

<b>Title:</b> Statutory drought and water resources planning by water undertakers: frequency of the planning cycle in England and Wales. <b>IA No:</b> DEFRA1432  <b>Lead department or agency:</b> Defra  <b>Other departments or agencies:</b> Welsh Government	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 30/01/2012		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
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<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> AMBER

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£1.830m	£1.830m	£-0.201m	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

Water undertakers have a statutory duty to provide adequate supplies of water for domestic purposes. To ensure they can meet this duty they must prepare and consult upon water resources management plans (WRMPs) every 5 years and also statutory drought plans every three and a half years. A recent independent review of the water resources planning process recommended that Government should seek better alignment of the plans. We propose to achieve this by extending the planning cycle of drought plans to 5 years. The frequency and process for preparing plans is set out in the Water Industry Act 1991 and so a change to legislation is required to align the planning cycles.

**What are the policy objectives and the intended effects?**

The ongoing policy objective is to ensure that water undertakers are able to meet their supply duties, including during a drought. By changing the frequency of drought plans water companies will be able to use the information from up to date water resources plans to feed through into their drought plans, ensuring consistent data and better alignment. In addition, we will avoid circumstances in which both plans become due at the same time, creating a significant peak in regulatory burden for companies. By taking a power to make future changes through secondary legislation we will be able to ensure these plans remain aligned with other statutory plans such as the periodic review by Ofwat, into which the WRMP feeds.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0 - do nothing. If we do nothing, companies will still prepare effective plans but the planning cycles will remain out of alignment and will, at some point in future, fall due for completion at the same time, creating a significant burden. To avoid the plans coinciding the Secretary of State could use powers to Direct earlier completion of plans but this would mean bringing forward a burden when the planning requirement itself does not need it.

Option 1 - our preferred approach is to change the frequency of drought plans to 5 yearly and so achieve better information alignment and reduce the risk that plans will fall due at the same time. A power to make further changes by secondary legislation will enable us to continue to keep the plans aligned with other statutory processes such as Ofwat's price review and ensure the optimal flow of information and minimise duplication of effort by the companies. Water companies welcome this move.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 01/2017					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> No	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> 0	<b>Non-traded:</b> 0

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Date: Richard Benyon  
9 June 2013

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: £1.830m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

#### Description and scale of key monetised costs by 'main affected groups'

None relative to the do nothing.

#### Other key non-monetised costs by 'main affected groups'

On average plans will be slightly older.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	N/A	N/A
High	0	N/A	N/A
Best Estimate	0	0.22	1.830

#### Description and scale of key monetised benefits by 'main affected groups'

Main affected groups are 24 water undertakers and 4 inset appointees. The monetised benefits are the savings that will arise (staff time, modelling costs, consultation costs ) by preparing plans less frequently. Estimated savings are based only on savings for the 24 water undertakers and are based on average cost per company per plan. If the costs are spread over a 5 yearly cycle rather than 3 and a half yearly cycle estimated savings over a 10 year period are £2.20m undiscounted total saving.

#### Other key non-monetised benefits by 'main affected groups'

By aligning the plans to a 5 yearly cycle we will avoid water resources and drought planning requirements coinciding and creating a peak in administrative burden for water companies.

#### Key assumptions/sensitivities/risks

The frequency of plans set in legislation is a backstop position. New plans may be required if a company has a material change of circumstances (a source of supply that is put out of use for example). The monetised benefits assume that plans will only be required as part of the normal planning process.

#### Discount rate (%)

3.5

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: -0.201	Net: -0.201	Yes	OUT

## Evidence Base (for summary sheets)

### Background

Water undertakers (companies that supply either water only, or water and sewerage services) are required to prepare, or take account of information contained within, a number of statutory plans.

These include Water Resources Management Plans (WRMPs), which set out how a company will balance supply and demand over a 25 year period taking account of population growth, climate change etc. By forecasting future supply and demand and evaluating through an options appraisal all feasible options for achieving a balance, water companies identify a programme of action to ensure secure, sustainable and cost effective supplies. Whilst companies plan to provide adequate supplies, that does not mean they must meet unconstrained demand in all circumstances since to plan for all eventualities would build in large costs to be borne by their customers. Instead they plan to a level of service that will include the need for demand constraint and other measures during exceptional periods such as droughts.

