



Department
for Environment
Food & Rural Affairs



Llywodraeth Cymru
Welsh Government

Consultation on water supply and sewerage licensing: updating security and emergency measures directions

1 August 2017

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Purpose of this consultation

In light of recent changes to the water supply licensing regime arising from the Water Act 2014 (“WA14”), we believe it right to ensure that the water sector continues to be properly protected against risks and threats to supply. We appreciate that at this stage there have been no inputs of water into the supply systems of undertakers by licensees; however we also recognise that this may not always be the case.

This consultation is to seek views from interested parties on two proposals, and is divided into two corresponding parts:

Part 1

A proposal to issue an updated version of the *Security and Emergency Measures (Water Undertakers) Direction 2006*, the principal change to which would be to amend the terminology used in the 2006 Direction from ‘licensed water supplier’ to ‘water supply licensee’.

Part 2

A proposal to issue a new general direction which would apply to all water supply licensees meeting certain conditions, and which would replace earlier, specific directions issued to individual companies. The essential content of the new direction would be very similar to that of the individual directions.

Background

Under section 208 of the Water Industry Act 1991 (“WIA 91”)¹, Defra’s Secretary of State and the Welsh Ministers can issue general or specific directions to water and sewerage undertakers (undertakers) and to water supply and/or sewerage licensees (licensees) in the interests of national security or to mitigate the effects of a civil emergency. To date two general directions have been issued:

*The Security and Emergency Measures (Water and Sewerage Undertakers) Direction 1998*² – commonly referred to as SEMD – directs undertakers to maintain plans to provide a supply of water at all times.

*The Security and Emergency Measures (Water Undertakers) Direction 2006*³ places a qualified duty on undertakers to provide a water supply to a licensed water supplier where:

¹ See <http://www.legislation.gov.uk/ukpga/1991/56/section/208>

² See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85925/semd98.pdf

³ See <http://www.dwi.gov.uk/stakeholders/legislation/Direction%20Undertakers06.pdf>

- there is an access agreement in place, and
- the licensed water supplier requests the water undertaker to provide it with a supply of water in the event that the licensed water supplier is unable to provide a supply to its customers due to an emergency or security event.

In addition, specific directions were issued to a small number of companies who were, at time of issue, licensed water suppliers. These directions are, in effect, company-specific versions of SEMD.

Defra and the Welsh Ministers have a statutory duty to consult on directions.

Part 1: Proposal to update the 2006 direction to water undertakers

The Security and Emergency Measures (Water Undertakers) Direction 2006 was designed as a reciprocal arrangement whereby a licensed water supplier provides its own water resources during a drought or an emergency. With the new licensing regime, *licensed water suppliers* cease to exist, to be replaced by *water supply licensees*. Our proposal is simply to revoke and replace the 2006 Direction with an updated version which reflects this change. A suggested draft is included at annex A.

We are obliged to consult on this proposal, and therefore invite any comments. However in light of the straightforward and, we believe, uncontentious nature of the proposal we have set a four week period for responses.

Response due date

4 weeks from the issue date of this consultation (29th August 2017).

How to respond

Please respond via citizen space – the consultation is accessible at the following link:

<https://consult.defra.gov.uk/water-and-flood-risk-management/directions-new-water-supply-sewerage-regime/>

You may also respond by post to:

Water Security & Resilience

Department for Environment, Food & Rural Affairs, Nobel House (area 3C), 17 Smith Square, London SW1P 3JR

Please direct any queries to: wsr.emergencies@defra.gsi.gov.uk

Respondees who operate wholly or partly in Wales and are responding in writing should copy their response to:

Sian Thomas, Water Policy Branch, Economy, Skills and Natural Resources Department

Welsh Government, Government Building, Spa Road East, Llandrindod Wells, Powys LD1 5HA

Please direct any queries to: water@wales.gsi.gov.uk

Part 2: Proposal to issue a single direction to all water supply licensees

Some, but not all, licensed water suppliers were issued with individual directions which to a large extent replicated the requirements on undertakers set out in SEMD. These directions are no longer applicable as the Water Supply Licensing regime (“WSL”) is replaced by the Water Supply and Sewerage Licensing regime (“WSSL”) from April 2017⁴.

Our proposal is to revoke and replace all the individual directions with a single, general direction describing essentially similar requirements. We propose that the direction should only apply to water supply licensees that input water under the wholesale authorisation or supplementary authorisation.

