



Department  
for Environment  
Food & Rural Affairs

# River basin planning guidance

Date: September 2021

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We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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# Foreword

I am pleased today to publish this guidance to the Environment Agency which will guide the work it does on preparing and implementing river basin management plans. The government has made protecting and restoring nature a priority, both through the publication of its 25 Year Environment Plan and by bringing forward the Environment Bill. Our guidance sets out how nature recovery should also be prioritised in the plans.

The objectives we have set for our water environment are designed to ensure we can meet the rising demand for water, and at the same time, secure clean, healthy and sustainable waters for people, plants and wildlife.

Our rivers are an important part of our heritage and landscapes. The restoration of rivers including the Thames, the Mersey, the Aire and the River Don shows what can be achieved and has directly benefitted the towns and cities they flow by and through. It stands as testament to the progress we have made by progressively investing in improved wastewater treatment and working to limit other sources of pollution.

Our 25 Year Environment Plan goal for water is to further rebalance towards nature, so that at least 75% of our waters are close to their natural condition. Achieving this goal will mean that many of our rivers will be in a condition not seen since before the industrial revolution.

We will need to drive innovation and change to achieve such a goal, but the case for action is strong. Protecting nature can, as the recovery that has already been achieved shows, promote economic growth and jobs, and enhance our health and wellbeing.

River basin management plans set out the legally binding objectives, standards, and measures to meet water objectives for all sectors of our economy. We are determined to accelerate our progress and drive the actions that are needed forward. The government's commitment towards this is now being made manifest through water company investment which is being scaled up to £7.1 billion in the current 5-year period.

We are setting new targets for water and biodiversity in the Environment Bill to provide a strong mechanism to deliver long-term environmental outcomes. We will consult on the details of the proposed targets in early 2022.

We have responded to public concerns over the unacceptable impacts of storm overflows that operate far too frequently and incorrectly and have established a task force to address the problem. Similarly, we have taken action to respond to concerns regarding the condition of our chalk streams, which are globally rare ecosystems.

All these actions will go towards addressing the gap between our ambition for water and its current condition. Furthermore, water is a crucial resource and intersects with other sectors such as food and farming, transport, housing, and energy. The choices made in water's management also interlink with choices and actions in other critical areas such as flood risk management, nature recovery, and climate change adaptation and mitigation.

Water's links to other issues can also compound the challenges involved in its management. However, these linkages also mean that we can deliver a wider range of benefits through an integrated approach.

This must be manifested in 2 ways.

Firstly, in managing water we need to be work across different relevant scales. Catchments are the focus to understand and act on local needs and issues. However, river systems are large and we need a 'source to sea' river basin based view too. Especially when considering migratory species or issues such as how we balance water supply. As well as these, we need an overview of the whole system to understand the pressures on the natural water environment as a whole and develop the actions where it is a national response that is needed.

Secondly, on all of these levels there are people and institutions whose actions and decisions are relevant to a greater or lesser degree on the management of water and who need to be engaged in the work.

The Environment Agency should therefore engage proactively with a wide range of stakeholders with interests in water to ensure that the actions that deliver the widest benefit are identified and pursued. This holistic approach must increasingly be the normal way of working across all areas linked to the water landscape. For example, phosphate pollution and nutrient management, water supply and water quality and managing flood risk.

The Environment Agency should build on the excellent foundations laid in the government's work on the catchment-based approach, and forge links to government's work on Local Nature Recovery Strategies. This will ensure that action taken for water will also contribute to the delivery of the Nature Recovery Network. As the arteries of our country, carrying water from one corner to the other, rivers and water sources can be crucial ways to connect habitats as part of the network.

Government's flood and coastal erosion policy statement also encourages a catchment-based approach with an integrated approach to managing water. It commits to local flood plan reform so that every area of England will have a local plan that will link with wider strategies such as for water resource and local nature recovery, to further maximise shared outcomes.

River basin management plans are the government's main mechanism to establish local objectives for water, set in consultation with local communities. They must both capture our aspirations and the actions we must take to achieve them. They are, in effect, an asset management plan for water that is developed in consultation with local communities and relevant interest groups.

This guidance for the third round of river basin management plans is the first since the UK has left the European Union. We now have an opportunity to tailor the work we do on planning and delivering for clean and plentiful water and align it more closely to our own specific needs.

I therefore want the Environment Agency to pay particular attention to our domestic priorities in developing and implementing these plans.

Firstly, biodiversity loss is an issue that affects both terrestrial and aquatic environments and biodiversity is, at the same time, the overriding indicator of the health of our water environment.

Consistent with the government's commitment to protect 30% of our land and sea by 2030, restoring the health of currently protected aquatic sites is a key goal and needs to be addressed in the river basin management plans. This includes meeting all water related objectives for our network of international sites designated under the Habitats Regulations 2017 (Special Areas of Conservation and Special Protection Areas). This is inextricably linked to water quality.

Secondly, and consistent with this, England's chalk streams are a highly visible and relevant indicator of our success. Over 80% of the world's chalk streams can be found in this country, and so we have a responsibility to safeguard them. The Environment Agency should explore options through the plans to enhance the management and protection of chalk streams to ensure the achievement of targets.

Thirdly, as the seminal Dasgupta Review set out, the health of our economy is intrinsically linked to that of the natural world. Further to this, since we know that environmental restoration can support growth and jobs, those actions which most clearly promote these links should be identified and pursued through the plans.

Finally, ensuring a resilient water supply is more crucial than ever as we face the impacts of climate change and adapt to this change. These plans must put this at their heart.

These priorities should be reflected in the updated river basin management plans the Environment Agency submits to the Secretary of State for consideration and approval next year.

A handwritten signature in blue ink, appearing to read 'Rebecca Pow', is positioned above the typed name.

**Rebecca Pow MP**

Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs



# 1. Executive summary

- 1.1 River basin management plans (RBMPs) establish the environmental objectives for our waters and set out the steps required to meet them. Together these plans form an effective asset management vehicle to achieve the ambitions for our water environment in the government's 25 Year Environment Plan.
- 1.2 We need to protect and improve our waters by finding a better way to balance the needs of the people and those of nature. We need concerted action to reach government's 25 Year Environment Plan target of 75% of waters to be close to their natural state. Climate change and population growth makes achieving the target even more challenging. Updating the plans can act as a catalyst and brings stakeholders together, find different and more ambitious ways of protecting the natural world and our precious water assets and help get us to where we need to be. The challenges in meeting the outcomes captured in previous river basin management plans are well understood and government recognises a step change (a significant change in the way we manage our water environment) is now required to build resilience and minimise deterioration and meet the aspirations of the 25 Year Environment Plan, using the third cycle plans as a key mechanism to achieve this.
- 1.3 Many of the challenges we face such as tackling climate change are complex and cannot be solved by one organisation alone. The Environment Agency should work with partners across national, regional and local areas in a joined-up approach. This more inclusive approach, considering all parts of the river basin districts including environmental, social and economic issues, is one of the transformational changes needed to deliver the government's 25 Year Environment Plan aspirations.
- 1.4 The EU [Water Framework Directive](#) (2000/60/EC) which introduced the river basin planning approach, is transposed into law in England and Wales by the [Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#). The guidance refers to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, as amended by the Floods and Water (Amendments etc.) (EU Exit) Regulations 2019. Where these regulations refer to WFD, this refers to the Directive as it is preserved on 31 December 2020. Henceforth, in this guidance, these will be referred to as 'the WFD regulations'. This guidance will generally refer to the WFD via reference to these regulations rather than to the EU Directive itself. References to 'objectives', 'water objectives' and 'measures' will refer to the objectives and measures as defined in WFD, unless otherwise stated.
- 1.5 Each RBMP must apply to a 'river basin district'; an area of land made up of one or more neighbouring river basins (see map at Annex 1). The river basin planning process involves setting environmental objectives for all groundwater and surface waters within the river basin district and devising programmes of measures to meet those objectives.
- 1.6 As well as integration of water management issues, implementation of the WFD regulations requires that other environmental priorities, economic considerations and social issues are considered and taken into account when setting water management objectives. This is in line with Ministerial objectives of ensuring that the requirements of the WFD regulations are

implemented cost-effectively, taking into account the needs and interests of different stakeholders and the need for sustainable development.

- 1.7 This guidance on river basin planning from the Secretary of State to the Environment Agency is a revision of the guidance published in July 2014 and replaces all previous guidance.
- 1.8 This guidance is to the Environment Agency but is also intended to provide a point of reference for other regulators, bodies and individuals affected by or contributing to the river basin planning process.

## 2. The role and status of this guidance

- 2.1 This guidance is from the Secretary of State (the ‘appropriate authority’) to the Environment Agency<sup>1</sup>. It specifies how the Environment Agency should exercise its powers as the ‘appropriate agency’ for river basin planning. This is statutory guidance on the practical implementation of statutory regulations to the Environment Agency in so far as it applies to river basin planning in all river basin districts in England, cross-border river basin districts in England and Wales and the Northumbria River Basin District (a very small area of which is in Scotland).
- 2.2 Defra and the Scottish Government have issued guidance to the Environment Agency and the Scottish Environmental Protection Agency respectively, on joint river basin planning in the Solway Tweed River Basin District. Where there is no special Solway Tweed arrangement in place or required, the Environment Agency should have regard to this guidance. This guidance does not apply to the Scotland River Basin District, the Western Wales River Basin District or river basin districts in Northern Ireland and the Gibraltar River Basin District.
- 2.3 The guidance is issued under section 36(5) of the WFD regulations. The references in this guidance to these regulations should be read as including references to the provisions as applied by the [Water Environment \(Water Framework Directive\) \(Northumbria River Basin District\) Regulations 2003](#) (the ‘Northumbria regulations’ with statutory modifications where appropriate<sup>2</sup>).
- 2.4 The guidance is made by the ‘appropriate authority’; that is by the Secretary of State alone in so far as it relates to river basin districts that are wholly in England and the Northumbria River Basin District
- 2.5 By issuing this guidance the Secretary of State aims to assist the Environment Agency in carrying out its river basin planning functions for the third planning period 2021 to 2027 and, in particular, to help them to develop the updated river basin management plans which they will submit to the appropriate authority for approval. The guidance sets out ministerial expectations for the main steps and principles of the river basin planning process and the content of the documents they must produce, namely the:
- statements of steps and consultation measures
  - summaries of significant water management issues also known as ‘Challenges and Choices’
  - consultation on updating the river basin management plans

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<sup>1</sup> Henceforth referred to as the ‘Environment Agency’ or the ‘Agency’.

<sup>2</sup> See regulation 5(2) to (5) of the [Northumbria Regulations](#) for the modifications.

- river basin management plans, including objectives and the summary of the programmes of measures, which are submitted to the appropriate authority for approval (and accompanying information about the results of public participation).
- 2.6 This guidance represents the views of the Secretary of State at the time of issue. It may be necessary to issue further guidance documents in future to reflect developments, further policy changes or changes in our understanding.
- 2.7 The Welsh Government issued separately, in December 2020, similar guidance to Natural Resources Wales (NRW) in relation to the Western Wales River Basin District.
- 2.8 Defra and the Welsh Government will issue guidance to the Environment Agency and National Resources Wales on joint river basin planning in the cross-border Severn and Dee River Basin Districts. Where there is no special Dee or Severn arrangement in place or required, the Environment Agency should have regard to this guidance.

## 3. The principles of river basin planning

3.1 This guidance does not set out the details of the river basin planning process. The detail of the process is for the Environment Agency to determine. However, there are some important principles, set out below, which the Secretary of State considers the Environment Agency should take into account when carrying out its river basin planning responsibilities.