Their statutory drought plans are operational response plans that set out the triggers to take action, and the actions they will then take, in response to a drought. Typically they start with communications and public awareness and move through increasingly stringent measures including temporary restrictions on use (often called hosepipe bans), drought permits to take water at the expense of environmental impacts, and emergency drought orders that may include standpipes, for example.

Technical information on sources of supply, modelling of outputs, demand needs etc follow through from WRMPs into drought plans and so it is important these plans are aligned not only in terms of information flow, but also in sequencing of their preparation. The information and evidence contained within the WRMP also provides underpinning data for business plans and Ofwat's price review – even without a WRMP companies would have to provide much of the same evidence base to Ofwat – and so alignment of these processes is essential to minimise the burden.

IHPR - an independent team of civil service policy advisors drawn from a number of departments – carried out a review of the WRMP process in 2011, guided by a steering group drawn from Defra, other regulators and industry. The review team engaged with a cross section of stakeholders and water companies, regulators, statutory consultees and other stakeholders. Their report (<http://www.defra.gov.uk/publications/2011/09/30/pb13653-water-resources/>) made a number of recommendations to improve the planning process. One of these recommendations was to ensure better alignment of the different plans. We are working with both Ofwat and the industry to ensure better alignment of these processes through a number of non legislative actions including joint guidance and closer communications between the parties. However, changing the frequency of drought plans requires a change to primary legislation. A project board which includes representation from Ofwat, Environment Agency, Consumer Council for Water and industry representation has oversight of the actions to take forward the review, including this amendment to legislation. In addition the Drinking Water Inspectorate has been consulted on this change and is content.

There are 24 water only or water and sewerage undertakers in England and Wales and 4 additional inset appointees (small companies covering 24 incidents of water supply within the areas of 8 of the water undertakers). All of the 24 undertakers have published drought plans and most are currently preparing or consulting upon revised drought plans following the updated legislation on water restrictions in the Flood and Water Management Act 2010. The remaining 2 companies are expected to consult on plans later this year. Inset appointees are able to take a much lighter touch approach to preparation of plans, and most have yet to prepare plans.

## **Rationale for intervention**

The planning timeframes for WRMPs and drought plans is set out in legislation and is based on historic planning cycles in place before these plans became a statutory requirement. Better alignment of WRMPs and drought plans could be achieved by changing the frequency of the planning cycle for drought plans such that they follow on from water resources plans as part of the same 5 yearly cycle. This approach is supported by the industry. Water companies may prepare new plans earlier for example if a material change of circumstances impacts upon their plan, and the Secretary of State may also bring plans forward by directing a company to prepare a new plan. However, s39B(6)(c) of the Water Industry Act 1991 ( as amended by s63 of the Water Act 2003) requires water companies to review and prepare a new plan “in any event, no later than the end of the period of 3 years beginning with the date when the plan (or revised plan) was last published”. With a 6 month period for the review and preparation this effectively means a 3<sup>1</sup>/<sub>2</sub> yearly cycle as the backstop. Extending the timing to 5 years can only be achieved by amending the primary legislation. We do not propose to extend the drought planning timeframe beyond five years at this time as to do so would cause further misalignment with the water resources planning process and price determination by Ofwat. It would also increase the likelihood that a material change of circumstances occur which would result in a company having to produce a new plan out of its normal planning cycle. We shall keep the timing and alignment of plans under review to ensure burdens are minimised. By taking a power to make further changes through secondary legislation we will be able to change the frequency more easily if that should be required, for example if the periodic review period is moved to align with 6 yearly River basin Management Plans. Because Ministers may already direct companies to bring plans forward, the power to amend the frequency of plans in practice is likely to be used only to extend the timeframes rather than shorten them.

## **Policy objective**

The policy objective is to ensure that water companies have robust WRMPs and drought plans for managing the public water supply. Most water undertakers have completed the first round of water resources plans and are beginning to undertake a second round of drought planning. Following the independent review of the water resources planning process we wish to take action to improve the planning process, in particular by reducing the administrative burden without compromising the robustness of the plans and through better alignment of the different planning requirements, where this is possible. This can be achieved by changing the timing and frequency of drought plans so that they follow on from WRMPs in a five yearly cycle, using data from the WRMP for consistency. This will slightly reduce the regulatory burden on water companies and avoid the risk of the preparation of both plans coinciding in their statutory timescales.