Access agreements are no longer a feature of the retail market⁵, therefore we propose that only those licensees inputting water into supply systems should be required to produce plans for each undertaker’s area into which they input water. We see no need for those with only retail or restricted retail authorisations to produce emergency plans because they do not input any physical supplies into supply systems. Likewise we do not expect that the requirement should be extended to sewerage licensees.

A suggested draft of a new direction is included at annex B.

We invite your views on the following:

- i. Do you agree that this is a reasonable approach? Might there be an alternative?
- ii. Do you agree it is right for licensees with only retail and restricted authorisations to be out of scope of this direction?
- iii. Do you have any specific comments on the draft direction?

Response due date

4 weeks from the issue date of this consultation (29th August 2017).

How to respond

Please respond via citizen space – the consultation is accessible at the following link:

⁴ See annex C

⁵ Agreements between undertakers and licensees are regulated through the Wholesale Retail Code (WRC), which provides for emergency situations, etc. for both water supply and sewerage licensees (see annex D).

<https://consult.defra.gov.uk/water-and-flood-risk-management/directions-new-water-supply-sewerage-regime/>

You may also respond by post to:

Water Security & Resilience

Department for Environment, Food & Rural Affairs, Nobel House (area 3C), 17 Smith Square, London SW1P 3JR

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Welsh Government, Government Building, Spa Road East, Llandrindod Wells, Powys LD1 5HA

Please direct any queries to: water@wales.gsi.gov.uk

What happens next?

We will publish a summary of responses once we have analysed comments. Should any new direction be issued following this consultation, we will lay it before both Houses of Parliament and the National Assembly for Wales.

The future

The changes proposed in this consultation are somewhat of a stopgap, made necessary by the recent changes to the licensing regime. Defra intends to conduct a more thorough review of security and emergency measures directions as resources allow, and it is conceivable that further changes may be proposed as a result.

Annex A: Security & Emergency Measures (Water Undertakers) Direction 2017 (DRAFT)

This Direction is given in exercise of the powers conferred by section 208 of the Water Industry Act 1991.

It appears to the Welsh Ministers in relation to all water undertakers whose areas are wholly or mainly in Wales (“Welsh water undertakers”), and to the Secretary of State, in relation to all other water undertakers (“English water undertakers”), that it is requisite and expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency to give this Direction.

The Welsh Ministers have consulted all Welsh water undertakers and the Secretary of State has consulted all English water undertakers.

The Welsh Ministers in relation to Welsh water undertakers and the Secretary of State in relation to English water undertakers, give the following Direction:

1. Citation, commencement and application

1.1. This Direction may be cited as the Security and Emergency Measures (Water Undertakers) Direction 2017 and shall come into force on xx Month 2017.

1.2. This Direction applies to water undertakers.

2. Interpretation

2.1. “1998 Direction” means the Security and Emergency Measures (Water and Sewerage Undertakers) Direction 1998⁶;

2.2. “access agreement” means an agreement made or determined under section 66D(2) of the Water Industry Act 1991⁷;

2.3. “appropriate authority” means the Secretary of State in relation to English water undertakers and the Welsh Ministers in relation to Welsh water undertakers;

2.4. “emergency or security event” means a civil emergency⁸ or an event affecting national security;

2.5. “English water undertaker” means a water undertaker who is not a Welsh water undertaker; and

⁶ Commonly referred to as “SEMD”

⁷ Inserted by section 56 of, and paragraphs 1 and 3 of Schedule 4 to the Water Act 2003

⁸ See section 208(7) of the Water Industry Act 1991 as to the meaning of “civil emergency”.

2.6. “Welsh water undertaker” means a water undertaker whose area is wholly or mainly in Wales.

3. Access agreements

Where:

- a) a water undertaker has an access agreement with a water supply licensee; and
- b) the water supply licensee requests the water undertaker to provide it with a supply of water in the event that the water supply licensee is unable to provide a supply to its customers due to an emergency or security event;

the water undertaker shall, pursuant to the access agreement, provide a supply during such an event, subject to any limit on the quantities of water available to the water undertaker taking account of the needs of the other persons to whom the water undertaker provides supplies.

4. Use of facilities

4.1. Where providing a supply:

- a) in accordance with the duty in paragraph 3 above, or
- b) under an agreement between the water undertaker and a water supply licensee in the event that the water supply licensee is unable to provide a supply to its customers due to an emergency or security event;

the water undertaker shall make it a condition of its supply that it may, in relevant circumstances, without the prior authorisation of the water supply licensee, make use of the water supply licensee’s facilities for the purposes of that supply.