The principles of river basin planning are to:

- encourage active involvement of a broad cross-section of stakeholders and enable the exchange of knowledge (including information and data) between regulators, planners, stakeholders and the research community
- set out and communicate a clear, transparent and accessible process of analysis and decision-making
- focus at the river basin district level and catchment level from source to sea
- work in partnership with other public bodies and private sectors
- align, co-ordinate and streamline plans and mechanisms to improve water quality and deliver multiple benefits such as managing flood risk and enhancing biodiversity through catchment approaches.
- In addition, wider benefits around nature recovery, enhancing landscape and connecting people with the environment to promote health and well-being.
- make use of the alternative objectives to support sustainable development
- consider the cost-effectiveness of the full range of possible measures and mechanisms
- seek to be even handed across different sectors of society and sectors of industry

3.2 Stakeholder engagement and involvement in water management is one of the main themes of river basin planning. Ensuring and enabling this participation and influence should be an integral part of the river basin planning process.

3.3 The Environment Agency must ensure that the relevant plans and processes for which they are responsible are integrated as far as is practicable and must review existing plans and measures, amending them where necessary, to meet the environmental objectives set in regulations. This includes, in particular, flood risk management plans, water abstraction plans and the national flood and coastal erosion risk management strategy.

3.4 For plans and strategies that are the responsibility of other organisations, the Environment Agency should:

- work with other public bodies to strengthen good links between river basin planning and other relevant planning processes and strategies, especially for those plans which have

a statutory basis (for example development plans<sup>3</sup>, the flood risk management plans developed by lead local flood authorities<sup>4</sup>, local flood risk management strategies<sup>5</sup>, Local Nature Recovery Strategies, water resources management plans<sup>6</sup> and drought plans<sup>7</sup>)

- work with interested parties, the public, other plan makers and regulators at the water body, catchment, river basin and national levels to help identify the most effective and economically efficient means of delivering the objectives set out in the WFD regulations. This will enable synergies with flood risk management including natural flood risk management, nature conservation objectives, and sustainable development to be identified
- involve a broad cross section of stakeholders to help raise public awareness of the central role that fulfilment of the aims and objectives set out in the WFD regulations will play in securing sustainable development

3.5 While the river basin management plan is a strategic, river basin district level document, the Environment Agency should co-ordinate activities (analysis, planning, stakeholder engagement and implementation) across a hierarchy of geographical scales. The Environment Agency should set out clearly how activities at different geographical scales interact.

3.6 The following paragraphs set out how the Secretary of State and the Environment Agency are to work in partnership with stakeholders and other public bodies to implement an integrated planning process that secures cost effective implementation of the WFD regulations in a way that is transparent, evidence based, equitable and inclusive.

3.7 River basin management plans are a key mechanism for ensuring the achievement of the 25 Year Environment Plan goal of clean and plentiful water and thriving plants and wildlife. They set specific, measurable, achievable, realistic and time-bound targets and detail how investment will be made in the quality and quantity of water dependent natural capital over the long term. This third cycle provides an opportunity to consider linked issues, such as biodiversity loss and nature recovery, which all affect water in a holistic way.

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<sup>3</sup> See section 38(2), (3) and (4) of the [Planning and Compulsory Purchase Act 2004](#) (as amended)

<sup>4</sup> [Flood Risk Regulations 2009](#)

<sup>5</sup> Sections 9 and 10 of the [Flood and Water Management Act 2010](#)

<sup>6</sup> Sections 37A to 37D of the [Water Industry Act 1991](#)

<sup>7</sup> Sections 39B and 39C of the [Water Industry Act 1991](#)

- 3.8 The Environment Agency should work with Defra and local authorities to use the opportunity provided by the 25 Year Environment Plan, the Environment Bill<sup>8</sup> and the Price Review Process (that is, PR19 and PR24) and associated Water Industry National Environment Programme (WINEP) to better align policies and more explicitly build outcomes for water into other initiatives. This may include opportunities for flood risk and water quality measures to work together to improve the water environment under plans and strategies such as Flood Risk Management Plans (FRMPs), Local Flood Risk Management Strategies (LFRMSs) and Local Nature Recovery Strategies (LNRs).
- 3.9 Priority areas that need to be explored and delivered within the third cycle include nature recovery networks, environment land management, natural climate solutions, natural flood management and improving coordination and local delivery. The Environment Agency should work with Defra policy leads across the department and other arms-length bodies to reflect this work in the RBMPs and include a set of actions plans and policies of how we can achieve that step change. The Environment Agency will also ensure that measures and objectives work together where possible in plans for the relevant policies.
- 3.10 In order to achieve a step change at a local level, environmental effort needs to be guided by the goals outlined in the 25 Year Environment Plan and any targets set under the Environment Bill to reflect local needs and priorities and be more integrated and efficient.
- 3.11 On future funding, the Agency should work in partnership with other stakeholders to make the best use of the funding streams available, in particular maintaining local delivery and strengthening collaborative approaches to water management. Defra will continue to work with the Environment Agency and take advantage of new funding mechanisms and the opportunities that exist within planning policy to establish more natural water ecosystems.
- 3.12 Our water environment is a limited resource under pressure from climate change, population growth, urban development, the demand for cheaper food, waste and pollution. The UK has done well to reduce greenhouse gas emissions to 43% below 1990 levels by 2017. But to achieve the Committee on Climate Change target of net zero by 2050, the Environment Agency should work with the water industry and other public bodies to drive for clean and plentiful water through investment, effective stewardship, and effective implementation of existing regulations. This will enable other organisation to reduce their own contribution to this existential threat and encourage them to introduce changes and use the power of new technology.
- 3.13 The Environment Bill sets out 5 internationally recognised principles of environmental protection which ministers must have regard to in approving legislation, policy, plans and

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<sup>8</sup> At the time of publication, the Environment Bill is in the latter stages of its passage through Parliament. Royal Assent is expected in late 2021.

strategies. The principles will be embedded in a corresponding policy statement setting out how they should be used. The principles are:

- integration principle – environmental protection should be integrated in policy making across government
- prevention principle – take action to avert environmental damage before it happens
- precautionary principle - a lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation
- rectification at source – address environmental damage at its origin rather than to avoid having to remedy it elsewhere, later
- polluter pays – where possible, the cost of pollution should be borne by those causing it (the polluter)

3.14 In approving the RBMPs, ministers must be confident that when the Environment Agency is determining what action should be taken to improve or to prevent deterioration of the water environment, these principles have been applied. Consideration should be given, in particular, to the polluter pays and prevention principles. If the direct application of the polluter pays principle is not technically feasible for a sector, then the Environment Agency should work with other sectors to identify alternative measures that are technically feasible to deal with the problems. When identifying measures, cost-effectiveness should be considered. The aims are to ensure that the polluters pay for the damage they cause in a proportionate way. A review of this approach for water quality planning is currently underway but is designed to inform the next and future cycles and the water industry Price Review 24. The Environment Agency's existing application of 'polluter pays' for water quality planning, 'Fair Share', should be used for the preparation of the updated RBMPs in 2021.

3.15 When identifying measures and mechanisms to address activities that cause pollution the Environment Agency will consider firstly the prevention principle. This requires action to be taken to avert environmental damage, rather than to simply tolerate or rectify it after it occurs. Application of the prevention principle and consideration of activities within reasonable control of the polluter applies well to diffuse pollution.



## 4. Working in partnership

- 4.1 Water keeps us alive, drives our economy and sustains wildlife. That is why we need to work together to achieve a better balance between people and nature, so that we can all have what we need for a good life, not just now, but in the future too. Striking that balance means lots of individuals, public bodies and civil society organisations uniting to manage our water environment. All stakeholders and the public need to work with the Environment Agency to update the river basin management plans and find different and more ambitious ways of protecting the natural world and our precious water assets.
- 4.2 The WFD regulations provide part of an overarching framework to protect and improve the aquatic environment through greater integration between water and land management. The WFD regulations environmental objectives should be balanced with other environmental, economic and social enhancements when setting priorities. To do this the Environment Agency needs to work closely with all the public, private and civil society organisations whose activities and interests may inform or be affected by the RBMPs.
- 4.3 Part 6 of the WFD regulations sets out the minimum requirements for engagement and there is a list of statutory consultees under [regulation 29\(4\)](#) of the regulations.
- 4.4 Public consultation alone is unlikely to be sufficient. Engagement means ongoing public involvement in a clear planning process with opportunities for interested parties to access, contribute and exchange information and to contribute to analysis and processes that lead to choices over trade-offs and decisions being made. This more thorough engagement is unlikely to be feasible on the scale of river basin districts. Instead, engagement and collaboration at local and catchment levels should support and feed into the development of the updated RBMPs and programmes of measures. The Environment Agency is well placed to facilitate the flow of information between themselves, other regulators and stakeholders at the different geographical scales so that catchment management can be co-ordinated with effective river basin planning.
- 4.5 The Environment Agency should also ensure that RBMPs reflect and influence the plans and strategies of their own and other organisations where reasonable and appropriate in terms of scale. RBMPs should reflect the wider plans for the 'integrated areas' drawn up by the Environment Agency, Natural England and the Forestry Commission, in relation to the 25 Year Environment Plan. Similarly, these other Environment Agency plans and strategies and those of other public bodies, such as water company plans, at a company and where relevant regional level, should reference and respond to the RBMPs so that the overall picture for those responsible for, or affected by, implementation of the RBMPs is clear and integrated. In next cycle, Local Nature Recovery Strategies (LNRSs), introduced by the Environment Bill, will be a new mandatory system of spatial plans for nature and the wider environment covering the whole of England. It is intended that they will be locally led and collaboratively produced. Where river basin management planning identifies actions that are positive for nature there will be the potential to reflect these actions in the relevant LNRS and vice-versa when LNRSs develop.

- 4.6 Local planning authorities, including national park authorities and lead local flood authorities play a significant role, working with the Environment Agency, in establishing and addressing synergies and tensions between delivering development plans and river basin management. In line with the WFD regulations, the Environment Agency should work with local authorities to identify circumstances where water body status is likely to be a significant planning issue and advise how planning needs can be met without increasing flood risk and how water body improvements can contribute to sustainable growth. Where a catchment crosses administrative boundaries, the Environment Agency will be required to work with more than one local authority to ensure effective integration. In England, particular reference to river basin management plans are noted in the National Planning Policy Framework (2021).<sup>9</sup> The Environment Agency and Natural England are encouraged to work with local authorities to meet the [Habitats Regulation Assessment](#).
- 4.7 RBMPs are a key vehicle for achieving good environmental status in estuarine and coastal waters. The Environment Agency should apply a source to sea and catchment to coast approach, with the expectation. to work closely with the Association of Inshore Fisheries and Conservation Authorities, the Marine Management Organisation and coastal partnerships to ensure effective management across the land and sea interface, including the integration of plans and policies. The Environment Agency should also work with Natural England to take account of the contribution that greater integration between water and land management can make to the delivery of multiple environmental outcomes including those for marine protected areas. The Environment Agency may also work with the Centre for Environment, Fisheries and Aquaculture Science (Cefas) in support of estuarine and coastal data and analysis. RBMP objectives will be critical to this rationale, linking water management issues with wider land use and socioeconomic opportunities to deliver sustainable management of natural resources.

## Working with partners at the catchment level

- 4.8 In England, there are over 100 catchment-based approach partnerships. They were established to support river basin planning and delivery and are now broadening their scope to deliver 25 Year Environment Plan objectives. They provide the more localised focus for engagement that is needed to support the 25 Year Environment Plan and delivery. They provide an important opportunity to:
- understand the views of stakeholders, their priorities and the local evidence they can provide

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<sup>9</sup> In England, local authorities have a duty to cooperate on strategic issues (such as water supply and environmental protection). See the [National Planning Policy Framework \(2021\)](#) sections 24 and 174 (e).

