 <b>Regulatory Policy Committee</b>	<b>OPINION</b>	
<b>Impact Assessment (IA)</b>	Mandatory Adoption and Minimum Standards for Gravity Foul Sewers and Lateral Drains	
<b>Lead Department/Agency</b>	Department for Environment, Food and Rural Affairs	
<b>Stage</b>	Consultation	
<b>Origin</b>	Domestic	
<b>Date submitted to RPC</b>	14/04/11	
<b>RPC Opinion date and reference</b>	24/05/11	RPC11-DEFRA-0910
<b>Overall Assessment</b>	<b>RED</b>	
<p>The IA is not fit for purpose. The assumptions behind the behaviour of water and sewerage companies (WaSCs) and developers, which drives the cost-benefit analysis of the proposals, appear to be inconsistent across the two options. This needs to be addressed to allow meaningful comparison of the different options during the consultation period.</p>		
<p><b>Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options</b></p>		
<p>The IA presents two options for how to set standards for all new build foul sewers and drains which must, under the proposal, be adopted by water and sewerage companies (WaSCs). There is a significant difference between the Net Present Value (NPV) estimates presented (£-1,967m for option 1 and £406m for option 2; resulting respectively in an IN of £114m or an OUT of £14m). However it is not clear from the IA why this discrepancy exists. It appears to result from an inconsistent approach to the actions of the main agents under the two scenarios (see below). An adequate explanation for this difference, and a consistent approach across the two options, is necessary to facilitate meaningful consultation on such a complex policy area.</p>		
<p><i>Costs and benefits.</i> The options presented mandate adoption by WaSCs of all new build foul sewers and lateral drains. Option 1 explores the viability of adoption under a scenario where developers comply with ‘voluntary’ build standards, as set out in Sewers for Adoption 6<sup>th</sup> Edition (SfA6), which WaSCs currently demand under the existing system before <i>choosing</i> whether to adopt new sewers or drains. Option 2 explores the establishment of a mandatory minimum build standard set by Government. This new standard is shown to be significantly ‘lower’ than SfA6 (paragraph 82), and by implication lower than the average build standard currently operated by developers.</p>		
<p>Under Option 1, developers are assumed to raise their standards to meet the WaSC’s SfA6 standards and so it is estimated that they incur a substantial capital cost. However given that WaSCs will be mandated to adopt <i>all</i> new sewers and lateral drains, it is not clear why developers will be under any obligation or incentive to change their current activities in order to meet any designated standard under what is described as a ‘voluntary’ scheme. In the absence of further intervention from Government, the implication of the assumptions under Option 1 appear to be that WaSCs have a clear preference and ability to ensure developers meet higher</p>		

standards than are currently the norm for the sector. The IA should explain more clearly what mechanisms are in place to ensure that developers will meet SfA6 standards ‘voluntarily’, in order for the actions and associated costs and benefits to be better assessed. It should also explain why ‘mandatory adoption’ does not imply that WaSCs will not be obligated to adopt sewers at a lower standard than SfA6.

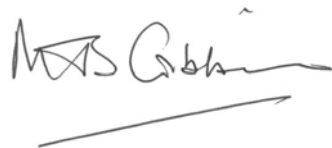
Option 2, meanwhile, assumes that the WaSCs would adopt sewers and drains that meet a mandatory minimum standard below SfA6. The IA states that under Option 2, adoption agreements must be “predicated on standards set by the Secretary of State” (page 19/ 20). However, it is not clear whether these are mandatory standards, or whether it allows for agreements to be reached at a higher level. If it is the former, there are presumably significant negative implications for WaSCs as the cost-benefit analysis implies that there is £335m less capital expenditure spent on new sewers or drains than WaSCs would ordinarily demand in the absence of mandatory adoption. This issue is not explored in the IA. If it is the latter, the IA would benefit from being clearer as to why WaSCs would not adopt a position requiring SfA6 standards to be met under Option 2, which would appear to be consistent with their position in Option 1. Under either scenario, the IA must be significantly improved to allow for meaningful consultation on the different options.

*Pipe Length.* Both options discuss the additional costs to WaSCs associated with the transfer of responsibility for blockages from households to WaSCs, making reference to the additional length of pipes under both options. However, it is not immediately clear how the costs of these additional lengths of pipe contribute to the capital expenditure costs/savings to developers in both options, making it difficult to assess these calculations. The IA should discuss in more detail what elements of the standards impose a cost on developers and what elements of the standards generate savings to developers, with particular reference to the length of pipe being constructed by developers. This is important because capital expenditure costs and savings represent a significant and critical element of the final NPV calculations.

**Have the necessary burden reductions required by One-in, One-out been identified and are they robust?**

The IA identifies Option 2 as a deregulatory OUT because of the net benefit to business from the lower mandatory minimum standard. However the imposition of a mandatory minimum standard appears to reflect a new regulatory burden on developers as, under the ‘do-nothing’ scenario, “*where a developer does not wish to connect into the public sewerage system, and makes alternative arrangements for the treatment and disposal of foul sewerage, this option remains and the requirement to construct sewers and lateral to the design and construction guidance issued by the WaSC does not apply*”. This proposal imposes a mandatory requirement on all developers and therefore is not clear why option 2 is not a regulatory IN; although, if the net benefit to business is demonstrated in the final-stage IA, this could be classified as a ‘zero IN’.

**Signed**



**Michael Gibbons, Chair**