4.2. For the purposes of sub-paragraph 4.1:

a) “relevant circumstances” means:

- i. where providing a supply in accordance with paragraph 3, circumstances where the need to act urgently makes it not reasonably practicable to give instructions to the water supply licensee under paragraph 5(1)(b) of the *Standard Conditions of Water Supply Licences*⁹ so as to achieve an objective which is one of the relevant purposes specified in paragraph 5(2)(b) of those standard conditions for which those instructions would otherwise be given; and
- ii. in all other cases, circumstances where the need to act urgently requires it; and

⁹ The Standard Conditions of Water Supply Licences were published by the Secretary of State, having consulted where appropriate the Welsh Ministers under section 17H of the Water Industry Act 1991 on 17 March 2016.

- b) “facilities” includes equipment and resources used for the introduction of water into the water undertaker’s supply system or for any other purpose in relation to the supply of water.

5. Duty to notify

Without prejudice to the generality of paragraph 1(4)(b)(ii) of the 1998 Direction, when notified by a water supply licensee of an actual or likely emergency or security event affecting water supply, a water undertaker shall notify all such persons as may be affected.

6. Reports

A water undertaker shall, at such times and in such form as the appropriate authority may specify, report to the appropriate authority on the action taken by the water undertaker pursuant to this Direction.

Signed on behalf of Defra

Signed on behalf of Welsh Government

Annex B: Security & Emergency Measures (Water Supply Licensees) Direction 2017 (DRAFT)

This Direction is given in exercise of the powers conferred by section 208 of the Water Industry Act 1991.

It appears to the Welsh Ministers, so far as relating to licensed activities using the supply system of any water undertaker whose area is wholly or mainly in Wales, and to the Secretary of State, so far as relating to licensed activities using the supply system of any other water undertaker, that it is requisite and expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency to give this Direction.

The Welsh Ministers, so far as relating to Welsh licensed activities, and the Secretary of State, so far as relating to English licensed activities, have each consulted relevant water supply licensees.

The Welsh Ministers, so far as relating to Welsh licensed activities, and the Secretary of State, so far as relating to English licensed activities, give the following Direction:

1. Citation, commencement and application

- 1.1. This Direction may be cited as the Security and Emergency Measures (Water Supply Licensees) Direction 2017 and shall come into force on xx Month 2017.
- 1.2. This Direction applies to all licensees holding a water supply licence with one or both of the following: a wholesale authorisation and a supplementary authorisation.

2. Interpretation

- 2.1. “access agreement” means an agreement made or determined under section 66D(2) of the Act;
- 2.2. “the Act” means the Water Industry Act 1991;
- 2.3. “appropriate authority” means, in relation to Welsh licensed activities or a Welsh water undertaker, the Welsh Ministers, and in relation to English licensed activities or an English water undertaker, the Secretary of State;
- 2.4. “emergency or security event” means a civil emergency¹⁰ or an event affecting national security;
- 2.5. “English licensed activities” means licensed activities using the supply system of an English water undertaker in accordance with a wholesale authorisation;
- 2.6. “English water undertaker” means a water undertaker who is not a Welsh water undertaker;

¹⁰ See section 208(7) of the Water Industry Act 1991 as to the meaning of “civil emergency”.

- 2.7. “licensed activities” means the activities authorised by a wholesale authorisation or supplementary authorisation in the water supply licence;
- 2.8. “licensee” means a company which is the holder of a water supply licence with a wholesale authorisation or supplementary authorisation;
- 2.9. “plan” means a plan prepared by a licensee in accordance with the requirements of paragraph 4.1;
- 2.10. “supplementary authorisation” shall be construed in accordance with Schedule 2A to the Act;
- 2.11. “supply system” shall be construed in accordance with section 17B of the Act;
- 2.12. “trained” means trained and experienced in procedures and action required in an emergency or security event;
- 2.13. “treatment works” [see para. 4.1]
- 2.14. “water supply licence” shall be construed in accordance with section 17A of the Act;
- 2.15. “Welsh licensed activities” means licensed activities using the supply system of any Welsh water undertaker in accordance with a supplementary authorisation;
- 2.16. “Welsh water undertaker” means a water undertaker whose area is wholly or mainly in Wales; and
- 2.17. “wholesale authorisation” shall be construed in accordance with Schedule 2A to the Act.