- make links between plans at the river basin district scale and projects to deliver improvements at a catchment and a sub-catchment scale
- 4.9 The establishment of the 'Catchment Based Approach' (CaBA) in 2013<sup>10</sup> has demonstrated that collaborative catchment management delivery is both achievable and effective in securing additional evidence and action for river basin management and 25 Year Environment Plan. There are more than 4,000 organisations engaged across England's 87 catchments (plus 6 cross-border catchments with Wales). Catchment based approach partnerships helped feed in as well as drive and co-ordinate actions set out in the river basin management plans. Environment Agency area staff will offer strategic direction to catchment based approach partnerships in order to maximise the effectiveness of improvements. Where appropriate cross-catchment best practice will be adopted.
- 4.10 The Environment Agency should continue to work with catchment based approach partnerships to help widen the range of stakeholders involved and improve the link to other place-based partnerships (for example local nature partnerships, nature improvement areas, local enterprise partnerships, coastal partnerships, coastal based approach partnerships and nature recovery networks highlighted in the government's 25 Year Environment Plan). This will secure support from wider parts of society that benefit from a healthy water environment (for example local businesses and local government), from catchment to coast and source to sea.
- 4.11 When involving stakeholders in setting priorities, the Environment Agency should ensure that a balance is maintained between different interest groups and that in the interests of achieving net gain, the expectation is to go beyond compliance with statutory requirements in order to achieve net gain.
- 4.12 The Environment Agency should work to the following key principles of governance for river basin planning:
- a. maintain a dialogue with national stakeholder representatives across all key water sectors through the National Water Leaders Group in order to:
    - consult on key water management issues to take forward
    - seek support from them as advocates for their sector for river basin planning
    - advise on river basin plans including the level of ambition within them

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<sup>10</sup> [About the Catchment Based Approach](#)

- seek external stakeholder support and collaboration to broker relationships necessary to implement a systems approach to water management
- b. work closely with the Catchment Based Approach National Support Group<sup>11</sup> and its working groups to implement and integrate place-based delivery by supporting, sharing, implementing and embedding emerging best practice.
  - c. Support catchment based approach partnerships by:
    - providing strategic direction
    - supporting Environment Agency catchment co-ordinators to best use their expertise in place-based working with catchment based approach partnerships to deliver nature-based solutions
  - d. Encourage activity to improve coordination from catchment to coast, to build capacity through facilitating and sharing best practice (for example, through ‘catchment hubs’, catchment based approach partnerships and the coastal based approach partnerships).

## Disputes about implementing the programmes of measures

- 4.13 If those responsible for delivering measures disagree with decisions taken by the relevant regulator under the WFD regulations, the disagreement should be resolved using the usual dispute resolution arrangements which apply to the relevant regulatory decision. These differ between mechanisms but usually involve a process of discussion and mediation and then legal proceedings if those are unsuccessful. For example, disagreements about a decision by the Environment Agency to modify an environmental permit for the purposes of achieving environmental objectives can be resolved through the procedure for appealing environmental permit decisions.
- 4.14 In some cases, there are no formal dispute resolution arrangements – for example, in the case of many voluntary and good practice measures. Including a voluntary measure in a programme of measures will not make it into a statutory one. Measures are only statutory if the individual measure is underpinned by a legal requirement.

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<sup>11</sup> CaBA National Support Group (NSG) plays a key role in championing the catchment based approach across all key sectors including water industry, agriculture, business and local government. It also supports partnerships nationwide, through identifying gaps in knowledge or process and resolving barriers to delivery. NSG members represent many of the organisations engaged in CaBA and include environmental NGO’s, Water UK, CIWEM, Defra, Environment Agency, Natural England, National Farmers Union, Crop Protection Association and the National Flood Forum.

- 4.15 If there are disputes about the implementation of voluntary measures, the Environment Agency should seek to resolve them. But if agreement is not possible, the Environment Agency should consider alternative voluntary measures or, if necessary, consider regulatory measures, ranging from enforcement orders for polluters to achieve environmental objectives.

## 5. Key stages in river basin planning

### River basin planning timeline

- 5.1 The WFD regulations specify a 6-yearly cycle of river basin planning. It requires the first river basin management plan for each river basin district produced in 2009 to be reviewed and updated in 2015, 2021, 2027, and every 6 years thereafter. Among other things, the plans must list the environmental objectives for each river basin district, justify how and where alternative objectives have been used and summarise the programmes of measures.
- 5.2 Iteration is built into the river basin planning process. It is necessary to:
- identify objectives for water bodies and protected areas including the pressures and risks
  - consider possible measures to meet those objectives given current pressures on the water environment as well as risks from emerging challenges such as climate and population change
  - consider the technical feasibility, costs and benefits of implementing those measures
  - in the light of this, to reassess the objectives and consider the use of the alternative objectives to determine the measures that will be implemented in the period covered by the plan
- 5.3 The key stages and time frames are shown below. Some of the stages in the timeline will have passed by the time this guidance is published but have been retained to illustrate the planning cycle. The sequence is repeated every 6 years.
- 5.4 The Environment Agency should set out and communicate to catchment based approach partnerships by which dates they need inputs specific to the review and update of the RBMPs. The current timetable allows:
- only 6 months between the end of consultations on the summaries of significant water management issues ('Challenges and Choices') and publication of the draft updated RBMPs
  - only 6 months between the close of consultations on the draft updated RBMPs and final approval of the plans by the Secretary of State.
- 5.5 To make the best use of the available time, the Environment Agency should aim to publish and consult on the challenges and choices (significant water management issues) and the draft updated RBMPs earlier than the deadline. They should use the two 6-month

consultation periods of 'Challenges and Choices'<sup>12</sup> (also known as significant water management issues) and the draft updated RBMPs not only to gather views, as in a traditional written consultation, but also to engage stakeholders in resolving any conflicting views and issues raised and in the development of the next document (that is, the draft RBMPs or the RBMPs for submission to the Secretary of State).

## Responsibilities and requirements at key stages

- 5.6 Summarised below are the important steps in the third cycle and subsequent river basin planning cycles, the responsibilities of the relevant authorities for carrying out the planning requirements and the source of each obligation. The actions are repeated every 6 years. The table is intended to be a helpful summary in relation to river basin planning but is not comprehensive and must not be used instead of the WFD regulations and this guidance.
- 5.7 In 2020 to 2021, the Environment Agency had to divert resources to address the exceptional national emergency of the COVID-19 pandemic. Consequently, the latter steps in the planning process of the third cycle have been delayed and re-scheduled. The table below indicates where the timetable has been, exceptionally, revised. This is included here for information and does not represent a revision of the ministerial guidance or the WFD regulations.

### Key stages and time frames

1. The Agency publishes a statement of steps and consultation measures it is going to take in connection with updating the RBMPs, including a timetable and work programme for the consultation measures. The Secretary of State is amongst the statutory consultees and may offer views on the way forward.

When: Published by 22 December 2018 for a 6 month consultation period.

2. Programmes of measures for the third cycle are made operational. All regulators and deliverers (including the Environment Agency, Secretary of State) makes measures operational.

When: By 22 December 2018.

3. The Agency draft an overview summary of the significant water management issues for each river basin district ('Challenges and Choices') and publish it for consultation. The

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<sup>12</sup> [The Environment Agency's Challenges and Choices consultation](#)

Secretary of State is amongst the statutory consultees and may offer views on the way forward.

When: Published by 22 December 2019 for 6 month consultation period (RBMP3: Consultation extended until September 2020)\*.

4. Revised draft update of river basin management plans including programmes of measures published by the Environment Agency for consultation. The Secretary of State may offer views on the way forward.

When: Published by 22 December 2020 for 6 month consultation (RBMP3: Published by December 2021)\*.

5. The Environment Agency submit revised RBMPs to the Secretary of State for approval and publish them.

When: By 22 September 2021 (RBMP3: By September 2022)\*.

6. The Environment Agency submit a progress report on implementation of programmes of measures for the third planning cycle to Secretary of State and publish the report.

When: no later than 2 years and 9 months after the final plans are produced.

\*RBMP3 Revised timetable



## 6. Statement of steps and consultation measures

- 6.1 At least 3 years before the updated RBMPs are published the Environment Agency must publish for consultation a statement of the steps and consultation measures that they are going to take in connection with preparing the RBMPs and a timetable for these steps and consultation measures. <sup>13</sup>
- 6.2 This should be a clear public statement so that those who are likely to be affected are made aware of what the river basin planning process will be in the river basin districts and how and when they will be involved in it.
- 6.3 The statement should summarise:
- the timetable and key milestones in the process of updating the RBMPs
  - how and when the Agency intend to undertake public consultation on the draft updated RBMPs
  - the main public and private sector organisations whose activities and interests are likely to be affected by the updated RBMPs, and how the Agency will engage them in updating the RBMPs
  - how the process of preparing the RBMPs will relate to work drafting or revising other relevant strategies and plans in that river basin district, including flood risk management plans – especially statutory plans and those at regional or similar scale
  - how the Agency will use the opportunity of the consultation to invite proposals for new and emerging mechanisms and measures from stakeholders – to help secure step change

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<sup>13</sup> [Regulation 29\(1\)\(a\) of the WFD regulations](#)

## 7. Summary of significant water management issues

- 7.1 At least 2 years before the updated RBMPs are published (that is, by 22 December 2019 for the third planning period 2021 to 2027), the Environment Agency should publish, for each river basin district, a summary of the significant water management issues which it considers relevant in that district<sup>14</sup>. The summary must be published for consultation for a period of 6 months.
- 7.2 The summary of significant water management issues will provide an important early overview of the actions that are likely to be required, and by whom, to secure the necessary environmental improvements. As the name suggests, the summary should be strategic, concise and focused on the significant matters. It should set out, for the river basin district:
- the main pressures, risks (river flow, climate change and the biodiversity crisis, chemicals in the water environment, pollution in our waters, invasive non-native species and physical modifications to our river habitats) and impacts which will need to be addressed in the RBMPs
  - climate change mitigation and adaptation is an integral part of the river basin management plans and the revised plans will be based on the latest [2018 UK climate change projections](#), subject to availability of appropriate data describing the impact upon the water environment.
  - the scale of the changes likely to be required to meet water objectives and the current impact on our water environment.
  - the actions that can deliver a 'step change'. Water status is directly related to human pressures and we need to identify actions at every level, from local to national, which can help.
  - the sectors and groups that are likely to be involved in delivery of or be affected by programmes of measures
- 7.3 In addition to highlighting the significant issues, the Environment Agency should use the summary to engage those who may benefit from or be affected by river basin planning.
- 7.4 During the 6 month consultation on the summary of significant water management issues, the Environment Agency should also actively engage with stakeholders in the resolution of any conflicting views and issues raised and in how to take the summary forward into the draft RBMPs.

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<sup>14</sup> [Regulation 29\(1\)\(b\) of the WFD regulations](#)

## 8. River basin management plans (RBMPs)

### Purposes of river basin management plans

- 8.1 RBMPs should not be geographically isolated documents, they should collectively form a coherent picture understandable at catchment, river basin district and wider area level. Where appropriate, the plans should recognise how objectives for water bodies, as defined by that term's technical criteria, overlap with other environmental objectives of local water-dependent sites, such as priority habitats and headwaters of rivers.
- 8.2 The river basin planning process should be a mechanism for:
- co-ordination and integration between water management plans and policies
  - co-ordination and integration of water management plans and policies with other relevant plans and strategies
  - enabling other public bodies and stakeholders who have an interest (including those likely to be involved in implementing the RBMPs) to influence the approach to future water management in the river basin district by contributing to RBMPs and co-ordinating their plans, such as Local Planning Authority (LPA) Local Plans in England
  - delivering the wider aims of the 25 Year Environment Plan, including outcomes achieved through mechanisms such as the formation of a Nature Recovery Network
- 8.3 The 3 main purposes of the RBMP document are to:
- record outcomes from this integrated, participative, planning process
  - set the policy framework within which future regulatory decisions affecting the water environment in that river basin district will be made
  - report to the public on the implementation of the water objectives
- 8.4 Each RBMP should set out, in broad terms, policies and strategies which will underpin and interact with the management of the water environment. These strategic policies and strategies should be developed from, and be supported by, information from a range of sources including, where available:
- information from catchment partnerships in England to be outlined in 'Catchment Pages'
  - other relevant plans and programmes such as flood risk management plans (Local Flood Risk Management Plans and Local Flood Risk Management Strategies), water company business plans, water abstraction plans, water resource management plans, drainage and wastewater management plans
  - wider strategies such as the Nature Recovery Network, the 25 Year Environment Plan, Local Nature Recovery Strategies, Protected Site Strategies, and Species Conservation Strategies introduced by the Environment Bill
  - information gathered from public participation and consultation, including consultations on the summary of significant water management issues and draft RBMP

- economic assessment information - from relevant economic assessments, cost-effectiveness analysis and disproportionate cost assessments for that river basin district
- the policies and proposals for adjoining river basin districts and, where relevant, the Marine Policy Statement, Marine Strategies<sup>15</sup> and other marine plans where they have been developed

8.5 The RBMPs should explain how climate change adaptation and mitigation has been taken into account in the planning process. We have growing pressures associated with both population growth and climate change that need to be considered. Climate change mitigation should also be considered by, for example, taking account of impacts on carbon emissions when considering alternative ways of achieving an objective.

