plan/assessment.

- 22. Confirmation is required that water availability and quality are to be included in any biodiversity net gain plan/assessment.**
- 23. Inclusion of biodiversity net gain should not be at the expense of protections to irreplaceable habits such as national and international wildlife sites such as SSSIs, ancient**

woodland and Ramsar sites, and net gain should be seen as additional to the existing requirements of planning protections.

The Environment Bill: Summary of Recommendations

Our recommendations for improving the legislation, are listed below. In order to strengthen and clarify the Bill should:

1. Confirm that the OEP will look at water resource management as an essential part of climate change adaptation – not just mitigation policy
2. Ensure the OEP can hold the government to account against long term and interim targets
3. Include a simple specific exclusion for statutory undertakers, or some other mechanism, to address this problem.
 - Another potential solution could be to include an addition to subsection 5 of Clause 20 (on how the OEP intends to avoid any overlap with the Committee on Climate Change in exercising its functions) to introduce reference to other statutory regulators as well.
4. Include a requirement for the government of the day on ensuring that sufficient measures are in place, in total, to enable targets to be met should be included in the Bill
5. Define upfront environmental objectives to guide target setting over time – currently the process of setting targets could be unpredictable for the environment and economy
6. Include specified matters which should be considered when setting targets (equivalent to the provisions in the Climate Change Act) to build confidence and transparency on target setting
7. In setting and revising targets, provision should be included for full consultation with professional bodies, NGO's, academics and the sectors concerned, in a full and transparent fashion.
8. Include provision to ensure all regulators of environmentally important activities, such as the water sector, are required to ensure Environmental targets are fully factored in to their operation over their sectors.
9. Include measures to support integration of relevant plans into a single framework should be considered.
10. Have a duty, on the Secretary of State, to report within 12 months on how to bring together final plans and organisations at local level
11. Confirm that the intended Deposit Return Scheme will be an 'all-in' scheme and to be implemented on a more ambitious timeframe than currently indicated
12. Provide the power of administrators to use funds received to promote awareness and run education campaigns about correct disposal
13. Include a duty on the Secretary of State to review banned products (currently microbeads in cosmetics, plastic cotton buds, stirrers and straws) every 5 years to determine whether further action is required to address problem plastics and other avoidable single use items, in addition to the introduction of charging on single use plastic
14. Include mandatory, clear labelling for end of life of management for products (to support separation of waste) should be included in the provisions for waste and resource management and to maximise the effectiveness of waste management and recycling
15. Ensure the terminology 'wastewater' as previously agreed by Defra and all other stakeholders in the development of these provisions should be used. If necessary, adding an appropriate definition for the term 'wastewater'.
16. As a minimum, ensure that all other risk management authorities should have a duty to co-operate in the production of DWMPs. This could be given statutory force by, for example, expanding the definition of 'flood risk management function' in section 4 of the Flood and Water Management Act 2010, and making other risk management authorities statutory consultees for DWMPs.

17. We also suggest that it would be helpful for Regional Flood and Coastal Committees to be statutory consultees for DWMPs. Consideration of how provisions apply to these additional bodies is needed.
18. Ensure the application of Clause 47 and 48 to water resources needs to be confirmed.
 - If these clauses do not apply to water resources the Bill should be amended to ensure its application to water resources.
19. Include mandatory labelling and minimum product standards for water using appliances
20. Additional provision should be included to amend building regulations (part G) to require measurements to be based on fittings, not calculated use, and to make standards on water efficiency mandatory
21. Make clear that as well as water quality, this needs to also include water demand management as water availability is a key indicator for improving ecological outcomes
22. Confirm that water availability and quality are to be included in any biodiversity net gain plan/assessment.
23. Ensure that the inclusion of biodiversity net gain is not be at the expense of protections to irreplaceable habits such as national and international wildlife sites such as SSSIs, ancient woodland and Ramsar sites, and net gain should be seen as additional to the existing requirements of planning protections.