



Department  
for Environment  
Food & Rural Affairs



Llywodraeth Cymru  
Welsh Government

# **Draft River Basin Planning Guidance**

## **Summary and analysis of consultation responses**

**July 2014**



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Any enquiries regarding this publication should be sent to us at: [waterforum@defra.gsi.gov.uk](mailto:waterforum@defra.gsi.gov.uk)

Or by post to:

The Water Quality Programme  
Water Framework Directive Team  
Area 3D, Nobel House  
17 Smith Square  
London SW1P 3JR

PB 14196

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# Introduction

- 1.1** The Water Framework Directive (WFD) (2000/60/EC) introduced a comprehensive river basin management planning system to help protect and improve the ecological health of our rivers, lakes, estuaries and coastal and groundwater. This is underpinned by the use of environmental standards to help assess risks to the ecological quality of the water environment and to identify the scale of improvements that would be needed to bring waters under pressure back into a good condition.
- 1.2** On 1 May 2014 Defra and Welsh Ministers issued a consultation on updated guidance to the Environment Agency (EA) and Natural Resources Wales (NRW) respectively on river basin management planning. The updated guidance will replace [Volume 1](#) of guidance published in 2006 and [Volume 2](#) published in 2008.
- 1.3** At the same time, Defra and Welsh Ministers published a document setting out new and updated environmental and biological standards to protect the water environment that will be used in the 2<sup>nd</sup> river basin planning period 2015-2021. The new and revised standards will be set out in either joint or separate ministerial Directions to the EA and NRW which will replace the [2010 Standards Directions](#).
- 1.4** The consultation ran for four weeks between 1 - 30 May 2014, and was published on the Government consultation website at: <http://www.gov.uk/defra/>. Stakeholders were also contacted by email informing them of the consultation and information exercise.
- 1.5** This document contains a summary of responses received.

## Summary and analysis of responses

- 2.1** We received 20 responses in total.
- 2.2** A summary of the main points raised and the response from Defra and the Welsh Government are attached at Annex II.

## Main points

- 3.1** Respondents commented on a wide range of aspects of the Guidance. A common theme emerging from the responses was in relation to the role of river basin district liaison panels and catchment partnerships and the links between them.
- 3.2** Three industry responses considered that the guidance should restore text on the role of river basin district liaison panels on the basis that their operation was not, as suggested, fully embedded in EA and NRW practices. The guidance has been amended to respond to this point and to provide a clearer picture of the links between liaison panels and catchment partnerships.
- 3.3** Clarifying and strengthening the role of catchment partnerships in the river basin planning process was also a feature of a number of responses.
- 3.4** These and other key points of the responses relating to the guidance have been recorded in a table attached at Annex II to this document. The table does not include a number of interesting suggestions about the wider policy context but they have been noted and will be considered in the future where appropriate. Comments on WFD implementation that are too detailed for consideration in the guidance have been passed to the relevant Agency for consideration. Also excluded from the table for reasons of space are general supportive comments about particular aspects of the guidance.
- 3.5** The document addressing the new and updated standards was presented largely for information given the previous technical consultation carried out by the [UKTAG](#). Respondents commenting on the document generally welcomed the proposals and expressed their support for the updated and new standards for the specific pollutants in water bodies to reflect both changes in EU regulation as well as latest scientific understanding.
- 3.6** One respondent presented new data in relation to the proposed standard for the chemical triclosan. These new data are now being considered by UKTAG who will make recommendations to Defra, the Welsh Government and other UK Administrations on whether the standard for triclosan should be adjusted. Draft

updated River Basin Management Plans to be published for consultation by the Environment Agency and Natural Resources Wales will be based on the standards in the document published on 1 May.

## Next Steps

- 4.1** The updated Ministerial Guidance to the Agencies on River Basin Planning has now been amended and is being published at the same time as this summary.
- 4.2** By September 2015 we will update Directions to the Agencies on standards and classification, to replace the River Basin Districts Typology, Standards and Groundwater threshold values (Water Framework Directive) (England and Wales) Directions 2010.
- 4.3** By September 2015 we will also transpose the new requirements of Directive 2013/39/EU of the European Parliament and of the Council of European Union, on Priority Substances.

## Annex I: list of respondents

Affinity Water Ltd  
Angling Trust  
Anglian Water Services Ltd  
BASF SE  
Colgate Palmolive (UK) Ltd  
Consumer Council for Water  
Dŵr Cymru Welsh Water  
EDF Energy  
Energy UK  
Fish Legal  
National Farmers Union  
Royal Town Planning Institute (RTPI)  
Salmon and Trout Association  
South West Water  
The Royal Society for the Protection of Birds (RSPB)  
Thames Water Utilities Ltd  
The Government Chemist  
United Utilities  
Wessex Water  
WWF

## Annex II: Table of Comments and Responses

This table, following some general comments, is arranged according to the paragraph of the draft guidance to which the comment refers. Edited comments relating to the updated environmental standards are at the end of the table.

Some respondents provided detailed argument in support of their comments which have been extensively edited. It has not been possible to record or respond to general comments on policy, to general commentary that has no specific impact on the guidance or to technical and operational issues raised by some respondents. Multiple comments making the same point have been combined with a note to indicate this.

Reference	Comment	Response/Action
General comment	Document should refer more frequently to Water Resource Management Plans (WRMP) and Drought Management Plans (DMP) as they should be considered intrinsic to river basin planning.	The WRMPs and DMPs are important, and the EA and water companies will work together in their development and in the development of RBMPs. To keep the document to a manageable size however, this guidance cannot go into detail on all parts of the planning process
General comment	Concern that when setting policy and guidance Defra and the EA have adopted the approach of setting baseline/background levels at a state before anthropogenic influence.  Concern that the guidance is not clear on how climate change factors are to be taken into account in the determination of the programme of measures within the RBMP.	Standard setting is a technical exercise carried out by the UK Technical Advisory Group following established methodologies in accordance, where applicable, with criteria in WFD and informed by the European intercalibration procedure.  It is for the Agencies as advisors to the Administrations on environmental protection and WFD competent authorities to determine the details of how this is done in consultation with interested parties.
Public participation	Comment that the importance of public participation within the decision making process set out in the WFD is highlighted in the Preamble (para 14) but not covered in the guidance.	This is covered in, for example, paras 3.2, 3.4, 3.5, 4.2 and 4.3 of the guidance.