## Content, coverage and timescale

8.6 Each RBMP must apply to one river basin district. For a map of the river basin districts (see Annex 1). The required main content of the RBMP is laid out in regulation 27.

## Consultation on updating river basin management plans

8.7 The main purpose of the consultation is to bring about transparency and facilitate public engagement in the river basin planning process. To help achieve this, the consultation should include workings and explanations of the reasons for the proposed planning cycle objectives, including the considerations which have informed proposals for the use of the alternative objectives. This should help those likely to be affected to understand the reasoning behind the proposed changes.

8.8 The consultation should propose environmental objectives for each water body in the river basin district and programmes of measures to achieve those objectives. The consultation should also provide an estimate of the scale of actions and improvements that might be delivered. This estimate should be based on an assumed level of available national funding related to the most directly relevant programmes and an assumed level of additional voluntary action through local efforts.

8.9 The consultation on the draft updated plans should include:

- an assessment of the costs and benefits of the proposed programmes of measures

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<sup>15</sup> Developed for the purpose of implementing the [Marine Strategy Framework Directive](#); see also [Marine strategy part one: UK initial assessment and good environmental status](#)

- the information listed in [paragraph 14.23](#)

## Revising river basin management plans

- 8.10 During the 6 month consultation period, the Environment Agency should engage with stakeholders over any conflicting views and issues raised and how to take account of them in the RBMPs which are submitted to the Secretary of State for approval.
- 8.11 The updated RBMPs which are submitted for approval should list the objectives and include justification of any alternative objectives that have been applied or recommended.

## 9. Environmental standards

### Use of standards in river basin planning

- 9.1 The WFD regulations require the Environment Agency to set environmental objectives and establish programmes of measures for each body of water in England.
- 9.2 These measures and objectives must be reviewed and updated every 6 years as part of the river basin planning process. For water bodies to reach their objectives, they must meet a large number of standards for things such as pollutant concentrations, health of fish populations, and groundwater quantity. Different objectives and standards will apply to different water bodies. Surface water, groundwater and water bodies used for abstracting drinking water have different sets of criteria. The precise values for standards have been set with advice from the [UK Technical Advisory Group](#) (UKTAG).
- 9.3 The Environment Agency should apply the standards and criteria as set out in the statutory Directions: [The Water Framework Directive \(Standards and Classification\) Directions \(England and Wales\) 2015](#).<sup>16</sup> The processes referred to in [paragraph 9.1](#) for the third planning cycle, are:
- determining the classification baseline for the third cycle objective-setting
  - the planning cycle
  - identifying the nature and extent of measures required to achieve objectives
  - analysing the cost effectiveness of measures
- 9.4 The appropriate authority may issue revised directions to take account of the review of standards. Once any new or updated standards have been formally adopted, the Environment Agency should incorporate the new and revised standards and criteria into existing regulatory processes in a timely way to achieve RBMP objectives.
- 9.5 For some environmental standards where the links between the standard and the biology are complex (for example, standards for nutrients), failure of the standard in a particular water body is not always enough to judge whether the biology the standard supports is truly impacted or at risk. Where this is the case the Environment Agency should take into account biological results and any other supporting evidence, in considering the case for expensive targeted improvement action.

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<sup>16</sup> These directions together with the WFD regulations, transposed EU Directive [2013/39/EC](#) on environmental quality standards for priority substances. The current directions issued in 2015 will be updated in advance of the third cycle RBMPs.

# 10. Environmental objectives

## Water body objectives

- 10.1 Regulation 13 of the WFD regulations establishes environmental objectives for the water environment, all of which must be met unless one or more of the exemptions are applicable (see chapter 11, [Alternative objectives and defences](#)).
- 10.2 The Environment Agency must deliver the best practicable set of multiple benefits for water and protect and enhance natural capital and the services it provides. The Environment Agency should work closely with others to make sure that we make progress towards our ambition for a cleaner, healthier and better managed water environment. It is important that the Environment Agency works with local communities to reach or exceed objectives for rivers, lakes, coastal waters, wetlands and ground waters that are specially protected, for example for biodiversity or for drinking water abstraction, as per the river basin management plans.
- 10.3 For surface waters the Environment Agency will need to set objectives for each water body in relation to:
- preventing deterioration
  - achieving a particular status class (as defined in accordance with the criteria for classification set out in the directions on classification)
  - protected area objectives, where relevant
- 10.4 For groundwater, the Environment Agency should set objectives for each water body in relation to:
- preventing deterioration
  - achieving a particular status class (as defined in accordance with the criteria for classification set out in the [directions on classification](#))
  - prevention or limitation of input of pollutants
  - reversing significant trends in pollutants in accordance with the requirements of the WFD regulations and directions.
  - protected areas objectives, where relevant
- 10.5 The overall objectives for the third river basin planning cycle are to prevent deterioration in status and protect, enhance and restore all water bodies (or meet objectives for protected areas) with the aim of achieving 'good' status (or 'good potential') for all water bodies not already at 'good' or better by 2027. The deadline for chemical status is different and this is set out in regulation 13 (3).
- 10.6 The Environment Agency will be more certain of meeting some 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. There will also be uncertainty about when some of the measures needed to achieve an objective by 2027 will

take place and in these situations the Environment Agency should indicate that the level of confidence associated with the objective being set is low. Where objectives can only be set with low confidence, it may be appropriate for the Environment Agency to refer to future government or industry measures and funding which are planned to bring benefits in the lifetime of the RBMP cycle which have yet to be realised and cannot be assessed; but nonetheless would mitigate against low confidence in achieving the objectives. For example, Defra's Environmental Land Management reforms (ELM) planned for the early 2020's aim to bring new environmental benefits, including reduced diffuse water pollution from agriculture.

- 10.7 Absolute certainty is not necessary for the setting of objectives, provided the planning assumptions are clear and that estimates of the progress expected from measures that help improve status are included. The Environment Agency should bear in mind that the WFD regulations make provision for the programmes of measures to be reviewed and for changes to be made if it appears that the objectives that have been set will not be met. The Environment Agency should, however, be satisfied that the programmes of measures can reasonably be expected to achieve the objectives.

## Heavily Modified Water Bodies

- 10.8 Heavily modified and artificial water bodies are a separate category of water bodies which are expected to achieve good ecological potential. That is the same standards as the nearest equivalent natural water body except where this is prevented by the direct effects of the heavily modified or artificial characteristics of the water body as set out in paragraph 4, Part 2 of directions to the Environment Agency on classification of water bodies.

## Preventing deterioration

- 10.9 Preventing deterioration (that is, deterioration<sup>17</sup> from one status class to a lower one) is a key objective defined in the WFD regulations with few and limited exceptions.
- 10.10 The Environment Agency should apply the 'no deterioration requirements' independently to each of the elements that come together to form the overall water body classification.
- 10.11 For a water body classified as being at 'good' status, where any of the quality elements are consistent with a 'high' status classification, those quality elements may be allowed to deteriorate to 'good' status. This does not apply to morphological conditions which must not deteriorate from 'high'. Hydrological conditions must remain consistent with the requirements of protected areas that relate to hydrological conditions (thus ensuring that

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<sup>17</sup> Deterioration may be considered differently in the context of meeting requirements of the Conservation of Species & Habitats Regulations (see [paragraph 10.20](#)).



the 25 Year Environment Plan outcomes for specially protected waters can be maintained or achieved as quickly as possible).

- 10.12 For groundwater, measures must be taken to reverse any environmentally significant deteriorating trend, whether or not it affects status.
- 10.13 The baseline for the assessment of deterioration during a river basin planning cycle is reported in each river basin management plan. For the period 2015 to 2021, this is the 2015 classification reported in the current river basin management plans. For the period 2021 to 2027, this is the current classification reported in the 2021 river basin management plans. When making management decisions, for example permitting decisions, both the 2015 and 2021 baselines must be considered so that any deterioration in status over the full time period is taken into account and to meet the objective of aiming to achieve good status in water bodies. Any published 'interim' classification results should also be taken into consideration for the same reasons.
- 10.14 The Environment Agency may only undertake or authorise activities that it considers would cause a deterioration in water body status if the provisions of section 19 of the WFD regulations are applicable.
- 10.15 The Environment Agency may advise other public bodies who undertake or authorise activities which would be likely to cause a deterioration in status as to the acceptability of the proposed activity. However, the other public body is responsible for the final decision.
- 10.16 In cases where a detailed assessment indicates that development will have a significant adverse impact on water quality, [government planning guidance](#) states that the proposed development will only be acceptable in terms of the WFD regulations governing water quality in the circumstances set out in the river basin management plan.
- 10.17 Each use of regulation 19 to justify water body deterioration must be reported in the next update of that RBMP.
- 10.18 A change in the classification of a water body resulting from the introduction of a revised standard should be reported as a revised classification, not as a deterioration.

## Protected area objectives

- 10.19 In addition to setting environmental objectives for water bodies, the WFD regulations incorporate the objectives and requirements concerning shellfish waters and drinking waters. European sites and bathing waters have separate pre-existing regulations that set out the objectives and requirements for these sites. Areas which are subject to the requirements of this pre-existing legislation and the WFD regulations are known as 'protected areas'.

## European sites protected areas

- 10.20 This section refers to areas designated under the [Conservation of Habitats and Species Regulations 2017](#) (as amended) (henceforth ‘the CHS regulations’) for the protection of habitats or the habitats of species where the maintenance or improvement of the status of water is an important factor in their protection. Regulation 8 of the CHS regulations define these ‘European sites’<sup>18</sup>. In this section, ‘the relevant conservation advisor’ refers to Natural England.
- 10.21 The CHS regulations express the health of aquatic ecosystems in terms of ‘favourable conservation status’ (FCS) of a habitat or species. FCS does not necessarily apply at the site level<sup>19</sup>. Objectives for individual European sites may vary according to the contribution they are required to make to FCS at a national scale.
- 10.22 The Environment Agency, working with Natural England should use the river basin planning process to consider in a co-ordinated and transparent way the appropriate objectives and environmental conditions to be achieved for individual water bodies and water dependent European sites recorded on the protected areas register so that they fulfil the requirements of the WFD regulations and the CHS regulations.
- 10.23 Good (or high) ecological status or good ecological potential in relation to water quality and good hydrological flow rates may contribute to FCS. Some habitat types or species may, however, require specific additional water objectives to secure FCS, thus the WFD regulations objective of good status (or good potential) may need to be complemented by additional measures in order to ensure that conservation objectives for protected areas are achieved. In making water management decisions on these sites, environmental objectives WFD regulations, and water-dependent conservation objectives (CHS regulations) both apply and water measures must be designed to achieve both, or the most stringent objective where this can be determined.
- 10.24 For both the WFD regulations and the CHS regulations, a key requirement is to prevent deterioration from current status. No plan or project that might affect a European site should be approved unless the Environment Agency is either satisfied that it will not have an adverse effect upon the integrity of the site, or the proposal meets the test for exemption under overriding public interest set out in both the WFD regulations<sup>20</sup> and the CHS regulations<sup>21</sup>, respectively. It does not automatically follow that any negative change in a

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<sup>18</sup> Referred to as ‘Natura 2000’ sites in previous guidance and RBMPs.