3. Use of facilities

- 3.1. Sub-paragraph 3.2 applies where a water undertaker provides a licensee with a supply of water in the event that the licensee is unable to provide a supply to its customers due to an emergency or security event.
- 3.2. Where this sub-paragraph applies, the licensee shall permit the water undertaker, in relevant circumstances, without the prior authorisation of the licensee, to make use of the licensee’s facilities for the purposes of the supply described in sub-paragraph 3.1 by the water undertaker to the licensee.
- 3.3. For the purposes of sub-paragraph 3.2:
- a) “relevant circumstances” means:
- i. where the supply is pursuant to an access agreement, circumstances where the need to act urgently makes it not reasonably practicable to give instructions to the licensee under paragraph 5(1)(b) of the *Standard Conditions of Water Supply Licences*¹¹ so as to achieve an objective which is one of the relevant purposes specified in paragraph 5(2)(b) of

¹¹ The Standard Conditions of Water Supply Licences were published by the Secretary of State, having consulted where appropriate the Welsh Ministers, under section 17H of the Act on 17 March 2016.

those conditions for which those instructions would otherwise be given,
and

- ii. in all other cases, circumstances where the need to act urgently requires it; and

b) “facilities” includes equipment and resources used for the introduction of water into the water undertaker’s supply system or treatment works.

4. Planning

4.1. A licensee shall make a plan for the provision of a supply of water during an emergency or security event:

- a) with respect to each water undertaker’s supply system [or treatment works] which the licensee uses for the purpose of supplying water to the premises of customers; and
- b) in each case, before so using each such supply system [or treatment works].

4.2. A plan shall be prepared on the following assumptions:

4.2.1. that water is to be supplied to the licensee’s customers in accordance with:

- a) the conditions of the licensee’s licence;
- b) the statutory requirements imposed on the licensee in consequence of its licence;
- c) the respective supply agreements with each customer; and
- d) the access agreements made for the purposes of such supplies;

4.2.2. that, in the event of an unavoidable failure of piped supply, such minimum supply will be provided by alternative means as may be notified to the licensee by the appropriate authority;

4.2.3. that priority will be given to the domestic needs of the sick, the elderly, the disabled, hospitals, schools and other vulnerable sectors of the population; and

4.2.4. that regard is had for the needs of users of non-domestic supplies as well as users of domestic supplies.

4.3. In relation to each of its customers a licensee shall:

- a) include in its plan provision to ensure that it supplies the customer with the same quantity of water as it would provide irrespective of the emergency or security event; or
- b) in the event that the licensee is unable to provide a supply in accordance with sub-paragraph 4.2.1 due to an emergency or security event, enter into an agreement with the customer and a water undertaker for the water undertaker to provide a supply during such an event, subject to any limit of the quantities of water available to the water undertaker taking account of the needs of the other persons to whom the water undertaker provides supplies.

4.4. In complying with sub-paragraph 4.3, a licensee shall have regard to any guidance, procedures and requirements, and any policies relating to civil emergencies and national security, as may have been notified to the licensee by the appropriate authority, so far as they relate to the licensee.

4.5. A licensee shall ensure that its plan includes provision for:

- a) trained personnel;
- b) dedicated emergency communication facilities, including telephone and electronic hardware and software;
- c) analytical services, dissemination of information and other supporting services;
- d) carrying out security work on vital installations;
- e) carrying out the protection and surveillance of other installations or facilities;
- f) suitably equipped permanent or mobile accommodation to act as command and control centres; and
- g) informing the water undertaker whose supply system the licensee uses of the identity and supply requirements of the licensee's vulnerable customers to whom priority is given under sub-paragraph 4.2.3.

4.6. A licensee shall review and, if necessary, revise its plan:

- a) if so required by the appropriate authority, in such manner as may be required by the appropriate authority; and
- b) in any event, before 1st April in each year following the year in which the plan was made.

4.7. A licensee shall send to the appropriate authority:

- a) as soon as reasonably practicable a copy of its plan; and
- b) in the case of a revision of its plan, on or before 1st April in each year following the year in which the plan was made, an updated version of the plan with details of any revision.

5. Facilities

5.1. A licensee shall ensure that it has available to it all facilities required for the purpose of implementing the plan or agreement entered into in accordance with sub-paragraph 4.3.