	<p>Suggestion that the RBMP should tell where and how background information can be obtained and the plan should summarise the public participation measures taken and should evaluate their results and the impact on the plan.</p> <p>Suggestion that the guidance must be updated to direct the Agencies, with specifics as to how to conduct public participation and provide sufficient information to the public for the purposes of consultation.</p>	<p>This is stated in table 3 and it is a criterion for approval that the RBMP has been prepared in accordance with the WFD and the transposition regulations. The regulations include detailed requirements for public participation which go beyond the basic consultation requirements of the WFD. All background information is made available as a matter of course.</p> <p>The guidance contains material on how public participation should be undertaken. However, it would be inconsistent with the respective roles of the Agencies and the administrations to dictate or manage the details of the process.</p>
2.1 -2.7	<p>No reference is made to Natural England in the opening material of Chapter 2. Planning for integrated outcomes in river basin management will require corresponding synergies in land use planning, water resources and flood risk management and biodiversity within an overall climate adaptation policy.</p>	<p>Defra agrees with the need for, and encourages, integration. Chapter 2 sets out the role and status of the guidance, which is guidance to the competent authorities for the WFD in England and Wales. It is not relevant to refer to Natural England in this context.</p>
3.1	<p>Suggestion that other general principles would merit inclusion in the table: polluter pays principle, finding/stimulating new ways of funding, especially through identifying beneficiaries to pay for ecosystem services; seeking to identify actions and interventions that contribute to a range of different objectives; harnessing others' expertise and delivery skills.</p>	<p>These are all significant issues which are included in the guidance because the administrations consider them to be important but they are sub categories of the overarching principles in the table.</p>
3.4	<p>Comment that where there are overlaps between the requirement of other regulations or planning processes that apply in WFD water bodies, nothing in this Direction should serve to weaken the</p>	<p>Any application of WFD derogations would have to be assessed on a case by case basis. WFD provisions cannot be used to derogate from actions required by other legislation.</p>

	fundamental economic test requirement in WFD that objectives should not require disproportionately costly measures.	
4	Comment that there should be more transparency on how the outputs of catchment partnerships are contributing to river basin planning.	4.7 of the draft guidance states that the Agencies should set out how catchment partnerships can contribute to river basin planning.
4	Suggestion that greater clarification would be helpful about the extent to which the section on " <i>Working with partners at the catchment level</i> " applies to Wales. Going forward, the emphasis in Wales is likely to be on the area-based natural resource management approach that the Welsh Government intends to introduce through its Environment Bill.	The forthcoming water strategy will include more detail about how the Welsh Government intends to take this area of work forward.
4.3 (3 responses)	Concern about the omission from the draft guidance of the statement of the role of the River Basin District Liaison Panels in advising and scrutinising delivery of RBMP.	Text revised to add additional detail in new paragraph 4.10
4.4	Suggestion that that there should be greater acknowledgement of the catchment based approach as an important planning mechanism with direct linkages to river basin planning and that guidance should cover interrelationships with rural spatial plans and planning groups (Local Nature Partnerships, Local Enterprise Partnerships, Catchment Partnerships, Health and Wellbeing Partnerships etc. etc.).	Catchment based approach and links with river basin planning are addressed in section 4 of the guidance. Catchment level activity will provide a nexus between river basin planning and such groups and their plans. Text on links with spatial planning has been strengthened (eg 4.5)
4. 4.	Comments supporting the expectation in the Guidance that information from catchment	It is important to avoid being over prescriptive and inflexible in the guidance. In addition, this is an area where different

(2 responses)	<p>partnerships should be included in the RBMP suggests the document should include further, explicit guidance on how information from catchment partnerships should be included in the RBMP and how the Agencies should work with catchment groups.</p>	<p>administrations may adopt different approaches. In England, our expectations concerning the role and purpose of catchment partnerships have been set out in the <a href="#">Policy Framework</a> published in May 2013.</p> <p>The Agencies remain responsible for the decisions that have been delegated to them in their role as competent authorities, including the details of how they provide for public participation and the involvement of catchment groups. The Guidance is clear that effective participation in river basin planning processes and engagement with catchment groups is not optional.</p>
4.5	<p>Comment that there should be some indication and guidance on what might be considered reasonable and appropriate in terms of which plans and strategies to reflect in the RBMP.</p>	<p>It is for the Agencies to determine what is ‘reasonable’ and ‘appropriate’ in the context of which plans and strategies should be reflected in river basin plans. Generally it is likely to be related to the scope and significance of the plan to WFD implementation.</p>
4.8	<p>Suggestion that it would be of value to emphasise explicitly that the Government established CaBA for the express purpose of ensuring that second cycle RBMPs would be better and more substantial than the first.</p>	<p>Text amended to reflect this (now paragraph 4.7)</p>
4.8 – 4.11	<p>Comment that catchment partnerships should be recognised as a centre for investment, not only to act as a link between plans at the river basin scale and local projects but also as a mechanism for initiating, funding and managing catchment scale work to address identified needs</p>	<p>These are potentially activities that catchment groups could engage in. No prior restrictions are being placed on their involvement in planning and delivering catchment improvements but their input will vary according to local circumstances and capacity of the groups.</p>