<sup>19</sup> See European Commission paper [‘Links between the Water Framework Directive \(2000/60/EC\) and Nature Directives \(Birds Directive 2009/147/EC and Habitats Directive 92/43/EEC\)’](#)

<sup>20</sup> [Regulation 19 of the WFD regulations](#)

<sup>21</sup> [Regulation 64 of the CHS regulations.](#)

single monitoring parameter in any part of a site must always be avoided. Any such change should be considered in the context of the integrity of the site overall.

- 10.25 Where a condition assessment of the European site interest features or supporting habitat indicates that restoration measures are required, the Environment Agency should establish, in consultation with the relevant conservation advisor, appropriate restoration targets for the relevant water elements in the third planning cycle.
- 10.26 The process referred to in [paragraph 10.23](#) above should take account of site conservation objectives established by Natural England in the context of the achievement of FCS at the national scale and make use of the cyclical nature of river basin planning to take account of new evidence and evolving science.
- 10.27 The WFD regulations require the Environment Agency to set water quality objectives with the aim of achieving compliance with objectives for European protected sites by December 2021. If these objectives are not met, the updated RBMPs must include a summary of reasons why. An alternative objective may be used, as described in chapter 11, [Alternative objectives and defences](#).
- 10.28 Where Natural England and the Environment Agency proposes new or revised targets to be used in regulatory decision making to underpin the conservation objective for a protected area water body, the Environment Agency should present its proposals for consultation in the draft river basin management plan. The Environment Agency should set out how the programmes of measures will contribute to meeting the agreed targets for protected areas.
- 10.29 Where improvement measures set out in the second RBMP have not achieved conservation objectives by the expected date, the third cycle RBMP should set out a realistic plan for their achievement. This may be by reference to existing improvement plans.
- 10.30 In order to contribute to the achievement of objectives under the Ramsar Convention, the Environment Agency should apply the same considerations in terms of preventing deterioration, setting water objectives and establishing measures for water objectives for Ramsar sites as to protected areas designated under the CHS regulations and the WFD regulations.

## Drinking water protected areas

- 10.31 For drinking water protected areas, the Environment Agency should, in addition to water body status objectives, aim to prevent any significant and sustained deterioration in water quality parameters used to assess compliance with the Water Environment (WFD) regulations 2017 so that the need to increase the level of purification treatment is avoided and the level of treatment over time is reduced. The Environment Agency should ensure that drinking water protected areas safeguard zones are applied to both public and, where appropriate, private drinking water supplies. The Environment Agency should also ensure that the drinking water protected area objectives are considered as part of assessing groundwater body chemical status.

## Bathing waters protected areas

- 10.32 The [Bathing Waters Regulations 2013](#) have a requirement to achieve at least 'sufficient' at all bathing waters and, to take realistic and proportionate measures to increase the number of bathing waters meeting the 'good' or 'excellent' classifications.

## Shellfish water protected areas

- 10.33 For shellfish water protected areas, the WFD regulations set objectives to prevent deterioration in surface water bodies in which they are located. In addition, they require such objectives as are necessary or desirable to improve or protect the shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption as the appropriate authority may direct. As such there is a requirement to maintain at least equivalent level of protection as was provided by the (now repealed) Shellfish Waters Directive. Specifically, the [Shellfish Water \(Protected Area\) Directions 2016](#) requires the Environment Agency to endeavour to observe the microbial standard of 300 or fewer E.coli/100ml shellfish flesh and intravalvular fluid in all shellfish water protected areas.

## Strategic monitoring

- 10.34 Changes in the monitoring approach and increased efficiency have meant that the Environment Agency's monitoring effort is targeted in an increasingly risk-based manner. The Environment Agency should review its water environment monitoring approach in order to get greater benefit by increasing the use of new technology, including remote and continuous monitoring. The Environment Agency should continue to work with water companies and others to explore additional options for generating and sharing monitoring information and data. This will ensure that all parties take greater responsibility for their own environmental performance and larger water companies must report their performance against strict environmental permit requirements.

# 11. Alternative objectives and defences

- 11.1 Objectives which are set using the exemptions referred to in [paragraph 10.1](#) are also referred to in this guidance as alternative objectives.
- 11.2 Use of the alternative objectives is the mechanism which the WFD regulations provide for:
- considering, amongst other things, environmental, social and economic priorities alongside water management priorities
  - prioritising action over successive river basin planning cycles
- 11.3 The types of alternative objective are:
- an extended deadline (regulation 16)
  - a less stringent objective (regulation 17)
- 11.4 In addition, the provisions in regulation 18 may be used as a defence to justify cases where an objective in a RBMP has not been met as a result of a temporary deterioration in status due to natural causes or 'force majeure' and all the conditions set out in regulation 18 are met.
- 11.5 The provisions in regulation 19 can be used as a defence where:
- a failure to achieve a status objective or to prevent deterioration is due to new modifications to the physical characteristics of a water body
  - deterioration from high status to good status is the result of new sustainable development activities
  - all the conditions set out in regulation 19 are met
- 11.6 These alternative objectives and defences can only be used in relation to the standards and objectives arising from the WFD regulations, not in relation to standards or objectives arising from other legislation.
- 11.7 Each use of an alternative objective or defence, including the application of regulation 19, made necessary by a decision of either the Environment Agency or any other public body, must be reported in the RBMP or updates of the plan as applicable.
- 11.8 Where possible the anticipated use of regulation 19 should also be included in the update of the river basin management plan. Reporting proposed developments in the plans allows for stakeholder engagement in the process.
- 11.9 If a less stringent objective is set, the objective and justification for it must be reviewed for each update of the river basin management plan.
- 11.10 When drawing up proposals for objectives and programmes of measures for consideration by the Secretary of State, the Environment Agency should recommend application of alternative objectives where appropriate and consistent with the WFD regulations overall. They are an integral part of the environmental objectives set out in the WFD regulations and their use should be an integral part of river basin planning.

11.11 However, alternative objectives are the only considerations which may be used to justify a course of action which will not lead to meeting the default objectives.

## Extending deadlines rather than setting less stringent objectives

11.12 Where the conditions of both regulation 16 (extended deadline) and regulation 17 (less stringent objective) are met and the Environment Agency is faced with a choice between the 2 alternative objectives, its preference should be to propose an objective of reaching good status by an extended deadline, rather than a less stringent objective (that is, use regulation 16 rather than regulation 17, but see [paragraph 12.16](#)).

11.13 The option to apply a less stringent objective remains available. A less stringent objective should be considered if it becomes clear that it will be infeasible or disproportionately expensive to achieve good status by 2027. Each less stringent objective and the reasons for it must be reviewed every 6 years and explained in subsequent updates of the RBMP.

## Changes to objectives when updating river basin management plans

11.14 It may be necessary and appropriate in some cases to apply a new exemption under regulation 16 or 17 on updates of the river basin management plan. For example, if a water body will not achieve the objective set for it because the measures implemented are proving less effective than expected. If bringing the achievement of the objective back on track would be infeasible or disproportionately expensive, an extended deadline up to 2027 or a less stringent objective may be applied, as appropriate, in accordance with the restrictions on their use set out in the WFD regulations.

11.15 Equally, it may be necessary and appropriate to modify or replace a less stringent objective or extended deadline based on new information and understanding about a water body. This may allow, for example, an objective of good status to be set in an update of the river basin management plan, in place of a current less stringent objective.

# 12. Economic analysis

## General principles

- 12.1 Healthy and plentiful water is essential for us all and protecting and improving it requires investment. We spend £5 billion<sup>22</sup> a year protecting public health and the environment by tackling pollution and maintaining the benefits and services water gives us. Deciding who pays this is difficult. In order to achieve our target of improving our waters to be close to their natural state as soon as is practicable, we have to greatly increase the level of investment in river catchments. If we do not our environment is likely to suffer further damage and we will all bear the cost of losing the benefits that nature provides.
- 12.2 The level and extent of economic analysis should be appropriate for the decision it informs.
- 12.3 Involving local communities and businesses in developing programmes of measures is an integral part of river basin planning. These partners may be able to make a useful contribution to the economic appraisal process and should be provided with opportunities to do so.
- 12.4 Where it is not possible to provide monetary values of the full costs and benefits of a measure or programmes of measures, the Environment Agency should describe and, if possible, quantify the cost or benefit and report it together with the monetised values.
- 12.5 Where possible, the Environment Agency should assess the carbon impact of programmes of measures using the latest government [carbon valuation methodology](#) when considering the cost effectiveness of measures and disproportionate cost. They should be as transparent as possible in presenting the results of these assessments to stakeholders.

## Assessing the cost effectiveness of measures

- 12.6 The Environment Agency should make judgements about the most cost-effective combination of measures in respect of water uses to be included in the programmes of measures.
- 12.7 In assessing the cost effectiveness of measures, the Environment Agency should take into account relevant guidance and documents.

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<sup>22</sup> [River basin management plans impact assessments](#)

- 12.8 In order to make judgments about the most cost-effective combination of measures to deliver environmental objectives, the Environment Agency should:
- consider the full range of available measures and the inter-relationships between measures
  - consider all of the impacts which a measure could help to address
  - consider all costs including financial costs, resource costs and environmental costs
  - use the best available technical and scientific evidence to assess the effect of programmes of measures on the water environment
- 12.9 The Environment Agency should, where possible, use cost effectiveness analysis to determine the combination of measures that will achieve RBMP objectives at the lowest cost. The Environment Agency may draw on previous relevant cost effectiveness analyses, appropriately updated, or a new analysis.

## Disproportionate cost assessment of measures

- 12.10 Disproportionality is a political judgement informed by economic information.
- 12.11 In general, costs (negative consequences) can be considered disproportionate when they exceed benefits (positive consequences). However, it is not sufficient to show that the best monetised estimate of costs exceeds the best monetised estimate of benefits. This is because benefits may be more difficult to quantify and monetise than costs. The Environment Agency must take account of these aspects in disproportionate cost assessment, taking account of sensitivity analysis and qualitative information where relevant.
- 12.12 Costs of measures already required by other legislation should not be subject in the river basin planning process to assessment of whether they are disproportionate. However, it may be relevant to include such measures in the programmes of measures and report their impacts, including when these may affect whether other costs of the programmes of measures may be considered disproportionate.
- 12.13 To assess the value of benefits, the Environment Agency should make use of the monetary values derived from the updated analysis of the National Water Environment Benefits Survey (NWEBS) at a reliable level of disaggregation. Where catchments contain sites of special scientific interest (SSSI) or priority habitats, the Environment Agency should, where possible, associate additional benefits with measures that will improve the status of the water body and therefore contribute to meeting the SSSI or priority habitat objectives.
- 12.14 The Environment Agency should, where appropriate, take account of any alternative valuations of the benefits covered in NWEBS that may be available. When appropriate, the Environment Agency should show with sensitivity analysis how the results of the appraisal would be affected by using an alternative valuation.
- 12.15 In most cases, there will be a degree of uncertainty in the estimate of a cost or benefit. The Environment Agency should reflect this by reporting a feasible range, giving high and low values for the top and bottom of the range as well as the value considered most likely.



- 12.16 Where it is uncertain whether a measure or programmes of measures will achieve the intended environmental outcome, this should be identified and taken into account in consideration of costs and benefits.
- 12.17 All costs and benefits should be expressed in present value terms by discounting as set out in the [Treasury Green Book](#).
- 12.18 It may be appropriate to carry out the analysis of some costs and benefits at the national level. However, the Environment Agency must avoid double-counting of benefits between local and national levels. In general, a suitable starting point is likely to be the consideration of any nationally identified benefits. These can then be supplemented with local information where appropriate and proportionate to decision making.
- 12.19 The Environment Agency may also take into account [WFD Common Implementation Strategy guidance](#) on the use of exemptions and disproportionate costs.