## **Description of options considered (including do nothing)**

### Do nothing

If we do nothing water companies will continue to prepare robust drought plans setting out their operational response to drought. Droughts in 2010 in the North West and this year in the east of England have demonstrated the effectiveness of these plans in identifying triggers and actions companies will take to manage droughts. Following changes to their powers to put in place temporary bans on water use (introduced through the Flood and Water Management Act 2010) most water companies are now preparing new plans as a result of a material change of circumstances. However, over time drought plans will become less aligned with water resources

plans with the result that water companies will either rely upon data from WRMPs that are less current, or complete separate modelling which may result in inconsistent data in the two plans. At a point in the future the two cycles will coincide, with the result that companies will have to manage both processes at once - creating a peak in administrative overhead. Further consideration is being given by the regulators to ways in which to better align both water resources planning and business planning with River Basin Management Planning. This may lead to further changes, for example to align with a 6 yearly cycle. Without taking a power to do this through secondary legislation, we would need to find a legislative opportunity to amend the primary legislation.

### Amend the Water Industry Act 1991

Our preferred option, which is supported by industry, is to amend the Water Industry Act to allow a 5 yearly cycle for drought plans and take a power to make further changes, if needed through secondary legislation. Ministers already have powers to direct companies to prepare plans to an earlier date if they determine that is appropriate and so the power would only be needed to lengthen the cycle of plans.

### Monetised and non-monetised costs and benefits of each option (including administrative burden)

Water undertakers have already been through one cycle of drought planning and most are in the process of preparing new plans. The key cost components companies face in preparing a new plan are for staff costs, modelling work, engineering inputs, environmental reports and the costs of public consultation on the draft plan.

There are 24 water undertakers in England and Wales that are required to plan. In addition there are 4 small inset appointees providing services within 8 of the water undertakers' areas. Inset appointees generally take a bulk supply of water from the water undertaker and supply it on a small scale – for example to a new housing estate. Whilst inset appointees do have to prepare plans they are able to take a light touch approach based on risk of supply failure, relying in large part of the data contained within the water undertakers plan. None of the inset appointees currently have plans in place.

To inform this impact assessment the water undertakers were asked to provide cost information based on past and current costs of preparing their drought plans and 9 of the 24 companies did so. Estimated costs varied in a range from £10k per plan through to £350k per plan. Average cost per company per plan was £107.00k. If this cost is spread over a 3.5 year planning cycle, annual costs equate to £30.57k. If the same costs are spread over a 5 year period instead, costs drop to £21.40k pa – a saving of £9.17k per company per year. **Total savings over a 10 year period for the 24 water undertakers is estimated to be £2.20m (undiscounted), or £1.83m (discounted).**

Inset appointees were not asked to provide cost information. Costs are not known due to lack of progress on their plans but in any case will be significantly lower as a result of the light touch approach they may take. Therefore any benefits/savings to inset appointees are likely to be de minimis and have been disregarded.

No further work has been undertaken to validate the cost information provided by the water companies, or to estimate costs for the inset appointees. Overall the preferred approach does not remove the burden but will streamline processes and, in so far as companies will prepare new plans less frequently it has a small cost saving to them.

## **Risks and Assumptions**

The preferred approach carries little risk in achieving our overall policy objectives. All of the main water undertakers have statutory drought plans in place and will continue to keep them under review. The drought in the North West last year and across the Midlands and east of England this year have demonstrated the effectiveness of these statutory plans in managing the impact of drought on the public water supply. The 5 year planning cycle will continue to be a backstop position and companies may prepare new plans at an earlier date if that becomes necessary, either due to a change of circumstances (such as a water source becoming unavailable for use) or if the Secretary of State determines that they should do so. However, there is an assumption that for most companies the 5 year planning cycle will be the norm, following on from the 5 yearly water resources planning cycle.

## **Summary and preferred option with description of implementation plan.**

Water undertakers prepare and maintain statutory plans which set out how they will meet their statutory water supply duties. Following review of the water resources planning process a number of recommendations were made to improve the process – including better alignment of the different planning regimes. To achieve better alignment of water resources plans and drought plans our preferred approach is to lengthen the drought planning cycle to match the water resources planning cycle. This will achieve a light reduction in costs for water companies and will avoid both plans falling due at the same time with a consequent peak in administrative burden for the companies. Because of the interaction of these plans with other planning regimes we will keep timing and frequency under review. By taking a power to make further amendments if needed by secondary legislation we will be able to make further changes if appropriate to ensure the optimal flow of information and to minimise the regulatory burden on industry.