<p>4.9 catchment partnership plans</p>	<p>Comment agreeing that EA “should not require a catchment partnership to produce a catchment management plan for it to have input into river basin management planning” suggests that the text downplays the value of catchment plans, if they can be produced, and implies the EA don't really need to take notice of them. Suggestion that this would be better worded in terms of asking the EA to encourage the partnerships to produce the best input they can for RBMPs, and help them understand how to do that.</p>	<p>Production of catchment management plans by catchment partnerships is voluntary as we do not want to make production of a plan a barrier to the participation in the second cycle river basin planning process, particularly at this relatively early stage in their development. Guidance is given in paragraph 8.4 that the Agencies should set out how partnerships can contribute to the process and provide support for their activities would seem to cover the point sufficiently.</p>
<p>4.11</p>	<p>Concern that guidance to Agencies that they should ensure that a balance is maintained between different interest groups when involving stakeholders, and that compliance with statutory requirements is not compromised' may allow statutory organisations to 'pull rank' over community-led processes.</p>	<p>The reference is to statutory requirements, rather than to statutory organisations. River Basin Management plans are a formal requirement relating to the WFD. Their scope is focused on WFD requirements. In contrast, catchment plans are not limited and may contain issues that could not be included in a River Basin Management Plan. They may contain actions that relate to other areas of Government activity or include actions that have no such relationship.</p>
<p>4.11</p>	<p>Concern that catchment partnerships' remit is required to be much wider than WFD and could become dominated by players with a particular agenda that is not consistent with the principle of balance underpinning WFD.</p>	<p>Catchment partnerships will play an important role in planning and delivery but WFD criteria will always apply to WFD decisions.</p>
<p>4.12 4.14</p>	<p>'Disputes about implementing the programme of measures' does not discuss the situation that might arise in the event that activities potentially affecting status are already authorised under a public body's powers and raises concern that it is unclear how measures can be applied in relation to existing</p>	<p>Each public body has a duty under regulation 17 of the transposing <a href="#">Regulations</a> to have regard to the River Basin Management Plan in the exercise of its functions so far as they affect the river basin district. All water bodies have an environmental objective relating to maintaining the current status class or improving to a better status class. In exercising</p>

	<p>modifications or ongoing operations e.g. those authorised under Local Acts, etc.</p>	<p>regulatory or operational functions, a public body would have to consider whether existing permits or activities were consistent with the objectives set out in the river basin management plan. The Agencies work with other public bodies to ensure that permit conditions and other authorisations can deliver WFD objectives for water bodies and the Agencies have powers under the Water Resources Act 1991 to address adverse hydromorphological impacts arising from modifications to water bodies.</p>
<p>4.13</p>	<p>Suggestion that it would be helpful for the regulators to have a greater steer about proactively using their powers to achieve what is set out in the RBMPs to make clear to the Agencies their statutory obligations with regards the implementation of the WFD. The example given is paragraph 4.13 which states that if disagreement about implementation of voluntary cannot be resolved, the Agencies should consider using statutory and/or or alternative voluntary measures.</p> <p>Suggestion that the final Guidance be updated to better explain the status of the plans in the context of the legal instrument that translates the WFD into law and reflect the duties of all public bodies with regards to the WFD. Also that the guidance should reflect the requirements under Article 11.3 of the WFD - for Member States to set out mandatory basic measures that must be complied with (e.g. controls and regulations over abstraction and pollution).</p>	<p>The Agencies' obligations are set out in the transposing legislation to which the guidance refers where relevant. Also the table in chapter 5 of the guidance sets out responsibilities of the Secretary of State, the Welsh Ministers and the Agencies in relation to the river basin planning process and the source of those responsibilities with references to provisions of the WFD, transposing regulations and relevant sections of the guidance.</p> <p>4.13 amended for clarity to read: "...should consider alternative voluntary measures or, if necessary, use regulatory measures to achieve...."</p> <p>Duties of public bodies are set out in 15.5 and the requirements of Article 11.3 are referred to in 14.21.</p> <p>The transposing Regulations require the Agencies to establish programmes of measures that comply with Article 11.2 to 11.6 of the WFD. The guidance does explain the status of the plans and the legal requirements that apply to public bodies as well as providing links to other relevant documents. It is not considered necessary for the guidance to provide a detailed exposition of the legislative framework under which the Agencies operate and deliver the requirements of WFD.</p>

5	Comment that the Significant Water Management Issues report timescale was out of sync with the WRMP process leading to inconsistencies and missed opportunities to include actions and outcomes aligning between plans.	The WFD timetable is fixed in the legislation. The guidance asks the Agencies to work with water companies and Ofwat to minimise the effects of this and to provide advance information to inform the other planning processes as soon as they are able to do so.
5	Figure 1 on page 17 should refer to NRW where relevant.	Guidance amended
5.4	Suggestion that “The non-statutory catchment planning process is a continuing process with no fixed timetable”. should be amended to to delete “non-statutory” since it encourages the Agencies to regard catchment level activity as relatively unimportant.	The key point is that there is no fixed timetable. The words “non-statutory” deleted.
6	Comment that the link between RBP and Local Development plans is missing from this chapter and should be more explicitly mentioned	Chapter 6 addresses a specific WFD requirement. There are no formal links but guidance does address the issue of integration through working in partnership. Text updated to place greater emphasis on links with Local Plans in, for example 7.2 and 8.2
7	Suggestion that the catchment partnership should be included as the key stakeholder consultation mechanism for sections 7, 10 and 15.	Engagement with catchment groups is covered in the section on working in partnership to reflect their important role in WFD implementation. Additional detail has been added.
8 (2 responses)	The guidance should contain an explicit requirement for the information required under Annex VII part B to be included in the draft Plans.	Additional bullet point added to 8.13 for clarity

8.3 & 8.6	Comment that RBMPs will shape investment patterns over time and that this is not readily addressed in the Guidance. Suggestion that the means by which investment is distributed to support the catchment level as compared to the RBD level need some articulation in the Guidance.	Investment isn't distributed at RBD level. Rather it would follow the measures, which have been planned at "operational catchment" level but are delivered through a wide range of different mechanisms with different "levels" and means of distribution.
8.4	Comment agreeing that the RBMP should set out the broad policies and strategies to underpin the management of the water environment in the RBD but concern that believe that limiting their (and others') contribution to 'information' is too narrow.	This chapter concerns the content of RBMP and does not in any way limit the role of catchment groups.  We anticipate that catchment level groups will support a joint understanding of the issues, pressures and opportunities for a particular catchment to be formed and support development of actions and the allocation of them in accordance with who can best deliver them.
8.5	Suggestion that guidance on climate change should be widened and expanded upon further. Reliance on carbon emissions alone is a narrow proxy for the complexity of climate change in catchments and water governance.	Chapter 8 concerns the purpose and content of RBMPs. The quoted text is an example that is particularly relevant to river basin planning that must be reported in RBMPs when explaining how climate change adaptation has been taken into account in the planning process.
8.6	Comment that Liaison between regulators (EA/Ofwat) should be encouraged in this guidance.	Text amended in the table on page 55
8.6	Concern that the statement in 8.6 implies that implementation of WFD is voluntary. 8.6 states that RBMPs cannot, of themselves, require actions to be taken and that whether or not individuals or organisations can be required to take actions depends on the regulators' powers and how they are exercised.	While the statement in paragraph 8.6 of the draft, carried forward from previous guidance, was correct and appropriate advice for operational staff in the first planning cycle to ensure that they understood the need to agree in advance with other regulators their role in implementing the programmes of measures, we acknowledge that it might give a false impression to some readers. Since this requirement is well