6. Implementation of plans

6.1. A licensee shall take action to put into operation the plan, including in relation to any facility, operation, or service to which the plan relates:

- a) in such events, to such extent and within such period as may from time to time be required by the appropriate authority; and
- b) in any event, as the need arises.

7. Co-operation

7.1. A licensee shall, in complying with the requirements imposed on it by or under paragraphs 4 to 6, consult:

- a) any water undertaker whose supply system the licensee uses for its licensed activities; and
- b) any other person whom the licensee considers appropriate, in order to ensure that the licensee's and any relevant undertaker's plans, operations, facilities and services are complementary and coordinated.

8. Duty to notify

8.1. Licensees shall, as soon as they become aware of any actual or likely emergency or security event affecting water supply in any water undertaker's area, notify:

- a) the appropriate authority; and
- b) the water undertaker, where appropriate in accordance with any relevant code made under section 66DA of the Act.

9. Reports and statements

9.1. A licensee shall, on or before 1st April in each year following the year in which its first plan was made, furnish the appropriate authority with a statement confirming:

- a) that it has complied with the requirements of paragraph 4; and
- b) that all facilities required by paragraph 5 are available to it.

9.2. The statement required by sub-paragraph 9.1 shall be in such form as the appropriate authority may require, and shall be certified on behalf of the licensee by such person as may be approved by the appropriate authority.

9.3. A licensee shall, at such times and in such form as the appropriate authority may specify, report to the appropriate authority on the action taken by the licensee pursuant to this Direction.

Signed on behalf of Defra

Signed on behalf of Welsh Government

Annex C: The water supply licensing regime

WA14 introduces reforms to the WSL that allow the water sector to achieve increased resilience, increased customer choice and support economic growth. These include changes to allow more competition in the retail market for non-household water and sewerage services. “Retail” services incorporate all customer-facing activities such as billing, meter reading and dealing with customers’ enquiries. The reformed WSL is known as the WSSL.

The reforms allow all eligible businesses, charities and public sector organisations to switch from any monopoly water company whose area is wholly or mainly in England (“English undertakers”) to another supplier of retail services (the “licensee”) from the opening of the retail market on 1st April 2017. The same water will be supplied through the same pipes and the wastewater taken away through the same networks, but the customer-facing services may be provided by someone other than the incumbent undertaker.

WSSL licences apply to retail arrangements from April 2017 when all non-household customers in the areas of English undertakers are able to switch both their water and sewerage suppliers. New WSSL licences also provide for the continuation of the existing WSL for water supply customers that use at least 50 megalitres of water per year in the areas served by undertakers that are wholly or mainly in Wales (“Welsh undertakers”). The WSSL also allows for the continuation of the part of the WSL that allows licensees to input water into the supply system of a water undertaker for the purposes of supplying eligible customers. For the time being only the premises of those customers that use 5 megalitres or more of water a year will be eligible to receive such a supply under the wholesale authorisation in the water supply licence. Inputs of water in the areas of Welsh undertakers will continue to be for premises that use 50 megalitres or more per year.

Standard licence conditions for licensees

Since 1 April 2016 Ofwat has had powers to grant water supply licences with retail authorisations and restricted retail authorisations and sewerage licences with retail authorisations. From 1 November 2016 it was also granted powers to issue wholesale authorisations and supplementary authorisations to those holding or applying for water supply licences with a retail authorisation or restricted retail authorisation.

The Secretary of State, having where appropriate consulted the Welsh Ministers, published standard licence conditions¹² that must be included in all water supply and sewerage licences. Standard licence condition 5 provides for licensees (including sewerage licensees) to co-operate with undertakers in relation to drought plans and other

¹² <https://www.gov.uk/government/publications/water-supply-and-sewerage-licencing-regime-standard-licence-conditions>

emergency situations. Water supply licensees are statutory consultees in relation to the preparation of drought plans and must provide any information required by the water undertaker to assist it in making its plans¹³.

Standard licence condition 5:

5. Emergencies and unplanned events

(1) The Licensee shall, for relevant purposes, comply with any—

(a) reasonable instructions given to it by a relevant undertaker in relation to matters specified in a drought plan which are not the subject of a drought order or drought permit under Chapter 3 of Part 2 of the Water Resources Act 1991; or

(b) instructions given to it by a relevant undertaker during any emergency or unplanned event (save any which are manifestly unreasonable); or

(c) reasonable instructions given to it by a relevant undertaker in relation to any water quality incidents or any pollution incidents.