## Affordability

- 12.20 Initially, the Environment Agency should propose programmes of measures based on economic efficiency assessments (benefit cost ratios). However, the comparison of costs and benefits is not the only economic information that may be relevant to assessing whether costs are disproportionate. One other relevant area is the distribution of costs and benefits between affected parties. The Environment Agency should report an assessment of the distributional impacts of the programmes of measures proposed in the National Economic Statement accompanying the draft updated RBMPs, along with any alternatives.
- 12.21 One factor in the assessment of disproportionate costs from a distributional perspective is whether spreading the programmes of measures over a longer period of time might make the costs easier to fund or reduce them by allowing time for affected parties to adapt.
- 12.22 The approach to setting less stringent objectives will remain the same as it was for second cycle. The Environment Agency should be clear about the confidence they have on objectives they are setting. This is an essential part of being transparent with stakeholders.
- 12.23 The impact of costs and benefits on a business needs to be seen in the context of the characteristics of a business and the sector in which it operates. Considerations of distributional impacts are not intended to protect companies that are performing poorly against the industry standard. Therefore, distributional analysis is normally carried out at the level of the industry or group of firms, not for individual firms.

## Reporting information on disproportionate cost:

- 12.24 The information reported to ministers should be sufficient to determine whether exemptions have been applied appropriately and should, where possible, include:
- the undiscounted costs in real terms of programmes of measures to achieve protected area objectives and avoid deterioration

- the undiscounted costs in real terms of programmes of measures to achieve good status by 2027 or any alternative objective proposed in the draft RBMPs
- the undiscounted benefits in real terms of programmes of measures to achieve good status by 2027 or any alternative objective proposed in the draft RBMPs
- all costs, benefits and net impacts broken down by industrial sector and by year of incidence
- information, where available, to show whether the individual, business or sector affected by each measure is the polluter (responsible for the environmental impact the measure addresses), a beneficiary, another party or some combination of these.

# 13. Justifications for applying alternative objectives

Natural conditions, technical infeasibility, infeasibility and disproportionate costs are key criteria for justifying the use of alternative objectives.

13.1 The concepts are inter-related and to some extent it is necessary to consider them in parallel. However, it is important that the Environment Agency is clear about the meaning and use of these terms when justifying alternative objectives.

13.2 There is a logical sequence of considering these factors:

1. natural conditions, technical and other feasibility of achieving the objective (can the objective be reached?)
2. disproportionate costs (is it proportionate, that is, both efficient and equitable, to reach the objective by taking the most cost-effective actions)

The concepts are therefore considered in that order in the following paragraphs.

## Natural conditions

13.3 The WFD regulations includes references to 'natural conditions' in

- regulation 16(3)(c): one of the justifications for extending a deadline is that 'natural conditions do not allow timely improvement in the status of the body of water'
- regulation 17(1)(a): one of the justifications for setting a less stringent objective for a water body is that 'its natural condition is such that the achievement of the environmental objectives set would be infeasible or disproportionately expensive'

13.4 A distinction needs to be made between the application of the concept of 'natural condition' under regulation 16 and 17. Given the intrinsic difference in the character of the two exemptions, the way in which natural conditions are used to explain a delay in recovery to good status must be essentially different from the way in which they are used to justify the non-achievement of the objectives. The exemption types regulation 17 refers to are either that the achievement of good status would be 'infeasible' or 'disproportionately expensive', whereas the exemption types under regulation 16 for a delayed achievement of the objectives can also include 'natural conditions' following the implementation of the required measures. Therefore 'natural conditions' as such is not an exemption type under regulation 17.

13.5 The justification for extension to deadlines to achieve good ecological status due to 'disproportionate cost and expense' (regulation 16(3)(b)) is not available beyond the third cycle (that is, 2027), as this would contravene the overall objective of WFD and the WFD regulations to aim to achieve good status by 2027. Beyond the third cycle, however, if all

the necessary measures are in place, water bodies may need longer to recover and therefore the 'natural conditions' justification will remain in place beyond 2027. This equally applies to those priority substances which make up good chemical status, although the WFD regulations give some of these substances longer deadlines (for example 2033 or 2039).

- 13.6 Natural conditions may be a justification for setting an alternative objective including where:
- it takes time, after a damaging or polluting activity has ceased, for the conditions necessary to support good ecological status or good chemical status in surface waters to be restored
  - due to varying natural hydrogeological conditions, groundwater bodies may take time to reach good chemical status or good quantitative status

## Technical feasibility

- 13.7 The WFD regulations include references to technical feasibility in:
- regulation 15(1)(b) in relation to designation of Heavily Modified and Artificial Water Bodies
  - regulation 16(3)(a) in relation to the justification required for extension of deadlines
  - regulation 19(5), in relation to justification for new modifications and new sustainable human development activities
- 13.8 The Environment Agency should consider it technically infeasible to achieve an objective only where:
- no technical solution is available
  - there is insufficient information on the cause of the problem to allow a solution to be identified
  - there are practical constraints of a technical nature (for example if the commissioning new plant prevents implementation of measures by an earlier deadline)
- 13.9 In principle, the technical feasibility of achieving an objective relates only to issues of a technical nature, and not to cost issues. In practice, the greater the effort expended in trying to overcome issues of a technical nature, the more likely it is that ways of making the improvements will be found. Where the benefits resulting from achieving an objective would be substantial, a much higher degree of effort to find a technically feasible option is likely to be appropriate than where the benefits of an improvement are expected to be low.

### If no technical solution is available

- 13.10 There may be various reasons why the Environment Agency might suggest that 'no technical solution is available' to reach an objective, in particular:

### **If standards are below the limits of detection or monitoring**

Meeting the environmental quality standards (EQS) which have been set for some specific pollutants and priority substances might be technically infeasible if the levels were below current limits of detection and monitoring. If an EQS is below analytical limits of quantification, the Environment Agency should use the best available techniques not entailing excessive costs (BATNEEC) in accordance with the QAQC Directions 2011<sup>23</sup>, which lays down technical specifications for chemical analysis and monitoring of water status

'Technical infeasibility' should not be proposed as the basis for an exemption if:

- it is possible and appropriate to make use of analytical methods in matrices other than water, such as biota or sediment according to the criteria set out in the QAQC Directions 2011, the [Water Framework Directive \(Standards and Classifications\) Directions 2015](#) and the WFD regulations, respectively<sup>24</sup>
- in cases where levels of contamination are sufficiently high that concentrations can be robustly measured, even if concentrations at the EQS are below the limit of quantification

In both these types of cases, measures to tackle the pollution should be considered.

### **If no measure is available to deal with the problem**

While a very wide range of actions could be taken to help achieve water quality objectives, there may be some problems for which there is no measure which can be deployed in practice. For example, it may be impossible to remove a population of an alien species once it has become well established within a given habitat (for example the North American signal crayfish is established throughout the Thames catchment). Or there may be a new technique for dealing with a problem, which has been proven to work under controlled conditions in a laboratory but has not yet been sufficiently developed to be effective in practice

### **If there are failures of priority substance standards due to an unknown, legacy or diffuse source**

This is most common with ubiquitous, persistent, bioaccumulative and toxic substances (uPBT). Measures taken at national or international level, such as source control through REACH, may be implemented but there can be a significant time lag between implementation and improvement in the receiving environment. Local measures are often not practicable due to either the lack of an identified source or the scale and potential impact of the intervention

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<sup>23</sup> The [Chemical Analysis of Water Status \(Technical Specifications\) Directions 2011](#)

<sup>24</sup> The latter, together, transposed the Directive [2013/39/EC](#) amending the WFD and the 2008 Directive on priority substances

required (for example the solution of dredging, may actually stir-up pollutants from the sediments to the water column).

### **If there is insufficient information on the cause of the problem and a solution cannot be identified**

This may arise because there are gaps in scientific information about the effects on ecological status of some types of pressures from, for example, morphological changes, abstraction, alien species or sediment.

- 13.11 Where there is scientific uncertainty, the Environment Agency should take account of the government's Guiding Principles for Sustainable Development and take a precautionary approach to preventing deterioration when setting objectives and alternative objectives. The appropriate level of precaution is a matter for judgement after the duration and severity of the consequences of a wrong decision have been considered.

## **Feasibility**

- 13.12 Regulation 17(1)(a), which relates to setting less stringent objectives, uses the term 'infeasible' rather than 'technical infeasibility'.
- 13.13 The Environment Agency should interpret the meaning of the term 'infeasible' as including 'technical infeasibility' and rare, wider situations where, for example, the source of the pollution lies outside the UK's borders or jurisdiction.

## **Disproportionate cost**

- 13.14 The WFD includes references to 'disproportionate cost' or 'disproportionate expense' in:
- regulation 15(1)(b) in relation to the designation of Heavily Modified and Artificial Water Bodies
  - regulation 16(3)(b) in relation to the justification required for the extension of deadlines
  - regulation 17(1)(a) in relation to the justification required for less stringent objectives
  - regulation 19(5) in relation to the justification for new modifications and new sustainable human development activities
- 13.15 The WFD regulations refer to 'disproportionate costs' and to improvements and objectives being 'disproportionately expensive'. The Secretary of State considers that there is no material difference between the terms. References to 'disproportionate costs' in this guidance should be read as including both terms.
- 13.16 Alternative objectives proposed for reasons of disproportionate cost should be based on the most cost effective combination of measures (see chapter 12: [Economic analysis](#)) taking account of the Environment Agency's existing application of the 'polluter pays' principle and 'fair share'.

- 13.17 The Environment Agency should consider the full range of available mechanisms, including the use of regulatory measures, voluntary agreements and economic instruments such as paid ecosystem services, before proposing an alternative objective for reasons of disproportionate cost.
- 13.18 The Environment Agency must ensure that when disproportionate cost has been used as the basis for exemptions, the reasons for doing so are clearly set out in the RBMP including an explanation of what alternative financing mechanisms were considered and why they were not used. Where possible, any underlying data and assessments used to inform the decision must be available to the public.

## 14. The programmes of measures

- 14.1 The WFD regulations refer to both actions and the delivery mechanisms as 'measures'. However, in this guidance the terms are used as follows:
- 'measure' is used to mean any action which will be taken on the ground to help achieve the objectives
  - 'mechanism' is used to mean the policy, legal and financial tools which are used to bring about those actions. Mechanisms include, for example: legislation, economic instruments (which can include taxes, tradable permits and payments for ecosystem services); codes of good practice; negotiated agreements; promotion of water efficiency; educational projects; research, development and demonstration projects
- 14.2 The Environment Agency is responsible for combining the available measures together to form a programme of measures to achieve the objectives in each river basin district. They must therefore consider both the measures which will be necessary and the mechanisms by which they will be delivered.

### Scope of the programmes of measures: Environmental objectives only

- 14.3 A programme of measures must include all of the measures necessary to meet all the objectives for that river basin district, including the protected area objectives and measures with the aim of progressively reducing pollution from priority substances and ceasing or phasing out emissions, discharges and losses of priority hazardous substances. It should not include measures which are required solely to meet other, non-water quality objectives (for example the Environment Agency's corporate plan targets).
- 14.4 Where measures contribute towards both water quality objectives and other objectives, they should be included in the programme of measures to the extent that they are required to achieve the environmental objectives, as defined in the WFD regulations. This definition of the scope of a programme of measures is intended to help clarify what the Environment Agency should submit to the Secretary of State for approval. It is intended to encourage integration and streamlining between the river basin planning process and other planning processes such as flood risk management plan and plans for delivering biodiversity outcomes.

### Consideration of impact of other policies and activities on baseline status

- 14.5 Action taken as a result of other policies may have an impact on the amount of action which needs to be taken to meet objectives. It is important to take account of the influence of these impacts of current and planned policies and development, so far as they are known, in order to identify the right baseline for decision-making.