		understood by the Agencies, the statement is less significant in the 2 <sup>nd</sup> planning cycle. To avoid misunderstanding, the paragraph has been deleted.
8.8 Consultation Process	Concern that the Guidance has been published at a late stage in the process and whether it just describes what Agencies have already done.	Concern about timing of the guidance is noted. Pending publication of the revised guidance, volumes 1 & 2 of river basin planning guidance provided the basic principles for engagement and the Agencies have continued to refine their approach in the light of experience of the first planning period.
8.10 table 2	Concern that groundwater is not designated in the same way as surface water bodies under A4.3 where they are dominated by essential public water supplies.	WFD does not provide for these designations to be applied to groundwater bodies.
8.11	Comment that guidance should reflect the need to embed transparency throughout the development of RBMP, not just at the consultation stage.	Transparency in all RBMP processes is one of the principles of river basin planning set out in chapter 3.
8.12	Concern that the nature of the consultation is in breach of Article 17 obligation that Member States consult on draft RBMPs which should comply with all the requirements set out at Annex VII of the Directive, whereas 8.12 of the Guidance suggests that the Agencies base their consultation on an estimate about what can be achieved by 2021 and 2027 and that this should be based on an “ <i>assumed level of available national funding</i> ” and an “ <i>assumed level of additional voluntary action</i> ”. Concern also that the Agencies are being asked to make de-facto assumptions about future Government policy.	<p>The Agencies will consult on draft updated plans including justification of any exemptions which have been applied for technical reasons or suggested for reasons of disproportionate cost. 8.13 amended for clarity to require this to be included.</p> <p>The Agencies are not being asked to predict future Government policy or funding but it is important that stakeholders have the chance to comment on the scale of ambition for the updated plans and consider how improvements should be supported. To support this, the consultation will include an illustrative funding scenario to 2021. In constructing this, the Environment Agency will be considering the largest funding sources and using planning information that has been made public or which they can reasonably estimate. The extent</p>



		of actions by others will also inform the pace and scale of improvements. Ministers will make their decisions informed by the evidence, including views of stakeholders.
10.1 Environmental Objectives	Suggestion that the Guidance should refer to the further need for measures <i>that</i> “protect, enhance and restore” all surface, heavily modified and ground water bodies, with the aim of achieving good status.	10.4 amended to include this wording
10.5	<p>Concern that the statement that the Agencies “will be more certain of meeting some WFD objectives than others because of variations in the level of confidence that applies to the classification of a given water body and certainty about the effectiveness of proposed measures.” implies an acceptance of uncertainty as a reason for not meeting targets.</p> <p>Suggestion that the final Guidance should place more emphasis on ensuring that the Agencies enable transparency and public access to data, as well as the method statements that underpin the Agencies’ approach to reducing uncertainty.</p> <p>Suggestion that it should be made clear to stakeholders whether uncertainty is down to a lack of monitoring on the part of the regulator, or something else, how significant the uncertainty is, and what is planned to bridge this gap.</p>	<p>Uncertainty is a permanent feature of assessment of the water environment and where this is the case, it may affect the balance of costs and benefits of implementing measures and whether a relevant exemption should be applied. However, it is important that uncertainty does not preclude the setting of objectives. Measures can be adjusted during the planning cycle if necessary, to respond to new information.</p> <p>Transparency and openness are underlying principles of all aspects of river basin planning and means of providing access to data continue to improve. For example, in England the Catchment Data Explorer will go live in September. Information about these matters is available in relation to water body assessments and any measures that have been, or will be, implemented to improve certainty</p> <p>Monitoring alone cannot guarantee certainty. The Agencies also take into account a range of qualitative information to support data from the monitoring regimes that have been developed in accordance with WFD principles.</p>
10.6	Concern that the wording of 10.6 will encourage EA/NRW to set over-ambitious targets in the planning	The objective setting process would be unduly hampered if the Agencies could only set objectives that they could be

	stage of RBMP2	absolutely certain would be met by a particular date.
10.6	<p>Comment on statement in 10.6 that “Provided that Agencies can demonstrate that reasonable efforts have been made to achieve the objectives, this will satisfy the requirement of “aiming to achieve” those objectives”.</p> <p>The response considers that the Agencies must examine how and why the measures implemented to ‘<i>aims to achieve</i>’ have fallen short of the objectives set in RBMP1 and that the Guidance must set out how this information is to be summarised in the draft and final RBMPs as context for the new /additional action under the RBMP2 Programme of Measures.</p>	<p>Guidance amended for clarity: “Provided that the Agencies can demonstrate that measures set out in the RBMP could reasonably have been expected to achieve the objectives set for the water body, this will satisfy....”</p> <p>Table 2 states that the Agencies must provide an explanation in the updated plans of why any objectives have not been met. It is for the Agencies to determine how to do this.</p>
10.9	<p>Comment that there is a significant level of uncertainty in the relationship between biological quality, hydrological flow and the resulting quality status of the river and question whether the statement in 10.9 that where a water body is classified as ‘good’ it is necessary for the hydrological conditions to remain consistent with at least a ‘good’ classification to prevent deterioration.</p>	<p>This is not an instruction to meet a certain standard in all circumstances but a requirement to make sure that hydrological conditions in the water body are capable of continuing to support biological quality elements at good status. This is consistent with recommendations of UK TAG, annex v of WFD and Directions to the Agencies on classification. Principles of classification are set by WFD but Agencies take account of these issues when proposing measures. The approach to combining monitoring results is covered by directions on classification</p>
10.11	<p>Comment that “<i>the baseline for the assessment of deterioration is the current reported status class</i>”, meaning each RBMP round sets its own baseline by reference to the then currently assessed status, seems inconsistent with the objective to prevent</p>	<p>For practical planning purposes, the Agencies need to identify a current status baseline for consideration of measures. It is also the clearest way of providing information about change from one cycle to the next and is consistent with current CIS guidance on reporting for the second cycle.</p>