(2) For the purposes of paragraph (1)—

(a) “drought plan” shall be construed in accordance with section 39B of the Act (drought plans: preparation and review); and

(b) “relevant purposes” are the purposes of—

(i) ensuring that water quality is not adversely affected;

(ii) avoiding prejudice to the integrity of the supply system and/or sewerage system;

(iii) protecting customers;

(iv) mitigating adverse effects upon the environment;

(v) maintaining essential supplies and services; or

(vi) conserving supplies.

(3) Any question as to the reasonableness of any instructions given under paragraph (1) where those instructions relate to an urgent incident shall be resolved by referring that question to the Authority¹⁴ for its determination.

(4) A reference under paragraph (3) shall have the effect of suspending the instructions so referred pending the Authority’s determination.

(5) A reference under paragraph (3) shall not be made in respect of any instructions given under this condition to provide information.

Any direction made to licensees would therefore supplement those relating to the preparation of drought plans or outlined in standard licence conditions.

Ofwat can propose to modify standard licence conditions by agreement with at least 80% of relevant licensees. If 20% or more of relevant licensees disagree with Ofwat’s proposal, the matter can be referred to the Competition and Markets Authority for a determination on the public interest of the change. However, WIA91 also provides the Secretary of State (in

¹³ <http://www.legislation.gov.uk/ukpga/1991/56/section/39C>

¹⁴ The Authority is the Water Services Regulation Authority (Ofwat).

consultation with the Welsh Ministers) with a power to veto any proposals to amend the standard licence conditions.

There are no plans for standard licence conditions to be amended in the foreseeable future.

Annex D: The Wholesale-Retail code

The Act provides powers for Ofwat to make codes to regulate agreements between undertakers and licensees. The Wholesale-Retail code (WRC) was published on 17 February to regulate agreements between undertakers and licensees providing services to non-household customers in the retail market which opened on 1st April 2017.

Section E in particular deals with planned and unplanned disruptions to services and sets out the roles and responsibilities of licensees and undertakers providing retail services (referred to as “retailers” in the WRC) and undertakers as providers of wholesale services.

Extract from the Wholesale-Retail Code:

Effective and timely communication is essential in matters to do with protecting Non-Household Customers and public health.

Communications need to be in two directions:

- in certain circumstances relevant and clear information needs to be provided to Non-Household Customers; and
- information from Non-Household Customers has to be received by the Wholesaler to allow relevant information to be collated and evaluated and for operational decisions to be made.

Consistent with that, the Retailer must:

- i. on a standing basis, provide information to its Non-Household Customers regarding the importance of reporting any unplanned change in Water Services and/or Sewerage Services and ask them to contact the Wholesaler directly in relation to any such unplanned change. Such unplanned changes may, for example, include any Drinking Water Supply Change, Sewer Flooding or Other Public Health Risk;
- ii. on a standing basis, inform its Non-Household Customers of the Wholesaler’s contact details for such unplanned events and provide those details on its website and other appropriate communication media. In some cases, the Retailer may provide its Non-Household Customer with additional contact details;
- iii. in its messages to and its communications with its Non-Household Customers, the Retailer shall make it clear for which Service Category or Service Categories the Non-household Customer should contact the Wholesaler (rather than any Other Wholesaler, if applicable);
- iv. be able effectively to receive information from the Wholesaler and pass information to its Non-Household Customers twenty-four (24) hours a day, for example in case it is required to support communications with any of its Non-Household Customers during an event or incident;
- v. provide the Wholesaler with twenty-four (24) hour contact details on which the Wholesaler may contact the Retailer if the Retailer is required to support communications with any of its Non-Household Customers in relation to the identification or management of any event or incident, for example by providing the details of any on call contact manager;
- vi. follow the industry standard in place from time to time in relation to the content of its messages to its Non-Household Customers telling them how they should respond and

when they should report any unplanned change in Water Services and/or Sewerage Services to the Wholesaler;

