



Department  
for Environment  
Food & Rural Affairs



Llywodraeth Cymru  
Welsh Government

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

## **Summary of responses and the governments' response**

**September 2017**



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# Introduction

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 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.

Defra and the Welsh Ministers have a statutory duty to consult on directions. Accordingly, references to governments are to Defra and the Welsh Government unless otherwise stated.

The consultation sought views from interested parties on two proposals:

## 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

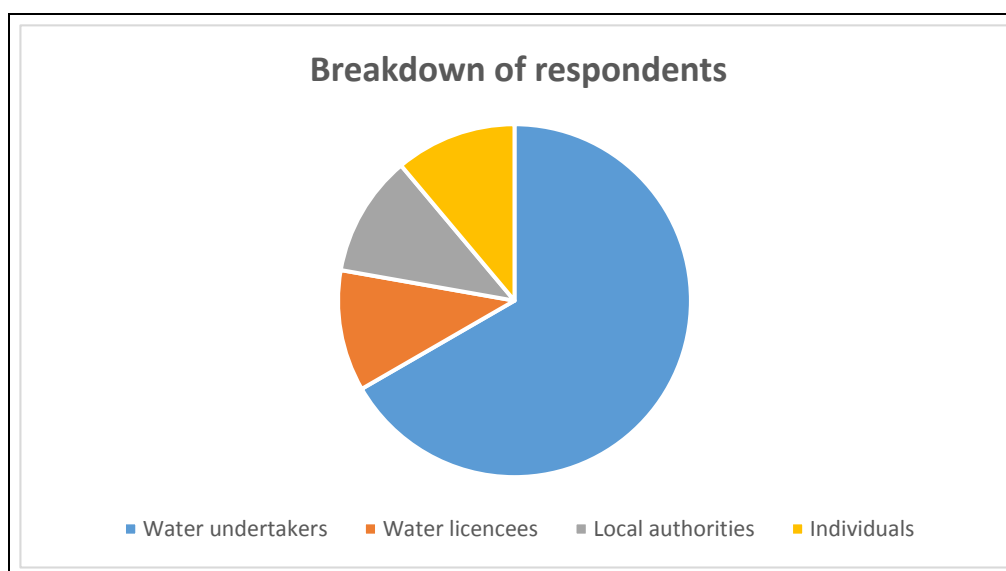
A proposal to issue a new general direction which would apply to all water supply licensees meeting certain conditions, and which would replace earlier, specific directions issued to individual companies. The essential content of the new direction would be very similar to that of the individual directions.

## Summary and next steps

The consultation ran from 1 August until 29 August and included eight questions, of which the first four related to respondents' personal details.

We received nine responses in total, of which six were from undertakers, one from a licensee, one from a local authority and one from an individual.

**Figure 1: Breakdown of respondents to the consultation**



Following the consultation, we have reviewed all of the responses, summarised them below and published the governments' response.

In summary, the majority of respondents were supportive of the governments' approach and signalled this in their responses to the consultation questions. Some concerns were raised by two respondents in relation to licensees' responsibility to share information/contact details in an emergency and these have been considered and addressed in the governments' response below.

A detailed summary of responses is provided from page 3 onwards.

Following this response, we intend to lay the Directions in Parliament and the National Assembly for Wales. We anticipate the Directions will come into force on 1 January 2018.

# Responses to consultation questions

## 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*. Part 1 of the consultation proposed that we revoke and replace the 2006 Direction with an updated version which reflects this change.

### Q5 – Do you have any comments on this proposal? (Yes/No)

Six respondents answered no to the above question, with three putting forward comments.

Of the three respondents who offered comments in response to the question, one described the changes as “sensible”, with another saying they were in support of this and saw no issues with the proposal.

The third respondent offered comments that were not related to the consultation, and focused on the use of wells and natural springs.

## 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 2017 (see annex C).

Part 2 of the consultation proposed that we revoke and replace all the individual directions with a single, general direction describing essentially similar requirements. The proposal also suggested that the direction should only apply to water supply licensees that input water under the wholesale authorisation or supplementary authorisation.

Therefore, part 2 of the consultation proposed 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. Our view is that 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. Arrangements for communications between

wholesale and retail are covered by the codes, including unplanned events, which we believe is sufficient.

## **6. Do you agree that this is a reasonable approach? Might there be an alternative?**

There was strong support for the proposed approach from eight of the respondents, with the ninth respondent commenting on issues unrelated to the consultation.

Four respondents made comments in addition to confirming their agreement with the proposal.

One respondent commented that they found the proposal to be reasonable, as long as the same standard of emergency plans are maintained.