	deterioration and that deterioration between first and second round of plans would no longer be acknowledged and included within the new RBMP along with consequent justification/measures. The response suggests that the final Guidance should direct that RBMPs include information on deterioration from the date of implementation of the Directive as well as give guidance as to what should be done where deterioration is confirmed.	<p>It will also be clear from the original reported status and information supporting current classifications whether there has been deterioration.</p> <p>This comment also raises the question of whether improvements should also be reported using the initial assessments of status which would give a false picture of progress.</p> <p>The response to deterioration will be determined through the planning and objective setting processes.</p>
10.12	Comment that unlike Habitats Directive, WFD does not use the term 'likely to' and that in making a decision on whether or not it is necessary to apply the Article 4.7 tests, it must first be clear that there <b>would</b> be a deterioration or an effect on status.	Text amended for clarity to read "...which the competent authority considers would cause...."
10.12	Suggestion that it would be helpful for water companies when preparing drought management plans to have some context on what will happen under extreme conditions e.g. drought.	Advice on how EA will manage drought can be seen at: <a href="https://www.gov.uk/government/collections/drought-plans-england">https://www.gov.uk/government/collections/drought-plans-england</a>
10.13	Suggestion that 10.13 should also refer to proposals submitted by third parties on which a public body must make a decision.	Text amended to refer to 'the proposed activity' so that it covers third party proposals on which the authority may be deciding.
10.13	Concern that the guidance seems to suggest that local authorities are only required to act to prevent deterioration when they receive advice from the Agencies when acting as a statutory consultee.	<p>This has been deleted as straying into guidance to local authorities and therefore out of scope.</p> <p>Communities and Local Government have issued guidance on water linked to the National Planning Policy Framework since this paragraph was originally drafted for volume 1 of the</p>

		guidance. As already noted, LAs have a duty to have regard to the RBMP. Advice from the Agencies assists them in complying with it.
10.16	Comment considers that it is not correct to state that the same measure of protection is provided to fish under WFD as provided by the Freshwater Fish Directive, noting that , the Agencies do not yet consistently monitor for fish as an ecological status indicator.	This approach is consistent with that of many other MS and understood to be supported by the Commission. The WFD indicates (recital 51) that the Directives it repeals are no longer required on the basis that WFD implementation will provide at least the same level of protection. Freshwater Fish Directive only required monitoring of a limited range of water quality parameters. Routine WFD monitoring is more comprehensive.
10.19	Comment seeking clarification that integration of requirements relating to protected areas in river basin planning is not a reference to Natural England’s long term flow targets for SSSIs.	The guidance envisages an approach whereby the Agencies and the Conservation advisors consider in each case the appropriate long term targets to protect site integrity and, if necessary, identify what progress can be made towards the target in the 2 <sup>nd</sup> planning cycle. This section does not apply to SSSIs.
10.20	Suggestion that text should be revised to make clear that the objectives set in the RBMP should reflect the Birds and Habitats Directive obligations which are translated by Natural England or Natural Resources Wales in the Site Objectives	The text is clear that objectives and measures for protected areas must observe the requirements of both Directives.
10.22	Suggestion that 10.22 should be re-worded as:  “It does not automatically follow that any negative change in monitoring parameters in parts of the site must always be avoided.”	Consideration of whether a change to one or more parameters is significant in terms of a site’s integrity must be undertaken in the context of the site’s overall condition and place in the wider network. This statement is to make clear that this analysis is required to avoid an over-mechanistic response to changes.
10.25	Comment that reasons why measures have not been effective are understood and that Agencies are	10.25 amended to add: “The updated RBMPs must include a summary of reasons why planned measure did not achieve the

	instructed to present a summary of what measures were in place and why improvements did not occur.	protected area objectives.”
10.25, 10.28 & 10.29	<p>Comment that there is no requirement to plan to meet the conservation objectives in WFD timescales simply because the N2K site is part of the WFD Protected Area register; and WFD economics principles cannot be used to justify not meeting conservation objectives.</p> <p>10.25, 10.28 and 10.29 together appear to link WFD quality elements and N2K conservation objectives in a way that is not justified.</p>	WFD timescales are applied to water related objectives of N2K protected areas by virtue of Article 4(1)(c) as do the exemptions related to timescales. The guidance is clear that the application of exemptions must respect the requirements of the Birds and Habitats Directives. Conservation objectives may include certain WFD quality elements, although the numerical values may differ.
10.26	<p>Comment that 10.26 appears to suggest that time extensions may be applied to Protected Areas where there is “conflicting evidence” with example being given “where the relevant biological feature or features appear to be in a favourable condition but an applicable environmental quality standard is not achieved”. is contrary to the precautionary principle</p> <p>Concern that suggesting that exemptions can be used in relation to protected area objectives is a change in policy since the first RBMP guidance.</p> <p>Suggestion that SSSIs they reasonably fall within the definition of 'protected site' within articles 4(1)(c), in accordance with article 6 (2) and Annex IV (1). and that the Guidance should make this explicit.</p>	<p>The precautionary principle is more clearly applicable to preventing deterioration than to planning restoration where it is sensible, in the face of significant doubt as to whether there is a problem, to verify failure of a standard with biological evidence of harm, particularly where water quality is stable. This applies principally to a limited number of standards where the causal link between pressure and response is uncertain and variable.</p> <p>It may be necessary to apply time extensions in accordance with Article 4.4 This applies to all N2K sites covered by 4(1)(c) of the WFD that are subject to WFD provisions. WFD provisions may not be used to set less stringent objectives.</p> <p>Member States may, but are not required to, include national designations on the register. A European Commission paper on links between Nature Directives and the WFD supports this view</p>
10.27	Comment that formal consultation on the establishment of new or revised targets for a quality	The consultation is not on the generic quality standards which are used to inform site assessment, but on whether the water