## Consideration of the impacts of climate change

- 14.6 Climate change is expected to lead to major changes in precipitation and water flow, flooding and coastal erosion risks, water quality, and the distribution of species and ecosystems. See the [UK climate change risk assessment](#) for further information.
- 14.7 The [Climate Change Act 2008](#), which sets out the government's response to climate change, includes binding targets for emissions reductions and a framework for responding to the impacts of climate change. The [National Adaptation Programme](#) recognises river basin planning as the means to achieving a resilient, sustainable water environment and requires RBMPs to integrate climate change risk assessment and adaptation.
- 14.8 The Environment Agency should seek to integrate mitigation and adaptation to climate change into the steps of the river basin planning process. In particular by using the latest authoritative research and evidence, which has been clearly referenced, to identify climate risks against each pressure. The climate risks should be clearly acknowledged using the appropriate long-term planning horizons.
- 14.9 The Environment Agency should make sure a clear and proportionate action is in place to manage each of the identified climate risks in the assessment of pressures and choice of measures. Preference should be given to measures that are adaptive and plan for uncertainty and change, and therefore provide a high level of climate resilience. Measures that also help tackle greenhouse gas emissions should be encouraged. Natural climate solutions, such as habitat restoration of forests, peat bogs and saltmarshes, can facilitate draw down of carbon from the atmosphere.
- 14.10 The Environment Agency should clearly set out how they are responding to climate change within the river basin management plans and associated documentation.<sup>25</sup>

## Choosing appropriate measures and mechanisms

- 14.11 When considering which measures to use, the Environment Agency should bear in mind the mechanisms by which they will be delivered, and the principles of better regulation. In England, better regulation is about aiming to regulate only when necessary, in a way that is proportionate to the risk being addressed, and to deregulate and simplify wherever possible.

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<sup>25</sup> More information to help guide this integration of climate change adaptation is available in '[CIS Guidance number 24, River basin management in a changing climate](#)'.

- 14.12 Non-regulatory measures that the Environment Agency may wish to consider include voluntary agreements (for example, with one or more farmers in a catchment to adopt land management practices that exceed expected minimum good practice).
- 14.13 Non-regulatory measures could also include trade schemes. For example, there could be an agreement between a water company and land managers in the catchment to adopt additional techniques to reduce nutrient inputs to water courses that would otherwise have to be achieved by investment in infrastructure.
- 14.14 When considering such non-regulatory measures, the Environment Agency should assess and factor into their decision making process whether the arrangements will deliver the required outcomes with sufficient certainty and permanence. For example, arrangements between a water company and land managers would need to be capable of being monitored and subject to contractual arrangements to provide sufficient certainty of outcome.
- 14.15 When adopting non-regulatory measures, the Environment Agency should ensure that they are not used to undermine the 'polluter pays' principle, which is an important underlying principle of implementing the WFD regulations. For example, a key principle for payments for ecosystem services is that the scheme rewards the delivery of additional services that go beyond regulatory requirements.
- 14.16 Although the Environment Agency is responsible for drawing up programmes of measures, many of the measures which could be included in the programme will be ones for which they are neither the regulator nor the deliverer. Given the scale of the actions needed, it is important to mobilise all available tools and potential funding sources. During the river basin planning process, the Environment Agency should work with a range of possible regulators and deliverers when deciding what objectives to include in the RBMPs which they submit for approval, the necessary measures to be included in the programme of measures and the arrangements for implementing those measures and monitoring their implementation. See chapter 4 about working in partnership.
- 14.17 Different measures will operate over different timescales. The programmes of measures should include all of the measures that are seen as necessary to meet the objectives set out in the RBMP.
- 14.18 Measures may be applied at a national, regional or local scale. Different scales will be appropriate for different types of measure. Measures can be applied anywhere, not just in water bodies (for example, they could include changes in land management). It may be necessary to apply measures in the catchment upstream of a water body in order to achieve the objectives set for that water body.

## The proposals for environmental objectives and a programme of measures which should be submitted to the Secretary of State and for approval

- 14.19 For reporting purposes, the complete picture of all of the measures necessary to achieve the objectives in a river basin district and all of the mechanisms necessary to deliver them will be set out in a large portfolio of technical, legal and administrative documents (which cover different geographical scales, contain different levels of detail, are owned by different bodies and operate over different timescales). While all of this information may be essential for the implementation of measures, it does not need to be submitted to the Secretary of State.
- 14.20 The Environment Agency must submit the following to the Secretary of State for approval:
- the proposals for environmental objectives mentioned in the WFD regulations<sup>26</sup>
  - the summary of the programme of measures which the WFD regulations require to be included in the updated RBMP<sup>27</sup>
- 14.21 The updated RBMPs which are submitted for approval should contain sufficient information about the programme of measures to:
- explain the proposed objectives which are set out in that RBMP including justifications for the proposed use of the alternative objectives
  - explain how the measures and mechanisms would be used to meet the objectives set out in that RBMP (including measures and mechanisms to meet objectives for good chemical status with extended deadlines)
- 14.22 The summary of the programme of measures which is included in the RBMP should be presented under the headings referred to in regulation 27 and should contain:
- a general description of the mechanisms which are available for delivering measures necessary to achieve objectives.
    - This description should include regulatory and voluntary mechanisms to deliver the mandatory 'basic measures' listed in regulation 20 (2) and, supplementary measures, where they are necessary in order to achieve the objectives. This description of mechanisms is likely to be similar in every river basin district, but it should reflect differences between and within districts (for example legislative and policy differences in cross-border river basin districts)

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<sup>26</sup> [Regulation 12 of the WFD regulations](#)

<sup>27</sup> [Regulation 27 of the WFD regulations](#) and Annex VII Part A paragraph 7 of the [WFD](#).

- an explanation of the main measures, or groups of measures, which will be used to address each of the significant water management issues in that river basin district

14.23 The summary of the programme of measures should explain:

- which types of measures will be used to address these significant water management issues
- the mechanisms which will be used to deliver these measures
- the main organisations responsible for the implementation and enforcement of these measures
- likely timescales for their implementation
- any other plans or strategies in which these measures are included (this may form part of the register of more detailed programmes and management plans which must be included in the RBMP)

14.24 The RBMP submitted for approval should not include details about the application of mechanisms in each individual case (for example, the environmental standards or monitoring regime which would be applied for a particular licence).

## Making the programmes of measures operational

14.25 As well as drawing up the programmes of measures, the Environment Agency should ensure that those measures for which it is responsible (as deliverer or regulator) are applied, so that the third cycle programme is 'made operational' by 22 December 2024. Any planned delivery deadlines for the third cycle programme beyond 22 December 2024 must be agreed with Defra.

14.26 Making the programmes of measures operational includes making any amendments which the WFD regulations require to permits and licences which have already been issued. In many cases, this means that the new conditions will be in force on that date, as this will be necessary for the objectives to be met. In some cases, the bringing into force of conditions could be a planned, staged process - for example, it could include planned progressive tightening of emission limits if this is sufficient to meet the objectives.

14.27 For measures in the programmes which will be delivered or regulated by others, the Agency should liaise with those responsible to assist the Secretary of State in ensuring that these measures are made operational.

## Interim report on implementation of the programmes of measures

14.28 The Environment Agency must submit a draft interim report on the implementation of the programmes of measures for each river basin district to the Secretary of State 33 months after the final plans are produced. The approved report must be published by the Environment Agency in manner it considers appropriate 36 months after the final plans are produced.

14.29 This report should describe the progress that the Environment Agency, and the other regulators and implementers for the measures in the RBMP, have made towards making the programmes of measures operational. It should focus particularly on the measures which were outlined in the summary of the programmes of measures contained in the RBMP and should explain and justify any changes from the proposals set out in that summary.

# 15. Relationship with other public bodies and their plans and strategies

- 15.1 The Environment Agency should seek to promote and encourage:
- awareness of impacts that the activities of other public bodies can have on the water environment
  - In order to take account of the sustainable development needs of the river basin district, engagement of other public bodies in river basin planning, particularly local planning, National Park authorities and lead local flood lead authorities drawing up Strategic Flood Risk Assessments that inform Development Plans and Local Flood Risk Management Strategies (LFMSs)
  - the inclusion of water quality considerations in public bodies' plans, policies, guidance, appraisal systems and casework decisions
- 15.2 This should be a two-way process. Other public bodies should be able to influence the river basin planning process, and river basin planning should also influence their plans and strategies.
- 15.3 The Environment Agency should use a variety of routes for such engagement including:
- engagement in the development of RBMPs including through representation on catchment partnerships and consultation on river basin planning documents
  - the Environment Agency's responses to consultations and other requests for input into other public bodies plans and strategies (especially those plans which have a statutory basis)
  - the Environment Agency's advice about the potential impacts on water of other public body's policies, activities (including discharges, abstractions and physical works) and casework (licences, authorisations)
- 15.4 The main outputs as a result of engagement of other public bodies in river basin planning should be:
- improved planning because a fuller picture has been considered when plans and strategies are being drafted. Highlighting and dealing with potential conflicts or synergies between plans and strategies should help maximise benefits and reduce or avoid the need for remediation or mitigation measures later on
  - integration of water management with spatial planning to secure multiple benefits through a catchment-based approach. The engagement of spatial planners in catchment partnerships will help to realise the objectives of local plans and bring significant benefits to communities through partnership working
  - delivery of regulations measures by other public bodies. Some water quality measures will be implemented or enforced by other public bodies. Including the relevant measures in their plans and strategies may be an important part of the mechanism for ensuring this happens. For example, sustainable development may contribute to delivery of water quality objectives and vice versa

## Legal requirements on public bodies

15.5 The WFD regulations place 2 relevant requirements on public bodies:

- when exercising any functions affecting a given river basin district, public bodies must have regard to the RBMP and to any supplementary plans within the river basin district
- when the Environment Agency seeks information from other public bodies in connection with water quality functions, the public bodies must provide the information (if it is in their possession or control) <sup>28</sup>

15.6 Statutory Strategic Environmental Assessments (SEAs) have been undertaken on the 2009 river basin management plans (RBMPs), and the 2015 updates to the RBMPs. The Environment Agency, as the responsible authority, must make a screening determination under the SEA regulations for the 2021 update to the RBMPs.

15.7 In addition, there are specific requirements for integration in the case of those plans and programmes to which the SEA Directive regulations apply. The relevant public bodies will have to carry out an environmental assessment of their plan or programme and produce an environmental report including consideration of reasonable alternatives, and how it links to other planning processes, plans and programmes. This is a reciprocal requirement. The Environment Agency will have to consider how the river basin planning process links to other plans and programmes, and other public bodies will have to consider how their plans and programmes link to river basin planning.

15.8 Should screening indicate that a SEA is required, the Environment Agency must also ensure that the designated 'consultation bodies' under the [Environmental Assessment of Plans and Programmes regulations 2004](#) is consulted on the scope and planned level of detail of the assessment. (chapter 8 explains the information required under the SEA Directive regulations which must be compiled alongside the draft RBMPs and submitted with the RBMPs to the Secretary of State for approval.) A 'Habitats Regulations Assessment' of the RBMPs should be undertaken.

## Relationships with other plans

15.9 Set out in paragraphs 15.10 to 15.30 are the groups of plans where the relationship with RBMPs will be most important and gives some guidance on the nature of those relationships and the roles of the relevant public bodies.

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<sup>28</sup> Regulations 33 and 35 respectively of the [WFD regulations](#).