Two respondents felt that water supply licensees should have some obligation to communicate with/notify their customers or support the undertaker in doing so in the event of an emergency. One respondent suggested this should be in line with the operational terms and that water supply licensees should have these obligations within SEMD.

One respondent made similar comments to the above, requesting that there should be additional clarity or reconfirmation regarding Wholesaler and Retailer responsibilities in the context of security and emergencies. The respondent also requested additional guidance and monitoring of wholesaler practice to ensure that customer service levels in relation to unplanned events has not deteriorated with market opening.

## **7. Do you agree it is right for licensees with only retail and restricted authorisations to be out of scope of this direction?**

Nearly all respondents agreed with this proposal, with one respondent disagreeing and one answering that they didn't understand the question.

One respondent who agreed with the proposal commented that the direction should be limited to only those licensees that input water into the supply systems and, as such, licensees with only retail and restricted authorisations should be out of scope

The respondent who disagreed with the proposal stated that, even though licensees with only retail or restricted retail authorisations do not input into supply systems, they are responsible for assisting with notifying affected customers and communicating to aid resolution. The respondent commented that undertakers no longer have contact details for Non-Household Customers and rely wholly on the retailers to provide these and licensees with only retail or restricted retail authorisations should produce plans for communicating with customers on mass and at all times of the day/year if requested to do so by the undertaker in the event of an emergency. The respondent felt this would then make the direction better aligned to the Operational Terms.

## **8. Do you have any specific comments on the draft direction?**

Six respondents had no comments on the draft direction, with two respondents making comment and a further respondent referring to their previous comments, which are not relevant to the consultation.

The first respondent to offer comments felt that licensees inputting water into the supply systems should be required to send a copy of their plans to the undertaker whose area they input water, as well as consult (see Para 7.1(b) of Annex B). The respondent felt that this requirement would ensure emergency plans of both undertaker and licensee are complimentary and coordinated. The respondent requested that Defra clarify whether any of the licensees planning arrangements are to form an integral part of the undertakers SEMD annual audit.

The second respondent to offer comments said that they were supportive of the draft direction. They felt that additional guidance covering the following three points would significantly benefit customers and the water industry: monitoring changes to Wholesaler alternate water response times; targeted review of customer categorisation (e.g. farmers with livestock); and clarity and (re)confirmation of Wholesaler and Retailer Responsibilities in the case of unplanned events.



## Governments' response

The UK and Welsh governments would like to thank all the respondents for responses to this consultation and we welcome the broad support for the proposals. We have carefully considered all the points raised in the responses received and our views are summarised below.

### Part 1 - Proposal to update the 2006 direction to water undertakers

#### Q5 – Do you have any comments on this proposal? (Yes/No)

On the basis that the majority of respondents made no comment on this proposal and those who did felt that it was a sensible approach, the UK and Welsh governments will update the 2006 direction as described.

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

#### 6. Do you agree that this is a reasonable approach? Might there be an alternative?

Based on the strong support for the proposed approach from eight of the respondents, the UK and Welsh governments will proceed with this approach. With regard to the comments received on retailer/supply licensee obligations during an emergency and obtaining details of non-household customers, these obligations are covered by the Wholesale Retail code. The process for proposing amendments to the code is outlined on the MOSL website<sup>1</sup> and it is anticipated that, through this process, the codes will develop and react to market conditions over time.

#### 7. Do you agree it is right for licensees with only retail and restricted authorisations to be out of scope of this direction?

Based on the broad support for this proposal, the UK and Welsh governments will proceed with this approach. We will undertake to have discussions with Ofwat on details such as point of customer notification and communication which we believe are more properly considered within the context of the Wholesale Retail code.

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<sup>1</sup> <https://www.mosl.co.uk/market-codes/change>

## **8. Do you have any specific comments on the draft direction?**

Given that the majority of respondents did not have comments on the draft, the UK and Welsh governments will proceed with this proposal. One respondent commented that licensees inputting water into the supply systems should be required to send a copy of their plans to the undertaker whose area they input water, as well as consult (see Para 7.1(b) of the draft direction). The UK and Welsh governments will consider whether including this in the draft direction would be the best approach.

Another respondent said that they supported the proposals but would welcome further guidance on these roles and responsibilities and felt that whilst the definition of sensitive customers was broadly sensible, a review of categorisation would be useful. As responsibilities are set out in the Wholesale Retail Codes we do not agree that any further consideration of roles and responsibilities is needed at this time. We will continue to work with the industry on alternative water arrangements.

## Annex A – List of respondents

The nine respondents are listed below:

1. Affinity Water
2. Individual
3. London Borough of Havering
4. Severn Trent
5. SSE Water
6. South East Water
7. South West Water
8. Veolia Water
9. Water Plus