	<p>element underpinning Conservation Objectives (Cos) is welcome but concern that the draft RBMP is not the right vehicle for such consultation). Suggestion that consultation on any N2K standard changes should take place prior to the opening of the draft RBMP.</p>	<p>quality objectives identified for the site by the Agencies and conservation advisors taking account of those standards are appropriate including progress goals for the second cycle where it is not possible to reach long term targets by that date.</p>
10.27	<p>Concern about the application of paragraph 10.27 in a cross-border context and request for clear guidance from government to conservation regulators that promotes agreement of common standards in such circumstances.</p>	<p>The Agencies have a statutory duty to work jointly to deliver an integrated RBMP in the cross border river basin districts.</p>
10.31	<p>In addition to changes made to the document in response to comments received, a new paragraph 10.31 has been added to provide clarity about consideration of Ramsar sites in river basin planning.</p>	
11.3	<p>Comment that text should read ‘different <b>ecological</b> objectives for heavily modified .....’ etc. HMWB / AWB designation does not affect chemical status objectives.</p>	<p>Text amended</p>
11.9	<p>Comment that reference to CIS guidance on use of alternative objectives where appropriate should be balanced by a reference to CIS guidance 20 para 3.1 “When discussing exemptions... it should be taken into account that the WFD is an environmental directive and ... exempting from [WFD’s] objectives should not be the rule but exceptional”.</p>	<p>The exemptions are to be used only in cases where all the conditions for their use are met. It is accepted that exemptions are an exception to the general requirement to aim to achieve ‘good’ but the extent of their use is governed only by the conditions for their use which must be explained in the RBMP. (Paragraph 11.7)</p>
11.13	<p>Concern that this paragraph which states that it “may be necessary and appropriate in some cases to apply a new exemption under Article 4.4 or 4.5”. is too vague and allows for inaction or insufficient work to</p>	<p>10.4 amended to say that where this occurs the original objective should be met as soon as practicable.</p>

	<p>delay things to the point where a less stringent objective needs to be set.</p> <p>Suggestion that guidance should be updated to ensure that, where extensions are applied, the draft and final RBMPs also include: a detailed timetable for action; the steps that will be taken to overcome disproportionate cost &amp; affordability problems; exploration of alternative financing; and explanation of the consequences of non-action in this cycle.</p>	<p>This level of detail may not be possible to provide in all cases so cannot be made into an absolute requirement. For example, long term restoration projects or other objectives that needs to be met progressively over time.</p>
12.3	<p>Comment that small changes in cross compliance rules could deliver GES in water bodies currently being considered for exemption. Suggestion that there should be a systematic review of the use of exemptions to see if there are new regulatory or market instruments that could deliver GES nationally across a range of similar situations.</p>	<p>Exemptions will be applied in accordance with the WFD taking account of available information. RBMPs are not intended to and do not prevent the Agencies responding to new evidence and information.</p>
12.3	<p>Concern that guidance on assessing disproportionate costs the questions should involve asking whether or not it is “equitable” is not appropriate or helpful, as it adds another layer of subjectivity and uncertainty into the decision process over and above affordability (see below) and tends towards a political value judgment.</p>	<p>Equity is not intended to be an additional criterion. The term has been used simply to show that disproportionality is not determined solely on the basis of economic efficiency (BCR or NPV) but also includes a consideration of distribution. This has been included in the guidance because it will inform the information the Agencies will provide to assist in taking the decision.</p>
12.3	<p>Suggestion that the final Guidance should follow the approach included in CIS 1 for moving from financial to economic costs.</p>	<p>The level of detail suggested by this response is not appropriate for the guidance. Agencies carry out their economic analysis on the basis of Green Book principles and all the points listed in the response are standard aspects of government economic appraisal methodology.</p>

12.3	<p>Suggestion that the final Guidance should include explicit instructions to the Agencies regarding: applying a cost benefit ratio; taking account of uncertainties; discounting; inclusion of non-monetised benefits; showing how costs are distributed between and within a sector; information on disproportionate cost to include with public consultation; financial mechanisms; and the expectation that, where disproportionate cost exemptions are used, the RBMPs set out the measures required to meet objectives by 2027, their scheduling, costs and practical financing</p>	<p>This level of detail is not appropriate for the guidance, but as required by the principle of transparency, all information in the Agencies' appraisals, including distributional information and the measure of uncertainty used in the appraisal will be visible in the detailed spreadsheet workings, so open to scrutiny by interested parties.</p>
12.7	<p>"Concern that there is insufficient information on the cause of the problem to allow a solution to be identified" suggests that uncertainty, due to inappropriate monitoring or confidence thresholds, could be used as a means to invoke an exemption related to technical feasibility and that it is not compliant with the WFD .</p> <p>Concern that text "There are practical constraints of a technical nature" encourages the Agencies to interpret 'practical constraints' too broadly.</p> <p>Concern that the draft Guidance seems to blur the lines between technical infeasibility and disproportionate cost, whereas CIS guidance 20 states that costs should not be taken into account when determining whether improvements are technically infeasible.</p>	<p>While there may be disagreement as to whether information is sufficient in any given case, or whether better information could have been obtained in the time available, it remains the case that if there is not sufficient information on the cause of a problem to identify a solution, any response to the problem would be based on guesswork rather than evidence.</p> <p>The example given is "Commissioning new plant", a potentially lengthy and technically complex process.</p> <p>The stated limited link between technical feasibility and cost is mentioned in similar terms in CIS 20.</p>