- vii. if the Retailer receives a communication from a Non-Household Customer in relation to an unplanned change in the supply of Water Services and/or Sewerage Services, including any Drinking Water Supply Change, Sewer Flooding or Other Public Health Risk, during the Retailer's business hours either:
 - a. transfer the Non-Household Customer directly to the Wholesaler (as appropriate depending on whether the Wholesaler is a Water Wholesaler or a Sewerage Wholesaler or both); or
 - b. provide the Non-Household Customer with the Wholesaler's contact details and tell them to contact the Wholesaler immediately as appropriate depending on whether the Wholesaler is a Water Wholesaler or Sewerage Wholesaler or both (which may be via automated voice messaging system);
- viii. ensure that any Non-Household Customer which tries to contact it outside the Retailer's business hours shall receive a message telling them to contact the Wholesaler directly in relation to any unplanned change in supply of Water Services and/or Sewerage Services including any Drinking Water Supply Change, Sewer Flooding or Other Public Health Risk and informing them of the Wholesaler's contact details; and
- ix. ensure that any Non-Household Customer which tries to contact it outside the Retailer's business hours shall not receive a message simply informing them that the Retailer's offices are closed.

If the Retailer otherwise finds or receives other information which may relate to an actual or potential unconsented Trade Effluent discharge or an unplanned change in Water Services and/or Sewerage Services, including any Drinking Water Supply Change, Sewer Flooding or Other Public Health Risk, it shall inform the Wholesaler immediately, for example via the standing on-call arrangements described at points ii-iv above and point iii below.

The Retailer shall also inform the Wholesaler immediately of any actual or potential unconsented Trade Effluent discharge or unplanned change in Water Services and/or Sewerage Services, including any Drinking Water Supply Change, Sewer Flooding or Other Public Health Risk, which a Non-Household Customer reports to the Retailer if the Retailer for any reason is concerned that the Non-Household Customer may not report the matter to the Wholesaler.

There are no current plans to introduce codes for the markets under the wholesale or supplementary authorisations. There is therefore a case for directions to continue to apply to those licensees by requiring them to make plans for any emergencies connected with the making of a physical supply into supply systems.

Annex E: Directions and the Welsh Government

The functions under section 208 of WIA91 of giving directions for the purpose of mitigating the effects of any civil emergency and the function of enforcing such directions fall to the Welsh Ministers in relation to the areas of Welsh undertakers¹⁵. All other functions under section 208 relating to the areas of Welsh undertakers fall to both the Secretary of State and the Welsh Ministers concurrently.

The Wales Act 2017 includes provisions to change the legislative and executive functions of the Welsh Ministers so that they apply to the whole of Wales rather than the areas of Welsh undertakers. The two governments will work together to decide how such matters will be managed under the new devolution arrangements.

¹⁵ See article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Annex F: List of consultees

1) Security & emergency planning managers in all regional water & sewerage undertakers in England & Wales

- Anglian Water Services Ltd
- Dŵr Cymru (Welsh Water)
- Northumbrian Water Ltd
- Severn Trent Water Ltd
- South West Water Ltd
- Southern Water Services Ltd
- Thames Water Utilities Ltd
- United Utilities Water Ltd
- Wessex Water Services Ltd
- Yorkshire Water Services Ltd

2) Security & emergency planning managers in all regional water only undertakers in England & Wales

- Affinity Water Ltd
- Bristol Water plc
- Dee Valley Water plc
- Portsmouth Water Ltd
- SES Water
- South East Water Ltd
- South Staffordshire Water plc

3) All small water & sewerage undertakers

- Albion Water Ltd
- Albion Eco Limited
- Cholderton & District Water Company Limited (via Wessex Water)
- Icosa Water Limited
- Independent Water Networks Ltd
- Peel Water Networks Ltd
- Severn Trent Services (Water & Sewerage) Ltd
- SSE Water Ltd
- Veolia Water Projects Ltd

4) All water supply &/or sewerage licensees

- Affinity for Business (Retail) Limited
- Anglian Water Business (National) Limited
- Castle Water Limited
- Clear Business Water Limited
- Cobalt Water Limited
- Invicta Water Limited
- NWG Business Limited
- Pennon Water Services Limited
- Regent Water Limited
- Scottish Water Business Stream Limited
- South East Water Limited
- SSWB Limited
- Sutton & East Surrey Water Services Limited
- Thames Water Commercial Services Limited

- The Water Retail Company
- Three Sixty Water Limited
- Veolia Water Retail (UK) Limited
- Water 2 Business Limited
- Water Plus Limited
- Water Plus Select Limited
- Waterscan Limited

Copy to

- Consumer Council for Water
- Department for Infrastructure Northern Ireland
- Drinking Water Inspectorate
- Environment Agency
- Natural Resources Wales
- Ofwat
- Scottish Government
- Water UK