## Land use and spatial planning

### The London Plan (Mayor of London) - Local Plans (England) and Local Development Plans (Wales) (Local Planning Authorities)

- 15.10 Changes in land use can have impacts on ecological and chemical quality and the physical characteristics of water bodies, and hence on the achievement of water quality objectives. The land use planning system helps to ensure the delivery of sustainable development which seeks to achieve economic, social and environmental gains, including contributing to the protection and enhancement of the natural environment. In England local plans prepared by local planning authorities are at the heart of the planning system.
- 15.11 Spatial planning and river basin planning are separate processes and planners should ensure that there is genuine two-way liaison between them.
- This will be an iterative process because of different planning timetables
  - There will be issues resulting from the differences between the river basin district boundaries (which will be used for river basin planning) and local planning authority boundaries
- 15.12 Development plans should influence RBMPs. Emerging local plans will be an important source of information on future pressures that can help the Environment Agency refine their understanding of the current status of water bodies, and how this might change if no action was taken.
- 15.13 The Environment Agency should take account of development plans and their likely impacts on the water environment when drafting RBMPs. Alternative objectives provide for the continuation of sustainable human development activities (for example ports facilities, recreation, water storage and flood defence). See chapter 11 [Alternative objectives and defences](#).
- 15.14 RBMPs should influence spatial plans. The river basin planning process should produce strategic policy information and data to feed into the spatial planning processes and into development plans. They will provide useful information about where it may be necessary to consider the application of overriding public interest (OPI) exemptions (regulation 19) in relation to new physical modifications and reporting the use of such OPI exemptions in the river basin management plan.
- 15.15 The Environment Agency should liaise with local authorities and provide them with the necessary information to enable effective consideration and reflection of RBMPs within local plans. As RBMPs and local plans will have different planning cycles, they will need to ensure that RBMP policies that affect the development and use of land are considered in the monitoring and review of local plans, where necessary working with neighbouring authorities.



## Key water environment references in planning policy documents

- 15.16 The [National Planning Policy Framework \(NPPF\)](#) advises that the planning system should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution or land instability. It also advises that planning policies and decisions should be based on up-to-date information about the natural environment drawing from, for example, RBMPs. This is in the context of an overarching requirement for planning policies and decisions to reflect and, where appropriate, promote relevant statutory requirements. [National Planning Policy Framework](#) and the [Planning Practice Guidance 2019](#) provides advice to local authorities on planning and water.

## Relationship with flood risk management

### Flood risk management plan and Local Flood Risk Management Strategy

Lead local flood authorities (as defined in regulation 7 of the [Flood Risk Regulations 2009](#)) and in (section 6 of the Flood and Water Management Act 2010)

- 15.17 A lead local flood authority must prepare a local flood risk management strategy as required by section 9 (England) and section 10 (Wales) of the [Flood and Water Management Act 2010](#) and a flood risk management plan in relation to each relevant flood risk area (as defined in the Flood Risk Regulations 2009). Amongst other things, the strategy must show how it contributes to the achievement of wider environmental objectives.
- 15.18 Article 9 of the [Floods Directive \(2007/60/EC\)](#), require appropriate steps to be undertaken to coordinate the implementation of the Floods Directive with the WFD, focusing on opportunities for improving efficiency, information exchange and achieving synergies and benefits having regard to the WFD environmental objectives.
- 15.19 This requirement is reflected in the flood risk regulations which transposed the Directive and is retained law in England and Wales. Accordingly, flood risk management plans must include where lead local flood authorities think it appropriate, information about how the implementation of measures under that plan and the river basin management plan will be coordinated. The flood risk regulations also state that in determining proposed measures in the flood risk management plan, there must be regard to the relevant RBMP and the WFD environmental objectives. The Environment Agency must review a flood risk management plan prepared by a lead local flood authority under this regulation and may recommend modifications.

## Relationship with water and sewerage

### Ofwat and Water and sewerage undertakers (companies)

These plans are:

- Ofwat guidance to water companies
- Water company asset management programme for periodic review of water prices
- Water resources management plans
- Water Company business plans
- Drainage and Wastewater management plans

15.20 The companies fund the cost of meeting their environmental obligations through water prices. The Water Industry Strategic Environmental Requirements (WISER) outlines the Environment Agency's and Natural England's requirements of the water companies in terms of the statutory obligations and regulator's expectations that apply. The specific measures which water companies will need to take to meet water quality objectives will be determined through the river basin planning process, so the links need to be made between the river basin planning process and the development of the environment programme which is part of the periodic review of water prices.

15.21 The cost-effectiveness and other information developed for programmes of measures will be a helpful starting point for that used in the periodic review, but this economic information is likely to be higher level and less detailed than the scheme level analysis which is used for the environment programme assessed under the periodic review.

15.22 As with other plans, there will be difficulties with planning cycles and geographical boundaries. One of the issues for consideration when developing the process for future price reviews is how the timetable will fit alongside the RBMP cycles. To minimise the difficulties for water resource and quality planning, the Environment Agency will need to work closely with the water companies and Ofwat and provide information on likely sustainability reductions and changes to discharge consents as it becomes available.

## Relationship with conservation

### Natural England

Actions that support the government's 25 Year Environment Plan goals for thriving plants and wildlife include:

- restoring 75% of protected sites to favourable condition for wildlife
- creating or restoring 500,000 hectares of wildlife-rich habitat outside of protected sites, as part of a Nature Recovery Network; and recover threatened, iconic or economically important species
- In addition, complementary strategies for trees, peatlands, pollinators and UK Marine, respectively

15.23 All public bodies must have regard to the purpose of conserving biodiversity. The Environment Bill strengthens this existing duty, including through a specific requirement for all public authorities to have regard to the contents of relevant LNRs.

15.24 Water quality and resources are critical to many important conservation areas and, although the statutory requirements of the WFD regulations in relation to biodiversity apply to protected areas and water bodies only, it is Defra's policy that the water environment should be managed in an integrated way. The river basin planning process should therefore take into account the objectives of the relevant nature conservation plans.

15.25 This includes considering, and addressing, wider pressures, synergies and trade-offs, such as the effect that climate change has on biodiversity, water quality and availability. The river basin planning process should take into account the objectives of the relevant nature conservation plans.

15.26 RBMPs should support the recovery and improvement of biodiversity through encouraging the alignment of actions where mutually beneficial within the Catchment Based Approach (CaBA), Local Natural Capital Plans, and biodiversity focused partnerships. Actions for biodiversity should take account of the relevant Local Nature Recovery Strategy, Protected Site Strategies, and Species Conservation Strategies introduced in the Environment Bill.

## **Relationships with transitional and coastal waters**

These organisations and plans are:

- Defra
- Department for Transport
- Centre for Environment, Fisheries & Aquaculture Science (CEFAS)
- Maritime and Coastguard Agency
- Crown Estate
- Inshore Fisheries and Conservation Authorities (IFCAs)
- Harbour and conservancy authorities
- Associated British Ports
- Association of Port Health Authorities, and Coast Protection Boards (erosion and encroachment protection)
- Natural England
- Marine Management Organisation (MMO)
- Coastal erosion risk management authorities ('CERMAs') and coast protection authorities ('CPAs')
- Coastal Group Chairs (SMPs)
- Local planning authorities
- Shoreline Management Plans
- Coastal habitat management plans
- Management Schemes for European Marine Sites
- Marine Plans - the completion date for having all marine plans in place for the English marine area is 2022

15.27 In transitional and coastal waters, the current planning arrangements, historical regulation and biology are different from those for the freshwater sector.

- 15.28 The Marine Policy Statement (MPS) prepared under section 44 of [Marine and Coastal Access Act 2009](#) is the framework for preparing marine plans and taking decisions affecting the marine environment and requires the marine plan authority to satisfy itself that any development will not cause a deterioration in status of any water to which the WFD regulations apply.
- 15.29 In England, the Environment Agency is the 'appropriate agency' for implementation of the WFD regulations in the transitional and coastal waters just as in freshwaters. However, the Environment Agency does not have the same overarching regulatory responsibilities in relation to these waters, and so a much higher proportion of the measures in these areas will need to be implemented by other regulators. There needs to be close working between Environment Agency and MMO regarding overlap in the transitional zone between river basin management and marine planning.
- 15.30 Ensuring two-way links between RBMPs and other transitional and coastal plans will be particularly important and may be challenging as management arrangements and responsibilities are complex in transitional and coastal waters.

# 16. Approval, amendment and review

## Approval of updated river basin management plans

- 16.1 The Environment Agency must prepare the following for each river basin district<sup>29</sup>:
- an updated river basin management plan (including objectives and summary of the programmes of measures)
  - the information about public participation required under regulation 30(2) of the WFD regulations
  - the summary of opinions expressed, how they have been taken into account required under regulation 16(4) of the SEA Directive transposing regulations
- 16.2 These do not all need to be separate documents (see chapter 8, [the river basin management plan](#)).
- 16.3 The Environment Agency must submit to the Secretary of State an updated RBMP for each river basin district, and every 6 years thereafter, and include in that document proposals for environmental objectives and a programmes of measures to be applied in order to achieve those objectives.
- 16.4 The criteria which the Secretary of State will generally take into account when making decisions about approving a RBMP will include:

### Secretary of States approval criteria

- The RBMP has been prepared in accordance with the WFD regulations, and the Agency has had regard to principles and advice set out in this (and any additional) guidance.
  - The RBMP is realistic, including about the availability of resources
  - The policies, objectives and measures within the RBMP are consistent with one another
  - The Agency have made modifications necessary to comply with any Secretary of State Direction in relation to the RBMP (unless the Direction is withdrawn)
- 16.5 When submitting the updated RBMPs for approval, the Agency should indicate the main changes since the preceding plans, such as the number of water bodies expected to achieve 'good status' and additional measures.

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<sup>29</sup> [Regulation 28 of the WFD regulations](#)

16.6 If unsatisfied with an updated RBMP, the Secretary of State may reject it, modify it, or require the Agency to modify and resubmit it within a set deadline. The time allowed for modifications would be set case by case, taking into account the nature and extent of the modifications required, but would normally be between 6 and 8 weeks. If the Agency is directed to take further action before the RBMP is published, the Secretary of State will give reasons for this. (This applies to the RBMP originally submitted for approval and to any resubmissions.)

## Changes within the 6-year planning cycle

- 16.7 The fundamentals of the RBMP itself should not generally be changed during the 6-year planning cycle. The purpose of the RBMP is to provide - through the strategic policy statement, objectives and summary programmes of measures - a degree of certainty about management of the water environment and how regulatory decisions will be taken in that river basin district. Amending these elements of the RBMP mid-cycle would undermine this role.
- 16.8 However, management of the water environment is a continuous process. Although it is unlikely that the RBMP itself would need to be amended within the 6-year planning cycle, the Environment Agency and other public bodies and deliverers will, in carrying out their functions, be making changes to the detail (the large portfolio of technical, legal and administrative documents) of the programmes of measures throughout this time.
- 16.9 Occasionally it may become apparent during the river basin planning cycle that the proposed programmes of measures are unlikely to be sufficient to meet one or more of the objectives in the RBMP. If this is the case, the Environment Agency should determine what, if any, action to take in the current river basin planning cycle and carry out the steps set out in regulation 25 of the WFD regulations, ensuring that:
- the causes of the possible failure are investigated
  - relevant permits and authorisations are examined and reviewed as appropriate
  - the monitoring programmes are reviewed and adjusted as appropriate
  - additional measures necessary to achieve those objectives are established subject to regulation 18
- 16.10 When considering actions, the Environment Agency should take into account the presumption that there will be no deviation from the RBMP and the principles set out in chapter 6 of this guidance. For example, the Environment Agency should review the whole package of measures and mechanisms necessary to meet an objective, and not just a single measure. In accordance with regulation 13, they should assess the costs and benefits of any new package of measures and where they will fall. They should also ensure that the public, private and voluntary sector bodies which are likely to be affected by the change are engaged in any amendments.

- 16.11 If the approach set out in the RBMP is not followed, this deviation from the RBMP must be explained and justified in the subsequent RBMP.
- 16.12 The WFD regulations provide 2 specific defences which may be used to justify failure to reach objectives in certain circumstances as outlined in chapter 11 [Alternative objectives and defences](#).
- 16.13 The updated RBMPs must include the information specified in regulation 28. This information includes:
- a summary of any changes or updates since the publication of the previous RBMP
  - an assessment of progress towards the achievement of the environmental objectives
  - a summary of, and explanation for, any measures foreseen in the previous RBMP which have not been undertaken
  - a summary of any additional interim mechanisms and measures adopted under regulation 25 since the publication of the previous RBMP

# Annex 1. Map of river basin districts in England