13	Comment that there does not seem to be guidance on how to update economic analysis required under Article 5 and 9 of the WFD including implementation of water pricing policies that incentivise efficient use of water and recover the costs of water services.	This is because Defra is the competent authority for economic analysis. It is not part of the role of the Agencies to determine new policies on cost-recovery for water services or water pricing policies.
13	Concern that the guidance does not provide sufficiently explicit guidance on how to apply disproportionate cost, meaning that the Agencies have to make political judgements themselves.	The Agencies are not required to make political judgements but will present information on their economic appraisals and indicate whether it suggests there is evidence of disproportionate expense. Appraisal evidence will be available to the public.
13.7	Suggestion that the second bullet of this paragraph should read ‘- consider all the <b>impacts</b> which a measure could help to address’ as not all pressures lead to impacts; and some impacts requiring a measure are common to a variety of pressures.	Text amended so that the focus is on pressures that cause impacts.
	Concern that the guidance does not provide sufficiently explicit guidance on how to apply disproportionate cost, meaning that the Agencies have to make political judgements themselves.	The Agencies are not required to make political judgements but will present information on their economic appraisals and indicate whether it suggests there is evidence of disproportionate expense. Appraisal evidence will be available to the public.
13.12	Query whether reference to benefits valuation applies to NRW as well as to EA.	Guidance amended to clarify that it applies to both Agencies
13.20	3 responses sought clarification in the guidance on how affordability is assessed and the role of the Agencies in its assessment.	The role of the Agencies is to gather and collate information that the administrations require to inform decisions about disproportionate cost. Administrations and Ministers will consider cases as they arise.

13.22/13.23	<p>Comment that reference in the WFD Preamble (para 29) to affordability must be read in the light of the obligations set out in the WFD and the obligation to meet the strict conditions established under articles 4(4) and (5) when deciding to extend deadlines for achievement of objectives. Also that clearer guidance about what is and is not affordable should be set out before draft plans are produced and consulted on.</p>	<p>The consultation will focus on longer term ambitions with an illustration of possible funding and what that might achieve over the next cycle.</p> <p>In England, EA will set out in the consultation a number of scenarios to illustrate alternative scales of achievement, costs and benefits . This is a starting point for consultation and then for Ministers' decisions, but should not be seen as decisions that have already been taken</p> <p>Defra is currently commissioning analysis on affordability that will inform this process The actual decisions on what is affordable are not mechanical and are recognised in CIS guidance as being political.</p>
14	<p>Suggestion that the Guidance must be amended to adequately reflect the requirement to implement basic measures under Article 11.3 of the WFD.</p>	<p>This is a requirement of the Directive and we do not consider it needs elaboration in guidance to the Agencies</p>
14.6	<p>Comment that projected changes in annual rainfall mainly relate to differences in the seasonal distribution of a similar annual precipitation total.</p>	<p>Text amended.</p>
14.10	<p>Comment that more guidance needed on how the Agencies should bear in mind the principles of 'better regulation' given the requirement for basic/mandatory measures in accordance with the polluter pays principle and the binding legislative obligations of the WFD.</p> <p>The final Guidance must include specific instructions for the Agencies regarding securing compliance.</p>	<p>Paragraph 14.10 must be read in the context of the clear, legal requirement for the Agencies to exercise their functions so as to secure compliance with the requirements of WFD. It is fully accepted that regulatory approaches will be used where required.</p>

14.12	Comment that paragraph 14.12 describes payments for ecosystem services as “Non regulatory”, noting that the Welsh Government is considering giving such measures statutory weight through its Environment Bill. Suggestion that the meaning of ‘non-regulatory’ should be clarified in context of ‘statutory’ and ‘voluntary’ measures as described in paragraphs 4.13 and 4.14.	They are non-regulatory in the sense that, at present, they are not underpinned by a statutory regime.
14.20	Suggestion that the Guidance should specify that this draft RBMPs for consultation must include the contents set out in paragraphs 14.20 – 14.23.	Additional bullet point added to 8.13 to address this point.
Table 3. P53 Relationships	Suggestion that text should read: “Changes in land use <b>can</b> have impacts on...” because some changes in land use will have absolutely no effect on WFD status.	Text amended.
Table 3	Query about the reference to water company eutrophication action plans?	Reference included in error from a previous version has been deleted.

Reference	Main Comments on Standards	Response
Chapter 9 of river basin planning guidance	Comment that there should be a Regulatory Impact Assessment to show what impact the proposed changes may have on those sectors involved in delivering that aspect of WFD compliance before the changes are approved.	Consultants carried out an impact assessment for the first tranche of TAG recommendations on standards, but it did not provide information that was useful to sectors potentially affected. This is because, although it is possible to estimate the cost of achieving the standards in all water bodies, it is necessary to know what environmental objectives have been set, having taken account of the economic analysis that is a part of the river basin planning process. Without that information, the range of costs would be between £0 and the total cost of achieving the standard in all water bodies where currently it was not achieved, The impact assessment that will be carried out as a part of the river basin planning process will provide much better information in the context of the decisions to be taken.
Chapter 8 standards document	Comment that the Quagga mussel <i>Dreissena bugensis</i> has been removed from Table 8.1. and suggestion that it should remain in the table in anticipation of the risk of its arrival in the UK to ensure measures are implemented to prevent this happening.	The list of invasive species (Table 8.1) is proposed to support the classification process only and therefore only includes established species. The operational list held by UKTAG will change as new species arrive and/or new risk assessments are completed.” The GB Non Native Species Secretariat is currently helping form a partnership including the water industry and other stakeholders to develop a contingency plan for the quagga mussel.
Chapter 5	Several comments about the mismatch between the nutrient standard and ecological assessment and questions as to whether, as there is still uncertainty in the relationship between Phosphorus (P) concentration and biological response, failure of a P standard should drive regulatory action. Also whether failure of a P standard should affect ecological classification without	The new river P standards represent a step forward in matching nutrient concentrations to ecological change. The level of mismatches between P and biology has been reduced under the new scheme and there is a significantly lower level of bias towards biological failures. However, as was recognised when the WFD nutrient standards were first proposed in 2008, there is uncertainty in our ability to predict ecological impacts in

	<p>evidence of biological impact. A risk was noted that the costs included in AMP6 Business Plans and used within the EA's cost benefit analysis will be underestimated.</p>	<p>particular water bodies. Therefore the intention is not to seek costly highly-targeted regulatory action (for example a Water Protection Zone), to reduce phosphorus concentrations in individual water bodies, without ecological evidence of nutrient-related impacts.</p> <p>For voluntary catchment-level actions to tackle agricultural phosphorus in conjunction with other diffuse pollutants it is considered appropriate to target these based on phosphorus non-compliance as a measure of risk/impact without requiring biological corroboration of failure in particular water bodies.</p> <p>Defra is reviewing basic good practice actions, which could reduce the low level diffuse inputs of phosphorus into our watercourses. Such measures would not require water body level evidence of P failure and ecological impacts.</p> <p>Classification under the WFD is based on the one-out-all-out principle at a quality element level. Nutrient conditions and plants/algae are separate quality elements and need to be defined and reported as such. In line with many other Member States, the UK has introduced nutrient standards based on the requirements of Annex V to the WFD.</p> <p>The uncertainty in the revised standards is no greater than that in the original standards but is more explicitly acknowledged and, importantly, there is less bias, meaning that the risk, of a water body failing on biology but not on phosphorus, is now lower.</p>
5.1.6	<p>Suggestion that factors such as level of siltation, habitat available and shading of open water need to be taken into account when classifying the ecology of surface waters.</p>	<p>UKTAG recognised in its consultation on the revised river P standards for phosphorus that alkalinity and altitude are not the only factors that affect the biological response to enrichment. UKTAG intends, as part of its ongoing work programme, to review whether better models of the relationship between</p>

		phosphorus and accelerated plant growth can be developed by incorporating such additional information.
	Suggestion that the new Directions to be given to the Environment Agency and Natural Resources Wales should reference the use of the mixing zone concept for determinands other than Priority Substances (PS) and Priority Hazardous Substances (PHS).	Use of these standards in classification does not require designated mixing zones, but the absence of specific reference to mixing zones does not prevent the Environment Agency and Natural Resources Wales from using them as part of their regulatory approach to permitting discharges to water.
	Question why water temperature has not been included as a parameter? Water temperature can have a significant impact on the ecology of aquatic systems and should be considered as part of the assessment for WFD.	There are no planned changes to the existing temperature standards so these were not included in the document which focussed on new or updated standards.
5.2	<p>Comment noting that although no changes to WFD assessment are expected as a result of introducing these new standards, there is a concern that they have been introduced without adequate monitoring data to indicate there is a potential problem, suggesting gold-plating of WFD requirements.</p> <p>Concern expressed that substances have been identified on the basis that they are widely used, rather than on the hazardous properties of the substance and suggestion that greater weight should be placed on hazardous and persistent properties rather than regularity of use and occurrence. Suggestion that Identifying highest use chemicals rather than the most toxic could result in chemicals that have no specified health/environmental concerns, and therefore a low risk, being identified as problematic simply on the basis that they can be measured during monitoring.</p>	<p>Substances were identified for EQS development via a prioritisation process which involved consideration of data on exposure and hazard. Equal weighting was given to hazard and exposure. The latter included consideration of usage and available monitoring data.</p> <p>The exposure assessment included consideration of usage data such as tonnage and likelihood of entry to the environment during use as well as available monitoring data.</p> <p>The hazard assessment included consideration of persistence, bioaccumulation and toxicity.</p> <p>EQSs are derived based on available toxicity data to aquatic plants and animals. The amount of toxicity data available is the main factor that determines the size of the safety factor applied in the derivation of the EQS. The safety factor used would get larger when there are data for only a few species, and uncertainty is large. To avoid the use of unacceptably high</p>

	<p>Concern also expressed that the proposals represent gold-plating of the requirements since substances have been selected without sufficient extensive field data to justify selection and that UKTAG apply a large safety factor to sparse data sets to “allow for uncertainty”. It was suggested that this approach is likely to set standards which are too strict and that emphasis should be placed on obtaining better quality data sets on which to set standards, especially when the impact on the industry of meeting unobtainable standards could be huge.</p>	<p>safety factors, UKTAG do not recommend EQSs that have been derived using a safety factor greater than 50 for freshwater.</p>
	<p>Comment that there is still some ambiguity about how the larger groundwater bodies are classified and would welcome further clarification.</p>	<p>This is a wider question about groundwater body delineation, monitoring and status assessment.</p> <p>When defining groundwater bodies and establishing monitoring networks the Agencies have followed UKTAG and EU CIS guidance as closely as practical. They aim for the groundwater quality monitoring network to be representative of the regional groundwater quality.</p>
<p>5.5</p>	<p>Comment seeking clarification to why the threshold has been set at 37.5mg/l and how will this impact upon water company investigations.</p> <p>Question why a trigger value has been set rather than taking into account trends in nitrate concentrations?</p>	<p>The groundwater quality threshold for nitrate in the General Chemical and Drinking Water Protected Area tests has been set at 37.5mg/l nitrate because that follows UKTAG guidance. Please see the UKTAG paper on ‘Derivation of Nitrate Threshold Values for Assessing Risks to Groundwater Drinking Water Resources’ <a href="http://www.wfduk.org/resources%20/nitrate-threshold-values-assessing-risks-groundwater-drinking-water-resources">http://www.wfduk.org/resources%20/nitrate-threshold-values-assessing-risks-groundwater-drinking-water-resources</a></p> <p>This threshold value is intended for use as part of implementing the WFD. It should not therefore directly impact on Water Company investigations.</p>

		<p>Trends are taken into account as part of both the Drinking Water Protected Area test and the trends test. This is set out in more detail in UKTAG guidance. Please see: <a href="http://www.wfduk.org/resources%20/paper-11bi-groundwater-chemical-classification-march-2012">http://www.wfduk.org/resources%20/paper-11bi-groundwater-chemical-classification-march-2012</a> and <a href="http://www.wfduk.org/resources%20/groundwater-trend-assessment">http://www.wfduk.org/resources%20/groundwater-trend-assessment</a></p>
5.5.3	<p>Comment agreeing with this section but need clarification on what "...to support human uses..." means and the impact? Treatment is always available and will be required in the short term even if Article 10 is still enforced.</p>	<p>The phrase "...to support human uses..." in this context primarily means to support the use of groundwater for drinking water supply. We agree that the option of drinking water treatment is available where alternatives such as catchment schemes are not viable or have not worked.</p>
5.5.5	<p>Comment that the EA has all the data for UK so why not actually specify how many extra investigations rather than just saying it is expected to lead to more investigations. This could be a huge and disproportionate cost and this should be detailed in this document</p>	<p>The reduction in the nitrate threshold has led to approximately 6 more groundwater bodies being investigated in England.</p>